

Self-assessment

Multiple-choice questions

1. UNIT 18.

Where are the liaison magistrates physically located?

- a) In the country of which they are nationals.
- b) Posted to Eurojust, forming part of the national office.
- c) In an EU Member State other than their home one.
- d) **In an EU Member State other than their home one or in a third state.**

Comment: *The correct answer is d). To check it, see Article 1 of JA 96/277 on sending liaison magistrates to other Member States and Article 4 of JA 96/602/JAI, regarding liaison magistrates seconded to third states.*

2. UNIT 18.

The contact points of the European Judicial Network:

- a) can activate a request for judicial assistance.
- b) cannot activate a request for judicial assistance, they merely supply the data on the contact point in the other Member State to which the request is to be made.
- c) cannot activate a request for judicial assistance, they merely supply legal and practical information on how to prepare the letter rogatory.
- d) **cannot activate a request for judicial assistance, but apart from supplying information on the contact point in the other MS they can also supply legal and practical information on how to prepare the letter rogatory.**

Comment: *The correct answer is d). The contact points of the EJN are active intermediaries of judicial cooperation in criminal matters (see Article 4(1) JA 98/428/JHA). This status gives them the possibility not only to inform their colleagues and national authorities of other MS of legal and practical matters and supply them with data on the corresponding contact points; they can also coordinate actions in the case of several requests and act as mediators in the event of difficulty or delay. However they cannot activate letters rogatory, as this is the exclusive responsibility of the corresponding national authority.*

3. UNIT 18.

The requests for action from the Eurojust College to a competent national authority:

- a) are binding on national authorities.
- b) are not binding on national authorities.
- c) **are not binding on national authorities, but the national authority must explain its refusal to act.**
- d) are binding on national authorities and a failure to comply entails a disciplinary sanction.

Comment: *The correct answer is c). According to Article 8 of the Eurojust Decision, they are not binding, although the requested national authority will explain why it refuses to accede to the request. The only exception to this rule is that it would harm essential national interests in the area of security or compromise the correct execution of investigations already underway or the security of individuals.*

4. UNIT 18.

Joint investigation teams may be created:

- a) at the request of the national member of Eurojust of the MS in question.
- b) at the request of the Eurojust College.
- c) at the request of the competent national authority.
- d) **all of the above are correct.**

Comment: *The correct answer is d). See Article 1() of the Council Framework Decision of 13 June 2002 on joint investigation teams, according to which: "By mutual agreement, the competent authorities of*

two or more Member States may set up a joint investigation team". Moreover, according to Articles 6 and 7 of the Eurojust Decision, both the College and the national members of Eurojust may request, respectively, the creation of a joint investigation team. Moreover, see new Article 9 septies of the Eurojust Decision which envisages the participation of the national members in joint investigation teams.

5. UNIT 18.

If you needed information on possible witnesses to an offence committed in an EU Member State other than your own state, where would you go?

- a) To a liaison magistrate from my country in the MS in question.
- b) To the contact point of the European Judicial Network.
- c) To a national member of Eurojust.
- d) **To the national unit of Europol.**

Comment: The correct answer is d). Only the Europol analysis working files (AWFs) store such information. The Europol national units (ENUs) have access to these and the corresponding national services designated by the Member States have limited access.

6. UNIT 18.

The members of Iber-RED are:

- a) The contact points.
- b) The contact points and the Secretariat General.
- c) **The contact points, the central bodies and authorities and any other judicial or administrative authority responsible for judicial cooperation.**
- d) Only the contact points and national central bodies and authorities.

Comment: The correct answer is d). According to Article 4 of the Iber-RED Regulations, there are three types of members of the institution.

7. UNIT 18.

What is the main difference between Europol and Interpol?

- a) Europol is limited to the sphere of the EU while Interpol is a global organisation.
- b) **Europol does not have operational capacity while Interpol does.**
- c) Europol uses all the official languages of the EU while Interpol only uses Arabic, Spanish, French and English.
- d) The seat of Europol is in The Hague while the seat of Interpol is in Lyon.

Comment: The correct answer is b). While all the answers could be considered correct, the main difference between the two organisations is that one performs operational work and the other does not.

8. UNIT 18.

If, in the course of the preparation or investigation of proceedings you needed the provisional arrest of a Chinese national who, according to the information obtained, is in Rio de Janeiro, where would you go?

- a) To the Counsellor for Justice of the Brazilian Embassy in my country.
- b) To the Europol ENU (national unit) in my country.
- c) **To the Interpol NCB (national office) in my country.**
- d) To the Brazilian Iber-RED contact point.

Comment: The correct answer is c). An arrest warrant from the judicial authority of the interested country would be sufficient to active a red international notice (in this case it is a request for provisional arrest). In the event of a subsequent request for extradition, it would be processed, according to the provisions of the bilateral extradition agreements between Brazil and the requesting state, either via the central authorities (Ministry of Foreign Affairs or Justice Ministry) or even via direct contact between

the judicial authorities (in the later case, communicating with the Iber-RED contact point would optimise the process).

9. UNIT 18.

If you were preparing/investigating a case of violation of the Geneva Convention of 12 August 1949 on the protection of civilians in times of war, allegedly committed by an individual located within your judicial district in the territory of the Former Yugoslavia in 1994 and you read in the press that the International Criminal Tribunal for the Former Yugoslavia had also begun proceedings against the same person, what would you do?

- a) Send a request to the ICTY asking it to abstain, as I would be the competent judicial body as the individual is in my judicial district.
- b) **I would continue with my actions unless the ICTY asked me to abstain.**
- c) I would file a question of positive conflict of jurisdiction with the ICTY.
- d) None of the above is correct.

Comment: *The correct answer is b). In line with the principle of the primacy of ICTY jurisdiction (Article 9 of the ICTY Statute), national courts cannot even send requests for abstention or raise questions of conflict of jurisdiction with the Tribunal. However, there is nothing stopping them continuing with their actions until requested by the Tribunal to cease (in the case of Spain, see Article 4(1) of Organic Law 15/1994).*

10. UNIT 18.

If you were preparing/investigating a case of the violation of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 allegedly committed in 2004 in the territory of Pakistan by an individual located in your judicial district and it comes to your attention that the prosecutor of the International Criminal Court has documents that could be of great use to you in your preparation/investigation, what would you do?

- a) I would rapidly send a request directly to the prosecutor of the ICC asking that he send me the documents.
- b) **I would raise the matter with the Justice Ministry, asking for the cooperation of the Court.**
- c) Nothing, as Pakistan is not a state party to the Rome Statute.
- d) I would abstain as the jurisdiction of the ICC prevails over that of the national judicial bodies.

Comment: *The correct answer is b). In line with the principle of complementarity (Articles 17 and 18 of the Rome Statute, RS), the national judicial authorities have primary jurisdiction to investigate and prosecute crimes falling under the jurisdiction of the Court. Pursuant to Article 93(10) RS a request for assistance, presented either by a state party or by a state that is not a party to the RS, is possible. In the case of Spain, see Article 3 of OL 18/2003 on active cooperation (which must be channelled via the Ministry of Justice).*