

## QUESTIONNAIRE UNIT 19

### 1. Negative conflicts of jurisdiction can be solved

- a) By a binding decision handed down by Eurojust
- b) After the victim has filed a claim for defencelessness with the Court of Luxembourg
- c) By a non-binding recommendation made by Eurojust

The correct answer is c). Eurojust can ask a state (with no binding effect) to open proceedings for certain facts.

### 2. In relation to conflicts of jurisdiction, the new Decision on the strengthening of Eurojust:

- a) Awards Eurojust a power of binding decision over the jurisdiction that is best suited to hear a case
- b) Makes it possible to resort to Eurojust for it to hand down a non-binding decision on the jurisdiction that is best suited to hear a case
- c) Establishes hierarchical criteria for determining the competent jurisdiction with which Eurojust must take its decision.

The correct answer is b) according to Article 7.2, when the national members cannot reach a solution, Eurojust is asked to hand down a non-binding decision.

### 3. Framework Decision of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal proceedings

- a) Establishes a solution for negative conflicts of exercise of jurisdiction
- b) Contains hierarchical criteria for determining the competent jurisdiction
- c) Establishes the obligation for direct consultation between competent authorities investigating parallel processes.

The correct answer is c). It contains no rule or provision on negative conflicts and has no criteria for determining the competent jurisdiction.

### 4. The 1972 Convention on the Transfer of Proceedings of the Council of Europe requires:

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CRIMINAL MATTERS IN EUROPE  
Unit 19 Conflicts of jurisdiction, ne bis in idem and transfer of proceedings

- a) That both the requiring state and the required state have prior jurisdiction over the facts that are to be investigated.
- b) That the suspect has a connection with the receiving state in all circumstances.
- c) The proceedings carried out in a valid manner in one state before the transfer are considered valid in the receiving state.

The correct answer is c), according to Article 26 of the Convention. Answer a) is the exact opposite of what is provided in Article 3. Answer b) is not always true. Most of the reasons for transfers are related to the connection with the suspect, but there are others, such as access to evidence, that are not based on said reason.

**5. The accusations made in accordance with Article 21 of the 1959 Convention require the receiving state**

- a) To necessarily open proceedings for the facts that have been alleged
- b) To notify the progress and result of the accusation to the state by which it has been made
- c) To respond immediately with regard to the acceptance or rejection of the accusation

The correct answer is b). Article 21 of the 1959 Convention does not provide any other obligation to respond.

**6. The ne bis in idem principle prevents an individual from being judged again in one state if another state**

- a) Has ordered the stay of proceedings due to lack of evidence
- b) Has ordered the stay of proceedings after an agreement and the application of a transaction penalty
- c) Has ordered a stay of proceedings due to the fact that the suspect cannot be found.

Only b) is correct. The stays of proceedings ordered without assessing the facts are not considered final.

**7. According to the Schengen Convention, the periods of imprisonment in a state other than the one handing down the sentence**

- a) Are not taken into consideration in the executing state
  - b) Are deducted from the term of imprisonment given in the second state
  - c) Must give rise to compensation for abnormal operation of the Justice Administration
- The correct answer is b) according to Article 56 of the CISA

DISTANCE-LEARNING COURSE ON JUDICIAL COOPERATION IN  
CRIMINAL MATTERS IN EUROPE  
Unit 19 Conflicts of jurisdiction, ne bis in idem and transfer of proceedings

**8. The Schengen Convention allows states not to apply the limit provided in the ne bis in idem principle:**

- a) When they consider that the process in the first state is a "sham proceeding"
- b) When they consider that it affects national interests
- c) When the facts considered in the foreign judgment have been committed by an officer of said party to the contract, in breach of the obligations inherent to his/her post, as declared in the ratification.

Only answer c) corresponds to the provisions of the CISA.