

EUROPEAN CRIMINAL JUSTICE

The Undergraduate Modules

A compulsory teaching programme embedded in Laurea Magistrale in Giurisprudenza



With the support of the
Erasmus+ Programme
of the European Union

Concept of European Criminal Justice

The European Union member States have chosen to keep their criminal laws and systems separate and different, to the point that the Union's competences in the approximation of national criminal laws and procedures are subject to specific limits and requirements in this connection. Yet the Union's member States share a common set of values, principles and fundamental rights in this area. Such common heritage is the backbone of the judicial cooperation in criminal matters within the Union insofar as it justifies the mutual trust between the Member States, which in turn makes the mutual recognition of judicial decisions possible. Mutual trust is also at the basis of other advanced tools of judicial cooperation such as Eurojust and the European Public Prosecutor Office. The EU Court of Justice's opinion on the accession of the Union to the European Convention on Human Rights established that mutual trust marks the autonomy of the EU legal order, where a reconciliation between mutual trust and fundamental principles and rights is required. Yet fundamental principles and rights remain essential, hence mutual trust is nurtured by the development of EU minimum rules in specific areas, including rights of individuals in criminal procedure and rights of victims of crime. Mutual trust is also facilitated by the work of international mechanisms effective in all Member States such as the international, European and national committees on the prevention of torture.

Module on Human Rights and Judicial Cooperation in Criminal Matters

in the framework of the International Law Course

Laurea Magistrale in Giurisprudenza – Year 2

Goals

Objectives of the Module are to increase students' knowledge of the topics addressed during the Module as well as to provide them with intellectual challenge through active participation and engagement with the learning materials.

Syllabus

- 1) Deprivation of liberty and conditions of detention (articles 3 and 5 of the ECHR)
- 2) Migrant detention
- 3) Judicial cooperation in criminal matters and human rights

Legal materials

Charter of Fundamental Rights of the European Union

Selected decisions of the European Court of Human Rights (including, inter alia, decisions in the cases of *Torreggiani vs Italy* of 8 January 2013, *Mursic vs Croatia* of 20 October 2016, *Khlaifia vs Italy* of 15 December 2016)

Revised European Prison Rules (2020)

Human Rights Council, reports of the Working Group on Arbitrary Detention

Human Rights Committee, General Comment n.35 (Article 9 – Liberty and Security of Person), 16 December 2014

United Nations Standard Minimum Rules on the Treatment of Prisoners (Mandela Rules) (UNGA resolution 70/175 of 17 December 2015)

Module on The Fundamentals of the Judicial Cooperation in Criminal Matters

in the framework of the EU Law Course

Laurea Magistrale in Giurisprudenza – Year 3

Goals

Students should complete their knowledge of the fundamentals of the EU legal system with the understanding of the current role of the area of freedom, security and justice in it. They should become familiar with the principles at the basis of the judicial cooperation in criminal matters, i.e. mutual trust and the mutual recognition of judicial decisions, their impact on States' obligations under the European Convention on Human Rights and the Charter of Fundamental Rights of the European Union and the balance identified by the Court of Justice.

Syllabus

- 1) The Judicial Cooperation in Criminal Matters in the Lisbon Treaty: from Framework Decisions to Directives
- 2) Mutual recognition in main cooperation tools
- 3) Mutual recognition in the judicial cooperation in criminal matters vs. fundamental rights
- 4) The impact of the duty of consistent interpretation

Legal materials

Arts. 3 TEU, 82 TFEU

Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (2002/584/JHA)

Charter of Fundamental Rights of the European Union (Arts. 4, 51(1), 52(3), 53)

European Convention on Human Rights and Fundamental Freedoms (Art. 3)

European Court of Human Rights: judgment of 21 January 2011, *M.S.S. v Belgium and Greece* [GC]

Court of Justice of the European Union: judgment of 21 December 2011, Joined Cases C-411/10 and C-493/10, *N.S.*; judgment of 5 April 2016, Joined Cases C-404/15 and C-659/15 PPU, *Aranyosi and Căldăraru*; judgment of 25 July 2018, Case C 216/18 PPU, *Minister for Justice and Equality v LM*; judgment of 26 February 2013, Case C-399/11, *Melloni*.

Module on Judicial Cooperation in Criminal Matters

in the framework of the Criminal Procedure Course

Laurea Magistrale in Giurisprudenza – Year 4

Goals

Students should increase their understanding of the importance of an effective protection of the accused person for the good functioning of the judicial cooperation in criminal matters and its consistency with the Italian Constitution. They should also become aware of the threefold structure recently established in criminal trials, in which those offended join the traditional procedural figures polarized at the extreme opposites of prosecution and defense respectively. In this area, the numerous sources of law (international, supranational and national) do overlap and cause an evident fragmentation of the applicable procedural norms: the goal is to fully understand the potentiality of all tools and their consistency.

Syllabus

- 1) Rights of the accused person in criminal trials: EU Directives and implementation in Italian law
- 2) Rights of victims in criminal trials: EU Directives and implementation in Italian law

Legal Materials

Arts. 24 and 111 of the Italian Constitution

Directive 2010/64/EU of the European Parliament and of the Council of 20 October 2010 on the right to interpretation and translation in criminal proceedings

Directive 2012/13/EU of the European Parliament and of the Council of 22 May 2012 on the right to information in criminal proceedings

Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime

Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse (The Lanzarote Convention)

Legislative Decree no. 32/2014

Legislative Decree no. 101/2014

Law 172/2012

Law 119/2013

Legislative Decree no. 9/2015

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