Cross-Border Cooperation in the Context of Romania's Accession to the Treaty of Prüm

Minodora Ioana BĂLAN-RUSU[1]

Abstract: The conducted research aims at critically examining the provisions of the Prüm Treaty, and therefore the proposal for the adoption of new provisions that would contribute to the improvement of the legislation in the field and increase the police and judicial cooperation. This paper is a continuation of previous research on topics related to judicial cooperation in criminal matters in the European Union. The conclusions and findings highlight the utility of the European legislative act in this area and the need to supplement it with new provisions in order to broaden the jurisdiction of officials of another State on the territory of the host State in joint actions, in order to prevent and combat the cross-border criminality, particularly terrorism. The paper can be helpful to both theoreticians and practitioners, and to all who wish to improve their knowledge in this highly complex domain. The essential contribution of this study refers to the critical examination and the proposals for supplementing and amending the European and internal legislation in this area.

Keywords: DNA profiling; fingerprint; joint patrols

1. Introduction

In the recent years, due to the development of human society, there have been significant changes in the structure of criminality, especially in the organized crime, appearing forms of manifestation increasingly serious. (Rusu, 2011, p. 552)

Against this background there was the need to prevent and combat more effectively the phenomenon very serious and complex at the same time, in a joint effort, to which most countries with recognized democratic regimes engaged in. Given the complexity of activities to prevent and combat the phenomenon as a whole, the countries of the world, aware of the growing threat represented by the intensity of crime of all kinds, they have increased their international judicial cooperation in criminal matters. (Rusu, 2011, p. 552)

[1] Assistant Professor, PhD in progress, "Dimitrie Cantemir" Christian University, Bucharest, 176 Splaiul Unirii, District 4, Bucharest, Romania, Tel.: +4021.330.79.00. Corresponding author: ionrusu@univ-danubius. ro.

Criminality has seen new forms of expression also in the European Union in the context in which criminal elements can move from one corner to another of Europe without major risks.

Providing a climate of freedom, security and justice in the European Union has imposed a priority the intensification of the cooperation in criminal matters on multiple levels, starting from the exchange of data and information between the competent institutions of the Member States.

Among the many forms of collaboration known at this time, we consider that the most important form of judicial cooperation in criminal matters between the Member States is the recognition and enforcement of judicial criminal decision emanating from the competent authority of another Member State. (Rusu, 2011, p. 554)

In order to ensure a greater security for their citizens, on May 27, 2005, seven Member States of the European Union, namely, Belgium, Germany, Spain, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands and Austria signed the Treaty of Prüm. (Boroi & Rusu, 2008, p. 543)

The European legislative act refers to deepening the cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration. Under the provisions of the European legislative act, after more than three years after entering into force, it will be presented an initiative to transpose its provisions into the European Union legal framework, taking into account the provisions of the two basic treaties of the European Union. In this context, it was adopted the Council Framework Decision 2008/615/JHA of 23 June 2008 on cross-border cooperation, particularly in combating terrorism and cross-border crime. [1]

As a member state of the European Union, Romania has transposed the European legislative act in its national law by adopting Law no. 146/2008 for Romania's accession to the Treaty between the Kingdom of Belgium, Germany, Spain, the French Republic, the Grand Duchy of Luxembourg, the Netherlands and Austria on the stepping up the cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal immigration signed in Prüm on 27 May 2005. [2] Through the national legislative act referred to above, Romania has transposed into its legislation only the Prüm Treaty, and not the Council Framework Decision 2008/615/JHA of 23 June 2008, which supplements the first European legislative act.

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2. DNA Profile Fingerprint Data and other Data

Under the provisions of the European legislative act, the Contracting States undertake to establish and manage the national DNA analysis files for the prosecution of criminal offenses. Processing data recorded in these files will be in accordance with the national law. The indexed data only contain DNA profiles that come from the non-coding DNA, and also a reference. Indexed data must not contain any data that would allow the direct identification of the person concerned. Each contracting party shall designate a national contact point for the necessary data transmission that will have specific skills established by internal legislative acts.

The contracting parties shall permit to the national contact points of the other contracting parties in order to prosecute crime to have access to their indexed data of DNA analysis files and they would have the right to conduct an automatic consultation by comparing the DNA profile. If following an automatic consultation there is a match between a DNA profile file recorded in the recipient state, the national contact point that started the consultation is informed automatically on the existence of a match and reference.

Regarding the automatic comparison of DNA profiles, jointly and through their national contact points, the Member states in question compare the DNA profiles of their tracks open to all DNA profiles that come from indexed data of other national DNA analysis files for the prosecution of criminal offenses. Both transmission and comparison will be achieved automatically, indicating that the transmission of compared DNA profiles of open traces is achieved only in the cases where such transmission is provided in the national law of the requesting State. When during the process of comparison as mentioned above the competent authority finds that the submitted DNA profiles correspond to those in its own file of DNA analysis, it shall communicate without delay to the national contact point of the other State the indexed data where a match was found.

If, during the investigation proceedings or criminal proceedings in progress the DNA profile of a person located in the requested State is lacking, the latter grants legal aid by sampling and analyzing the genetic material of this person and transmitting the obtained DNA profile when:

- the requesting contracting party shall communicate the purpose of this procedure;
- the requesting contracting party shall submit an order or an investigation issued by the competent authority, as required by its national law, showing that the conditions would be met for sampling and analysis of genetic material, if the person would be on the territory of the requesting contracting party and

- there are met the conditions necessary for the sampling and analysis of genetic material and for transmitting the obtained DNA profile under the national law of the requested party. [1]

The concerned States shall ensure the availability of indexed data on the content of the automatic national dactyloscopic identification system, established for the prevention and prosecution of criminal offenses. As DNA profiles, these indexed data contain not only the fingerprint data but also a reference, and it should not contain data that would allow the direct identification of the person concerned.

In order to prevent and prosecute the criminal offenses, the contracting states allow to the national contact points of the other states the access to data in their dactyloscopic indexed *automatic identification system*, created for this purpose. In the case of fingerprint data match, the transmission of other personal data that relate to the indexed data and other institutions is carried out under the national law of the requested party.

For the prevention and prosecution of criminal offenses in the State's territory that conducts the consulting for prosecution of criminal offenses for which penalties are provided and it is for the courts or the public prosecutor to maintain public order and security, the contracting states shall authorize the national contact points of other countries to have access to data on the owners or, if applicable, the possessors and data on vehicles, data which are in the national registers of vehicles. (Boroi&Rusu, 2008, p. 545)

In order to prevent criminal acts and to maintain public order and safety during large-scale events having a cross-border dimension, especially in sport domain or relating to the European Council meetings, the Contracting States shall send to each other, both on demand and at their initiative, non-personal data that may be necessary. In achieving the same end, the Contracting States shall send to each other both on request and at their initiative, data on people when there are convictions or other facts justifying the assumption that these people may commit crimes at some events or that they pose a threat to public order and security, but only to the extent where the transmission of this information is allowed by the state law that sends it. Processing these data will be made only for the purpose for which they were submitted, and after processing, if for various reasons the mentioned purposes have been achieved or cannot be achieved, the transmitted data is erased.

3. Prevention of Terrorism Offenses

In order to prevent terrorism offenses, the Contracting States may transmit personal data to each other (and other data such as: name, surname, date of birth, description

[1]Article 7 of the Treaty.

of facts), to the extent that this is necessary because certain facts justify the presumption that such persons will commit terrorism offenses according to article 1-3 of Framework Decision 2002/475/JHA European Union of 13 June 2002 on combating terrorism. (Boroi & Rusu, 2008, p. 546)

In relation to the national policy on aviation security, each state can decide on the intervention of armed attendants on aircraft. The armed companions' intervention will be achieved in accordance with the Chicago Convention of 7 December 1944 on International Civil Aviation and its Annexes, in particular Annex 17, with other documents relating to its application, taking into account their aircraft commander's competences under the Convention Tokyo on 14 September 1963 on offenses and other acts that occur on aircraft and in accordance with other relevant provisions of the international law. The armed attendants are police officers or employees of public authority properly trained and in charged with maintaining the security on the aircraft. Before escorting a flight, the national coordination point must inform in writing this intervention, at least three days before the flight in question having as destination a Contracting State's airport. In case of imminent danger, the written information is carried out without delay, basically before landing.

The Contracting States shall issue to the armed companions assigned to the aircraft of the other Contracting States at their request, a general authorization for carrying weapons, ammunition, and equipment items for flights having as destination a Contracting State's airport. Carrying weapons and ammunition are subject to the following conditions:

- exiting with arms and ammunition from the aircraft in an airport or staying in security areas that are not accessible to the public, at an airport of another Contracting Party is authorized only with the accompaniment by a representative of the competent national authority of other involved Contracting Party;
- immediately after being removed from the aircraft, the weapons and ammunition are stored under escort to a place to be determined by the competent national authority; they are stored safely and under supervision (Boroi & Rusu, 2008, pp. 547-548)

4. Combating Illegal Migration

Under the Regulation (EC) no. 377/2004 of the EU Council of 19 February 2004 on the creation of a network of officers of "Immigration" connection and the joint assessment of this phenomenon, the Contracting States agree sending documents' advisers in the Member State considered as being origin or transit states for illegal migration. Contracting Member States, taking into account their national

legislation, can inform each other on issues identified by their documentation counselors. The documentation counselors will fulfill the following missions:

- advising and training the members of diplomatic or consular representatives of the contracting parties on the issues of visas and passports, in particular the recognition of forged or counterfeit documents and the fraudulent use of documents and illegal migration;
- counseling and training transport companies in the obligations' domain under the Convention of implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at their common borders, signed on 19 June 1990 and in Annex 9 to the Chicago Convention of 7 December 1944 on International Civil Aviation and the recognition of forged or counterfeit documents and the relevant provisions concerning entering in the country and
- counseling and training the host country authorities and institutions that are responsible for police checks at borders.

The Contracting Parties shall assist each other in the course of removing measures from the territory, achieved in accordance with the European Union Council Decision 2004/573/EC of 29 April 2004 on the organization of joint flights for removals, from the territory of two or more Member States, third country nationals subject of removal measures from the territory of two or more Member States and the European Union Council Directive 2003/110/EC of 25 November 2003 on the assistance in transit within the measures of removal by air. (Boroi & Rusu, 2008, p. 548)

5. Other Forms of Cooperation

Prüm Treaty provides for other forms of cooperation, namely: common forms of intervention, measures in case of imminent danger, assistance during major events, disasters and serious accidents and cooperation on demand. (Boroi & Rusu, 2008, p. 549)

5.1. Common Forms of Intervention

In order to strengthen the police cooperation and to maintain public order and security and preventing criminal actions, the competent authorities may establish joint patrols and other joint intervention within which the officials and other servants of the public authority are involved in the intervention in another Member State's territory.

As the host State and the sending State Agreement, each Contracting Party in accordance with its national law, may, in the forms of joint action, entrust to the other state's officials the powers of public authority or, where the law of the host State allows, the officials may permit that other states' servants to exercise the

competences of public authority. The public authority's powers can be exercised in this respect only under the command and, as a rule, in the presence of host's officials. In this regard, civil servants of the other Contracting Party shall be subject to the laws of the host national State's law; that state will be responsible for their actions. The officials taking part in joint interventions are subject to the instructions of the host competent authority.

Thus, according to the Treaty, the joint patrols are organized especially between the Member States with joint borders (but not only) in order to achieve three main objectives, namely:

- intensifying the police cooperation;
- maintaining the public order and security;
- prevention of crime (Boroi & Rusu, 2008, p. 550).

5.2. Measures in Case of Imminent Danger

In emergencies, the officials of a Contracting Party may cross the common border to another contracting party without its prior authorization, as in the border area on the territory of the other Contracting Party and subject to its national legislation it should take necessary provisional measures in order to eliminate any imminent danger to life or physical integrity of persons.

The emergency situation is when, in case of expecting the intervention of the host state or it is established a relationship of subordination, there is the risk of materializing the danger.

Under these circumstances, the officers that intervene on the territory of another State, they shall immediately notify the host state. It (the host) acknowledges the receipt of the information and it is obliged to take, without delay, the necessary measures in order to eliminate hazards and resume control of the situation. The involved officials can only act within the host state's territory until the latter has taken the necessary measures to eliminate the hazard. The involved officials are obliged to comply with the instructions of the host State.

5.3. Assistance during some Major Events, Disasters and Serious Accidents

The competent authorities of the Contracting States have a mutual support, obeying their national legislation, during mass demonstrations and other major events, disasters and serious accidents, such as:

- informing each other as soon as possible of such events with cross-border implications and also communicating important information that relates to them;
- undertaking and coordinating the necessary policing measures within their territory in cases with cross-border implications;

- assisting, where possible, at the request of the Contracting Party on which territory the situation occurred by sending officials, experts and advisers, as well as providing necessary equipment. (Boroi & Rusu, 2008, pp. 550-551)

5.4. Cooperation upon Request

In relation to its own competences under the provisions of the national law, the competent authorities of the Contracting Member States may grant upon request assistance in this area. Mutual assistance upon request regards:

- identification of owners and possessors, as drivers of road vehicles, boats and ships or aircraft;
- information on driving licenses, permits and authorizations navigation;
- checks on places to stay and residence;
- checks on the titles of stay;
- verification of the identities of the telephone subscribers and subscribers of other telecommunications equipment, to the extent that they are accessible to the public;
- verification of identity;
- investigation of the origin of things like weapons, motor vehicles or boats and ships (requests on the way they were acquired);
- elements of information resulting from the police data collection and police documents and information resulting from the data collection accessible to the public administrative authorities;
- emergency alerts on weapons and explosives, as well as alerts for forgeries of currency and valuable documents;
- information on the practical implementation of cross-border surveillance measures, cross-border tracking and supervised deliveries, and
- notification of the availability of a person to give statements.

6. Use of Weapons, Ammunition and Equipment items on the Job

The officials of a Contracting Party operating in the territory of another Contracting Party may wear national uniform. They may carry their weapons, ammunition and equipment items, permitted by the national law of the sending State. Any Contracting State may prohibit the carrying on its territory certain weapons, ammunition or equipment. The weapons, ammunition and equipment items can only be used for self-defense or defending another. Despite this, the official responsible for the intervention of the host State may authorize, depending on the case and in compliance with the national legislation, the use of service weapons, ammunition and equipment items. In all cases, the use of weapons, ammunition and items of equipment subject to the law of the host State. The

competent authorities shall exchange information on weapons, ammunition, equipment and the legal conditions in which they can make use on their territory, according to their national law.

If the officials of a Contracting Party involve in the case of taken measures, vehicles with engine on the territory of another Contracting Party, they follow the same traffic rules as the officials of the host state, including the use of public authority powers in the use of sound or light devices and on the compliance with traffic rules.

The host State is obligated to grant to the officials sent by another state acting on its territory the same protection and assistance as those granted to their officials.

Regarding the criminal acts that they commit or are committed against them in the case of the officials acting in the territory of another State it shall be treated as its own officials, that is of the host state.

7. Privacy of Data

To avoid some unilateral interpretations of the Contracting States in the treaty there are defined a series of phrases and terms, namely:

- *the processing of personal data* means any processing or chain of processing on personal data carried out with or without automatic means, which relate to personal data, such as collection, storage, planning, systematization, adaptation or alteration, reading, investigation, consultation, use, communication through a transmission, dissemination or otherwise making available, combination or consolidation, as the blocking, erasure or destruction of data, also it includes the processing of information on the existence or absence of a match;
- *automatic consultation* means direct access to a database of other authority that shall take places that the consultation response would be achieved fully on automatic means;
- *marking* means the application of a sign to the recorded personal data without limiting their processing in the future search;
- *blocking* means marking the registered personal data in order to limit their processing in the future.

Regarding the protection of personal data, each State shall ensure, through its national law, a level of protection of at least equal to that resulting from the Council of Europe Convention of 28 January 1981 on the protection of individuals regarding the automatic processing of personal data and the Additional Protocol of 8 November 2001, each party taking into account in this regard, the Recommendation R (87) 15 on the use of personal data in the police sector of 17

September 1987, Member States made by the Committee of Ministers of the Council of Europe, including to the extent that the data are not processed automatically.

The receiving Member State may not process the personal data for the purposes for which they were sent; processing for other purposes is not permitted without prior approval of the State that sent them and respecting its national legislation.

Data processing by the consulting state or comparing data is exclusively authorized in order to:

- establish the correspondence between DNA profiles or between compared dactyloscopic data;
- prepare and submit an application for administrative or judicial assistance under the national law, in case of consistency of data;
- achieve a log.

The competent authorities of the Member States are obliged to ensure the accuracy and timeliness of personal data. In the case where they were sent incorrect data or data should not be transmitted, the receiving competent authorities must be informed without delay, which will proceed in their correction or deletion.

The submitted personal data should be deleted:

- if they are not or no longer needed for the purposes for which they were sent; if the personal data were transmitted, without having a request, the receiving authority is required to examine to what extent they are necessary for the purposes for which they were submitted;
- at the end of the maximum term provided for keeping their national legislation of the Contracting Party transmitting the data, when the competent authority transmitting the data indicates to the recipient authority this maximum period at the moment of transmission.

Both the receiving authority and the one transmitting the data are required to effectively protect personal data against any accidental or unauthorized destruction, accidental loss, unauthorized access, accidental or unauthorized changes and unauthorized disclosure.

Also, each Contracting Party shall ensure that any non-automatic transmission and receipt of personal data are documented by the requesting authority and by the authority managing the file in order to control admissibility of the transmission. The documentation includes the following information:

- the reason behind the transmission;
- the transmitted data;
- date of transmission and

- the name or reference of the requesting authority and the authority that manages the file.

For automatic consultations on DNA profiles, dactylographic data and data from the registration of vehicles or automatic comparisons of DNA profiles, the following provisions shall apply:

- consulting or automatic comparison can only be made by the officials of national contact points, empowered for that purpose. Upon request, the list of officials entitled to the inspection or automatic comparison is available to supervisory authorities and other contracting parties;
- each Contracting Party shall ensure that the managing authority of the file and the requesting authority shall keep records in a log book any sending and receiving data, including information on whether it was or not a match. Logging includes the following information: the transmitted data, the date and time of transmission and the name or reference of the requesting authority and the authority that manages the file.

The requesting authority logs the reason of the request or transmission and also the references of the agent who was at the origin of the request or transmission.

Logged data must be protected by appropriate measures against any use other than the mentioned purposes and against any abuse and they must be kept for two years. After the period of retention, the logged data shall be deleted immediately.

The responsibility of the legal control of the transmission and receipt of personal data lies with the independent authorities competent in the domain of data protection control of the contracting parties. Under the national law, any person may request those authorities to verify the legality of processing the data in question. Regardless of such request those authorities and the authorities responsible for logging must also carry out random checks in order to verify the legality of the transmission, with the files that formed the basis of consultations. The results of the control must be kept for 18 months in order to achieve the control of independent authorities responsible for data protection. After this period, the results should be immediately deleted. Each authority competent for data protection controls may be required by the independent data protection control of the contracting parties to perform their duties in accordance with the national legislation.

Upon request, the person concerned will be notified after being proved the identity by the competent authority under the national law without unreasonable expenses, in a general comprehensible form without undue delay the processed data concerning the person and their origin, the recipients or categories of recipients, the purpose of processing and the legal basis governing the processing. In addition, the person concerned has the right to correct the inaccurate data and to delete illegal processed data.

The Contracting Parties shall ensure, in addition, in case of infringement of its rights concerning the protection of personal data, such person to make a complaint to an independent and impartial court established by law for the purposes of article 6 (1) of the European Convention on Human Rights or an independent control for the purposes of article 28 of Directive 95/46/EC and they give the possibility, in court, to require the right to seek remuneration or other form of compensation.

8. The Transposition of the Treaty in the Romanian Legislation

Consistent with its European aspirations and the desire to fulfill its obligations in the field of judicial cooperation in criminal matters in the European Union, Romania joined the Prüm Treaty by adopting Law no. 146/2008. When depositing the instrument of accession, Romania has made the following statements:

A. On the basis of article 2, paragraph (3) of the Treaty:

1. On its territory the Genetic Data National Judicial System, called SNDGJ contains genetic profiles for the following categories:

a) suspects – people on which there are data and information revealing that they could be perpetrators, instigators or accomplices of crimes for which biological samples can be taken in order to introduce genetic profiles in the national database, as required by law;

b) persons definitively convicted to imprisonment for offenses for which biological samples can be taken to introduce genetic profiles in the national database, as required by law;

c) biological evidence collected during the survey on the spot;

d) bodies of unknown identity, missing or deceased persons following natural disasters, mass accidents, murder or terrorism;

2. In S. N. D. G. J. there are verifications and comparisons on genetic profiles in order to:

a) exclude the persons from the list of suspects and identify the offenders for which biological samples can be taken in order to introduce genetic profiles in the national database, as required by law;

b) establish the identity of persons who are victims of natural disasters, mass accidents or acts of terrorism;

c) exchange information with other countries and fight against cross-border crime;

d) identify participants in the crime for which biological samples can be taken to introduce genetic profiles in the national database as required by law;

B. On the basis of article 28 paragraph (2) sentences 1 and 2 of the Treaty, Romania declares that on its territory it is prohibited to the state sending port officials and the use of weapons, ammunition and equipment, other than those existing on individual equipment, under the national law;

C. On the basis of article 42 of the Treaty[1], Romania establishes as competent authority for the implementation of the Treaty the specialized structures within:

a) the Ministry of Administration and Interior, for the contact point referred to in article 42 paragraph (1) section 1-4 or section 7-9;

b) the Romanian Intelligence Service, for the contact point referred to in article 42 paragraph (1) item 5 and 6.

D. Under the current legislation, Romania declares that the written information submitted by the Romanian authorities in the application of the Treaty cannot be used as evidence in criminal proceedings without the written consent of the authority which transmitted the data.

9. Critical Reviews

According to the examination of the European legislative act and our internal legislation, including the enactment document of membership, we find the existence of some provisions requiring in our view to be modified or supplemented by the European and the Romanian legislator.

Thus, according to article 14 of the Treaty, in order to prevent crime and maintain public order and safety during large-scale events with cross-border dimension, especially in sport domain or in connection with European Council meetings, the Contracting Parties shall provide each other, both at the request and own initiative data relating to individuals convicted of other facts that justify the assumption that these people will commit crimes in these events, or pose a danger to public order

[1]In the article 42 of the Treaty it is provided the compulsoriness of the contracting Member States to designate internal national points of contact for:
1. DNA analysis [article 11 paragraph (1) of the Treaty];
2. Dactyloscopic data [article 11 paragraph (1) of the Treaty];
3. Data from the register of vehicles [article 12 paragraph (2) of the Treaty];
4. Exchange of information on large-scale manifestations (Article 15 of the Treaty);
5. Information on preventing terrorist offenses [article 16, paragraph (3) of the Treaty];
6. Armed attendants (Article 19 of the Treaty);
7. National contact points for advice and coordination of documents (Article 22 of the Treaty);
8. National contact points for planning and execution of removal from the territory [article 23, paragraph (3) of the Treaty];
9. Authorities and officials indicated at article 24 and 27 of the Treaty (there are considered the authorities involved in the common forms of cooperation and cooperation upon request).

and security, to the extent that the transmission of such data *is permitted under the national law of the Contracting Party which transmitted it*.

It is known that in order to prevent and combat the mentioned above facts, the national police forces of the Member States should have the necessary information based on which it should organize the activities specific to the domain. Since at the European level there are permanently large-scale sporting events, namely world, European championships, Olympics, football matches which attract large numbers of spectators from all Member States, it is normal for the participation of persons convicted of such acts to be known in advance by the national police state or states where there are these types of competitions. However, the European legislative act does not oblige the Member States to send such information to the State in which the event takes place, noting that such information will be transmitted to the extent that *the transmission of such data is permitted under the national law of the Contracting Party which transmitted the information*. We believe that these latter provisions referring to national legislation of the Party possessing such information should be removed from the text, as it may cause some confusion which ultimately may lead to imperfections in the cooperative activity in this area. Removing those provisions would lead to increased cooperation in the data transmission between the involved Member States, an activity which will be based on the harmonization of internal legislation of the Member States in this area.

Another critical remark concerns the possibility of using weapons, ammunition and equipment in a state by another state's agency. Thus, according to article 28 paragraph (2) of the Treaty, weapons, ammunition and equipment items on the job cannot be used unless for self-defense or defense of another. Further, the European legislative act stipulates that besides *the framework provided in the first sentence, the official responsible for the intervention of the host State may authorize, depending on the case and in compliance with the national legislation, the use of weapons, ammunition and items of equipment of the job.*

By examining those provisions it results that the general rule is that the sending state officials may use the weapon or the equipment supplied only for self-defense or defense of another person and as an exception, the official of the host state responsible for the intervention may authorize, depending on the case and in compliance with state law in which it acts, the use of weapons, ammunition and items of equipment on the job.

A first observation is that the text is not clear, either due to incorrect translations, either because of the way it was designed by the European legislator. Considering that it raises no issue of translation, we find that the European legislator did not consider the use of weapons in the case of trapping some people, who, after having committed a criminal act, flees from the scene of the crime. On the other hand, we consider that the authority given to the responsible official from the host state is

exaggerated and it certainly exceeds the legislation of any Member State. The use of weapons on the job should be allowed in all cases only in compliance with the host state's legislation, not by an official of the host state, which normally has no power in this area. In these circumstances, we consider that it is necessary amending and supplementing the European legislative act in the sense of allowing the use of weapons of the official of the sending State on the same terms and subject to the same rules (as for their officials) on the territory of the host State.

We also believe that the term of two years imposed by the legislator to preserve the logged data in accordance with article 39 paragraph (4) is too small, and therefore, a period of five years seems more reasonable. We argue this opinion on the need to use these data in conjunction with other future large events that can take place on its territory.

10. Conclusions

Although there were terrorist acts before, the issue of preventing and combating more effectively this very serious phenomenon has been discussed in the European Union after the attacks in the United States in September 2001. So we appreciate that the initiative of the seven member states of the European Union was due to the upturn in crime of terrorism and hence the cross-border crime. No doubt that this phenomenon that mankind is facing is favored by illegal migration, which is in its essence another danger becoming more common in the European Union.

Against this background, the need for crime prevention has become a major objective of all countries, but particularly in the European Union member states. In this context particularly complex, preventing and combating this kind of crime that sets a particular danger to the European Community can be achieved only in an organized framework, to which each Member State should contribute.

An organized framework can produce the expected results only through the intensification of judicial cooperation in criminal and police matters in the European Union.

Preventing and fighting against cross-border crime more effectively in general and terrorism in particular, can be achieved only under the conditions of an efficient exchange of data and information involving specific responsibilities for all authorized judicial bodies.

The European legislative act establishes a general framework for cooperation between the Member States concerned, a framework involving general and specific data relating to three broad objectives, namely: DNA profiling, dactyloscopic data and data on owners and registered vehicle in the Member States.

Meanwhile, the European legislative act establishes also other forms of cooperation, an absolute novelty is the police cooperation, i.e. the common forms of intervention, measures in case of imminent danger, assistance in case of major events, disasters and serious accidents and also cooperation on demand.

It also establishes a series of measures to protect such data against unauthorized use or destruction.

Romania acceded to the Treaty establishing also the institutions responsible for the transmission and protection of personal data and those that contribute to the established objectives. Subsequently, the examined European legislative act, with some modifications and additions, was incorporated into the European law by the adoption of the Framework Decision 2008/615 / JHA of 23 June 2008 on cross-border cooperation, particularly in cross-border crime and terrorism[1], so that now it is in force for all Member States.

The formulated critical observations are likely to contribute to the improvement of cooperation system in the field by adopting a legislative framework that it directly contributes to preventing and combating crime more effectively in this area.

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