



International Rogatory Commission in the Romanian Law

Minodora-Ioana BĂLAN-RUSU¹

Abstract: Within this paper it is examined the institution of international rogatory commission in Romanian law in the light of the latest legislative changes occurred in the Romanian special law and other legal acts of the European Union. With this paper it is continued our research activity on European and international legal assistance in criminal matters. The study presents the conditions under which the Romanian authorities require or enforce a claim for performance of international rogatory commission, where there is a criminal case, regardless of the stage at the time of the application. The work can be useful to practitioners in this field (courts, prosecutors, police and lawyers) and law school or master students. The novelty consists in examining this institution taking into consideration the latest amendments to the Romanian and European legislation in the field of international rogatory commission in criminal matters and the formulation of some critical observations aiming at improving the legislation in this area.

Keywords: crime; criminal lawsuit; judicial assistance

1. Introduction

In the national law, the rogatory commission, as institution of criminal procedural law, is governed by the provisions of article 200 of the Criminal Procedure Code.

In the Romanian doctrine, the rogatory commission was defined as “*the procedural act that the prosecution or the court, having jurisdiction under the law, requires another body prosecution or other court, from the same category and degree to conduct a procedural act necessary for investigating the case, a prosecutor from a tribunal, a court of another court.*” (Theodoru, 2007, p. 418)

According to the provisions of article 200 paragraph (1) Criminal Procedure Code, “*when a criminal prosecution body or the court is unable to hear a witness to*

¹ Assistant Professor, PhD in progress, “Dimitrie Cantemir” University of Bucharest, Romania. Address: 176 Splaiul Unirii, Bucharest 030134, Romania, Tel.: +4021 330 8931. Corresponding author: oanarusu_86@yahoo.com.

conduct an investigation at the crime scene, to proceed in lifting objects or perform any other procedural act, it may appeal to another prosecution body or any other court, that is able to perform.”

Considering the provisions of law, and the definition established by the doctrine, we can define the rogatory commission as representing the procedural act, which exudes from a criminal prosecution body to another or a court of law, by which it calls for the prosecution of another body or court in the same category and the same degree, to hear a witness, to conduct an investigation at the scene of the crime, to confiscate objects, or perform any other procedural act, believed to be necessary in a criminal case which is under instrumentation.

In Romania the rogatory commission, regarded as an institution of criminal procedural law, is incident both in the criminal investigation stage and at trial, targeting virtually any procedural act, except some of them expressly provided by the law.

Thus, the initiation of criminal proceedings, preventive measures, approval of evidence and other procedural acts arrangement or procedural measures may not be the object of the rogatory commission. As in the current Criminal Procedure Code there are not included provisions for international rogatory commission, it will be achieved according to the special law to which we previously referred.

2. International Rogatory Commission. Concept and Object

Being mentioned in the special law as the first of the forms (ways) of ensuring international judicial assistance in criminal matters, the international rogatory commission is provided in article 173 and the following, of this legislative act.

As for the international rogatory commission in criminal matters, the doctrine sustained that “the exact term for the international rogatory commission in criminal matters is similar to that form the national law, and it consists of *“the empowering that a judicial authority of the requesting state gives to an authority of the same or similar kind, to perform in its name and on its behalf, a procedure act that cannot be performed in relation to a person who is in the territory of the requesting State.”* (Radu, 2008, p. 78)

In the special law the international rogatory commission in criminal matters is defined as being *“that form of legal assistance which consists of empowerment that a judicial authority of a State for a grant of authority in another state, mandated to*

*fulfill the place and its name some activities related to a particular judicial criminal proceedings”.*¹

We notice that the definition of the international rogatory commission in criminal matters is different from that adopted in the national law, in the sense that it does not explicitly nominate any specific activity, being largely influenced by the European law.

Under the provisions of article 174 paragraph (1) of the special law, *the object of the international rogatory commission in Criminal matters consists mainly:*

a) locating and identifying persons and objects; hearing of the defendant’s suspect, injured party, civil party, civilly liable party, witnesses and experts, and the confrontation; search, seizure of objects and documents, special or extended seizure and confiscation; crime scene investigation and reconstitution; expertise; transmission of the necessary information in a particular process, tapping conversations, examining archival documents and specialized files and other such proceedings; b) transmission of evidence material means; c) communication of documents or files.

Given the fact that the requesting State requests for the witnesses or experts’ hearing to be carried out under oath, the Romanian judicial authorities shall comply with this request.

Usually the Romanian State shall submit only certified copies or photocopies of the requested documents or records, but in the case where the original documents are requested, to the possible extent, it will be granted.

The comparative examination of the international rogatory commission and the object of the rogatory commission from the internal law highlight firstly the multitude and variety of its forms. The Romanian legislator nominates particular some forms of internal rogatory commission, i.e. hearing a witness, crime scene investigation and seizure of objects and documents, then leave it for the Romanian judicial authorities to decide the use of other forms without actually nominating them, using the phrase “to achieve any other procedural act,” except those specifically set in article 200 paragraph (2) to which we previously referred.

In another opinion it is sustained that “unlike internal rogatory commission, which means only a partial legal warrant granted only to perform procedural acts,

¹ Law no. 302/2004, republished, article 173.

excluding processual acts, in matters of international rogatory commission, covering mainly the expertise, technical-scientific results, forensic results, seizure of objects and documents, special seizure and confiscation, warrant is complete, given both the procedural and processual act. In these cases, however, the processual act has a different regime than the one from a pending criminal trial in Romania, as the requesting Romanian judicial authorities, having no access to the pieces of the file, it just proceeds to an examination of legality and it does not examine the opportunity of fulfilling the act or the law compatibility of the requesting State with the international instruments on human rights to which the State is a party, where the statutory jurisdiction belongs to the requesting foreign authorities. (Vasiescu, 2011, pp. 97-98)

Regarding the international rogatory commission, we note that *“usually, the execution of the international rogatory commission application in criminal matters is not subject to the incrimination of the act referred to the rogatory commission, in the law of the requesting State. For applications submitted to searches or seizure of goods, the execution of the request occurs only if the act is one of those covering extradition and it is compatible with the law of the requested State.”* (Radu, 2008, p. 79)

Also, we consider that in case of requesting the Romanian judicial authorities by a competent judicial authority of another Member State of the European Union, which refers to searches or seizure, the execution of the request will be held only if the act is one from those that allow the execution of a European Arrest Warrant.

Regarding the judicial procedure of the execution of international rogatory commission by the Romanian judicial authorities, we mention that it will proceed in two stages: in the first stage the competent Romanian judicial authorities (the Court of Appeal with territorial jurisdiction during the trial and The Public Prosecutor's Office attached to the Court of Appeal during the prosecution stage) will consider the application in terms of substance and form provided in the applicable international legal instrument or in the special law, and in the second stage it will proceed to execution.

It can be inferred that within the first stage there can be made two decisions, which may relate to its rejection or acceptance, and the transition to the execution of the application can take place only in the case of its admission. In all cases, regardless of the state requesting international judicial assistance in criminal matters, that is if it is a EU member State, member of the Council of Europe or any other state in the

world, the judicial bodies of the executing State, it shall proceed to execute the request, applying the provisions of its internal law, regardless of its subject.

We mention that, in the case where the requesting State expressly requests it, the competent judicial authorities of the Romanian state will inform about the date and place of the execution of the rogatory commission. Also, in accordance with the Romanian law, the authorities and the persons mentioned by the applicant state can assist and collaborate on the execution of the rogatory commission, but only to the extent permitted by the Romanian law.

3. Ways by which the International Rogatory Commission is achieved

Based on the International rogatory commission subject, we will proceed in examining briefly the activities expressly stipulated in the special law, with emphasis on those that we consider to be more important and most often used.

3.1. Locating and Identifying Persons and Objects

Locating and identifying persons represents a legal activity, according to which a judicial body certified in a state, requires to another judicial body in another state to take measures of locating and identifying individuals wanted in the first state, in order to solve a criminal case. In the text of the law there is no reference to the respective persons, something which leads to the idea that these people may have different qualities, namely: suspects, indicted, convicted, injured parties or even witnesses.

As concrete and practical activity, locating and identifying a person represents a police activity, where the competent authorities of the requested State are running a series of specific activities, for the intended purpose, namely localization and identification of the person concerned.

Regarding the location and identification of objects, the activity itself aims at different categories of objects that can be a result of the offense, or was used for committing the offense, etc. The variety of the categories of such objects lies in the variety of offenses that can commit crimes in a context or another.

When the requested State is the Romanian state, in addition to specific investigative activities of the police, the Romanian judiciary bodies will perform this activity in compliance with articles 132-137 from the Criminal Procedure Code

3.2. Hearing the Suspect, Defendant, Injured Party, Civil Party, Civilly Liable Party, Witnesses and Experts, and also Confrontation

Another activity circumscribed to the international rogatory commission in criminal matters is represented by the hearing of persons in ongoing criminal proceedings on the territory of the Requesting State. The Romanian legislator established the categories of persons on hearing i.e. the suspect, defendant, injured party, civil party, civilly liable party, witness and the expert.

In judicial practice there are common the situations where after committing a crime, the suspect or defendant leaves the territory of that state, and he is found later, after being conducted activities by the judicial investigative authorities of the State where the offense was committed. In these circumstances, the defendant should be heard by the judicial bodies, and for the speed trial, it may request a hearing by the judicial authorities of the State in which the person is located. Also, even if as a first stage the person was initially heard, it may be required a rehearing in order to clarify other aspects of the case.

Far more common are the cases where the injured party must be heard, knowing that after committing a crime against someone on the territory of another state, it, usually, after filling the complaint, leaves the territory, having no obligation to stay in that state pending the resolution of the criminal case. The same feature appears with the other parties or witnesses.

Regarding hearing the expert, we specify that there are a very few cases where it is required, therefore we will not insist upon in our examination.

In all cases, the hearings shall be conducted only in accordance with the norms of the criminal procedure law of the executing State.

Also, if requested, the requesting State judiciary bodies may attend the hearing, but it will be conducted by the judiciary body of the requested State, without the intervention of the judicial authorities of the requesting State; they will serve only to assist not to intervene within the execution of the hearing.

After examining the provisions of the special law governing the hearing of these categories of persons in the execution of the international rogatory commission in criminal matters, in comparison with regulating the rogatory commission in the internal law, we will formulate few observations.

A first finding is that unlike the internal law where hearing the defendant law is not provided, for the international rogatory commission hearing the defendant is

expressly nominated as being an activity that can be conducted at the request of another state.

The second observation relates to the fact that the text of the special law does not require for the Romanian judicial authorities or of any another state, as a request to appeal to a judicial body equal in rank and from the same category, as the Romanian law requires.

Regarding the first observation, we consider that hearing the defendant by a rogatory commission may be useful also in the internal law, even if there may be opposing views, but only in certain criminal cases, usually those that are subject to less serious crime investigation, the ultimate goal being represented by the necessity of speeding the criminal trial. The second observation concerns all internal rules, considering that they may be completed with the possibility of requesting an internal rogatory commission also by a judicial body superior in degree from the requiring one.

Under the conditions where the Romanian State is the requested State, hearing the mentioned persons will be in accordance with Chapter II of Title IV of Criminal Procedure Code (article 104-130 Criminal Procedure Code).

The confrontation may be required by the international rogatory commission only when the people submitted to this procedure are on the territory of the requested State, and the requesting State is not able to achieve it in its territory.

Upon request, the judicial authorities of the requesting State may participate in confrontation, without interfering in the proceedings, but it may contribute, in our opinion, to the formulation of the questions. The whole procedure will take place in accordance with the laws of the requested State. Where the Requested State is the Romanian state, the confrontation will be achieved in compliance with article 131 of the Criminal Procedure Code

3.3. Searches, Seizure of Objects and Documents, Special or Extended Seizure and Confiscation

Unlike other activities of the international rogatory commission, the searches, seizure of objects and documents, special or extended seizure and confiscation present certain features, specific to the internal law of each state.

Under the Romanian special law depositions¹, in order to detect and gather evidence in the territories of other states, the Romanian judicial competent body may request to the authorities of another State to lift objects or documents or to conduct searches and to submit articles or documents delivered or picked up during the searches.

In the case where it requests house searches, within the application, the applicant, the Romanian judicial body, indicates and confirms the issuing by the judge of rights and freedoms of the conclusion by which it was permitted the search. There is no doubt that, both the seizure of objects and documents and the searches will be performed each time according to the law of the requesting State.

In the case of the Romanian State there is a requested state, an application of the foreign authorities, in addition to the information provided in article 172 of the Romanian special law, it should also include the following information:

- *name and description of the person investigated by the foreign authorities, indicating traces of the crime or other objects that can be assumed to be at the searched place;*
- *the reason for requesting the search;*
- *indication of legal classification, description of the facts, evidence or data showing that the place where the search is required it is the person investigated by foreign authorities or there can be discovered evidence of the commission of the offense;*
- *if applicable, to point out the evidence or the date resulting reasonable suspicion on committing a crime or objects or documents subject to crime;*
- *indication of the place where the search is to be made.*²

The application containing the mentioned above data will be accepted by the Romanian judicial authorities only if it finds that the following conditions are met:

- *the act which is subject to the conducted criminal proceedings in the requesting State would have been, in the case of having committed an offense on the territory of Romania, the perpetrator would have been punishable. If the measure has been applied for several offenses, the verification of the condition is made for each crime separately;*

¹ Article 176 of Law no. 302/2004, as amended by the provisions of article I, point 50 of Law no. 300/2013.

² *Ibidem*, article 176, line (3).

- *the punishment, under Romanian law and the requesting State for the offense committed by the person investigated by the applicant is at least a year in prison.*¹

According to the Romanian special law, the conditions mentioned above may lead to the reciprocity rule. Since the regulation of the two institutions of Romanian Criminal Procedure Law (searches and seizure of objects and documents) and their specific features, we believe that it requires few explanations.

We note that for the execution of a request submitted by the judicial authorities of another State, in addition to general information (required in each case), the Romanian special law requires also the fulfillment of two special conditions, namely, the finding of double incrimination and the minimum punishment provided by the two laws (Romanian and the applicant state), which must be of at least one year.

If the Romanian competent judicial bodies find that the two conditions are not met cumulatively, the execution of the assistance request will be denied. The request for assistance shall be executed in accordance with the Romanian Criminal Procedure Code (article. 157 et seq. of the Criminal Procedure Code). However, note that in the case of house searches, the prosecution condition does not apply, it is an exception to the general rule.

Depending on circumstances, the seizure of objects and documents can be achieved either by the prosecutor by an ordinance issued by him or by the judge of freedoms and rights, by termination, when lifting objects or documents is necessary for conducting house searches. In the case of house searches, the verification procedure of having fulfilled cumulatively the two conditions will be made by the judge of the rights and freedoms of the competent court.

We believe that in this case the judge of preliminary proceedings will not proceed to the recognition of the judicial document submitted by the applicant, but it will examine the submitted application and documents, after which, if it finds that it meets the requirements from article 176 paragraph (3) and (4) of the special law, it shall issue the completion by which it approves the search warrant.

In the case where the Romanian State is the requested State, the seizure shall be made in strict compliance with the provisions of article 252 and the next of the Criminal Procedure Code.

¹ *Ibidem*, article 176, line (4).

The safety measures of special and extended confiscation, ordered by a foreign judicial authority, shall be executed by the competent Romanian authorities, only in compliance with article 112 and 112¹ of the Romanian Criminal Code.

3.4. Crime Scene Investigation and Reconstruction

Crime scene investigation and reconstruction seen as activities which may be required by an international rogatory commission do not rise any particular procedure problems; we should note that they will be executed only in accordance with the internal law of the requested State and by the judicial bodies authorized by their internal law.

We may also mention that, at the request of the requesting State, to these activities the judiciary bodies of the Requesting State may participate without being substitute of the authorized judicial bodies of the requested State. If the Romanian State is the requested State, the crime scene investigation and reconstruction will be conducted in compliance with articles 192-195 of the Criminal Procedure Code.

3.5. Surveys

Surveys may be subject of an international rogatory commission when a requesting State considers that within a criminal trial there are necessary findings of an expert from the requested State.

By the changes introduced in the special law, we note that the Romanian legislator abandoned the original wording “expertise, technical-scientific and forensic finding” stating only “expertise”. In this context, where the Romanian State is the executing State there will be executed only surveys, and not the two activities originally mentioned in the law, although the law in force provides findings as well. The surveys shall be achieved only in compliance with Romanian law and articles 172-184 and article 191 of the Criminal Procedure Code. Thus, according to the Romanian law, at the request of the judicial authorities of other countries, by the judicial assistance request there will be performed all types of surveys, including forensic psychiatric expertise and the genetic judicial expertise.

In the case where the Romanian State is the requesting State the surveys will be conducted in accordance with the domestic law of the requested State.

3.6. Transmission of Information Necessary in a Particular Procedure

Under the provisions of article 197 paragraph (2) of the special law, procedure acts mean “*mainly the party or witness summons, indictment, other criminal acts, judgments, claims to exercise the ways for judiciary control or the acts on the execution of a sentence, the payment of a fine or the payment of procedure expenses*”.

Regarding the competence to execute such applications, in the case of the Romanian state, it belongs to the trial stage of the court under the jurisdiction where it resides or the detention place of the person who is to be informed on the papers, and the prosecutor’s office near this court in the prosecution phase.

Informing on the procedure acts may be achieved by sending them to their destination. In the case where the requesting State expressly requires it, the Romanian state will inform in one of the forms provided by the Romanian law by analogous deliverance or a special manner consistent with this legislation.¹

*The proof of informing shall be made by a document dated and signed by the recipient or by a declaration of the requested Romanian judicial authorities, noting the communication, the form and date of the informing. The act or the declaration shall be immediately sent to the requesting State. At the request of the requesting State the Romanian State shall specify whether the notification was made under the Romanian law depositions. In the case where the informing could not be achieved, the Romanian State shall promptly notify the Requesting State on the reasons for failing the task.*²

In the case of summons for appearance of a wanted person who is in Romania, it will be sent to the competent Romanian judicial authorities (court or prosecution, depending on the stage of the criminal proceedings), no later than 40 days before the date set for appearance.

The Romanian judicial authorities may directly transmit, by mail, the pleadings and judgments of people who are in a foreign country, if the international legal instrument applicable in the relation to that State provides it. Pleadings and judgments will be accompanied by a note indicating that the addressee may obtain information from the issuing authority on its rights and obligations.³

¹ Law no. 302/2004, republished, article 198, line (1).

² *Ibidem*, art. 198 line (2).

³ *Ibidem*, article 200.

Also, the Romanian State will communicate, as far as Romanian judicial authorities may themselves obtain in such a case, the extracts from criminal records and any data that will be required for a criminal case, by the judicial authorities of another requesting state.¹

Under the special law, the Romanian state will send to an interested foreign State the information about criminal convictions and subsequent measures referring to the citizens of the foreign state subject to a criminal record mentioning, at least once a year. Where a person has the citizenship of several states, this information will be sent to them, unless it has Romanian citizenship.

Also the Romanian state under the provisions of the internal special law will send to another State concerned, upon request, in special cases, a copy of the criminal convictions and subsequent measures taken against a citizen of that State, and any other information relating thereto, in order to enable the State concerned to examine the situation that requires taking other internal action plan, according to its laws.

The above information will be transmitted only by the Ministry of Justice of Romania, based on data obtained from the competent domestic judicial bodies. These types of information communicated by the competent authorities of other states are also received by the Ministry of Justice, who shall transmit them to the competent authorities in order to recognize or register them.²

3.7. Recording Conversations

Under the depositions of the Romanian special law in order to resolve a criminal case, the competent judicial authority of a requesting State may ask the Romanian authorities *a request for judicial assistance covering telecommunications interception and immediate transmission to the requesting State or the interception of recording and subsequent transmission of the telecommunications recording to the requesting State, if the wanted person is:*

- a) *within the territory of the requesting State and it needs technical assistance in order to record target communications;*
- b) *located on the Romanian territory, in the case where the target communications can be intercepted in the Romanian State;*

¹ *Ibidem*, article 201, line (1).

² Law no. 302/2004, republished article 202 and 203.

- c) located in the third State which has been informed and whether the applicant state is in need of technical assistance for the interception of target communications.¹*

The examination of the above mentioned provisions leads to the conclusion that such a request may be made regardless of the State in which the person is subject to the request, respectively in the requesting State, on Romanian territory or a third state.

In order to execute such a request, it must meet the following conditions:

- a) to indicate and confirm the issuance of an order or a warrant for interception and recording in a criminal trial;*
- b) to contain information that would allow the identification of target interception;*
- c) to indicate the criminal act subject to a criminal investigation;*
- d) to state the period for interception;*
- e) if possible, to contain sufficient technical data, in particular the number of network connectivity to allow processing of the application.²*

In line (3) of the same article of the special law it provides that *if the application is made in accordance with depositions of line (1), letter b) it must contain a description of the facts as well. The Romanian judicial authorities may request any additional necessary information in order to assess whether the required measure should be taken in a similar national case.*

Note that the provisions of line (1), letter b) refers to the situation where the person subject to the request for assistance is on the Romanian territory.

As these provisions relate to the execution of such request by the Romanian judicial authorities we consider that it requires some explanation in order to clarify the mode of action of the competent Romanian judicial authorities, obliged in this case to comply with the provisions of article 138 and the next of the Romanian Criminal Procedure Code.

Thus, according to Romanian law, the interception of communications or any kind of distance communication represents in the internal law, one of the special methods of surveillance or investigation provided for in article 138 paragraph (1), letter a) of the Code of Criminal Procedure.

¹ *Ibidem*, article 184, line (1).

² *Ibidem*, article 184, line (2).

This special method of surveillance or investigation is carried out practically by technical supervision, a term which is defined in article 138, paragraph (13) of the Criminal Procedure Code. In this context it is necessary to consider the provisions of article 139 paragraph (1) of the Criminal Procedure Code, governing the institution, which provides that *technical supervision is ordered by the judge of rights and freedoms when there are met the following conditions:*

- a) *there is a reasonable suspicion of the preparation or commission of an offense, out of those mentioned in paragraph (2)¹;*
- b) *the measure should be proportioned with restricting the fundamental rights and freedoms, given the particular circumstances, the importance of information or evidence to be obtained or the seriousness of the offenses;*
- c) *the evidence could not be obtained otherwise, or obtaining them would involve particular difficulties that would prejudice the investigation or there was a threat to the safety of persons or valuable property.*

Therefore in the internal law, in order to approve such a request, made by the prosecutor, the judge of rights and freedoms must determine, from the file, that there are fulfilled the three conditions listed in the text.

The situation seems to be different when executing a request for judicial assistance from another state, in which case, we consider that the recording authorization should to be given still by the judge of rights and freedoms of the competent court.

Proceeding in examining the provisions of article 184 of the special law, in relation to the provisions of article 138 and the next of Criminal Procedure Code, we believe that two distinct situations will be incident.

The first event will exist when the wanted person is located in the requesting State or a third state, in which case, the approval of the application would not raise special problems, the judge of rights and freedoms will only verify the documents attached to the application, and if it finds that they meet the provisions of

¹ Under the provisions of article 139, paragraph (2) of the Criminal Procedure Code, technical surveillance may be ordered for the following offenses: crimes against national security under the Criminal Code and special laws; drug trafficking crime; weapons trafficking; trafficking in persons; acts of terrorism; money laundering; counterfeiting of currency and other valuables, forging electronic payment instruments; crimes against property; blackmail; rape; deprivation of liberty; tax evasion; corruption offenses; crimes assimilated to corruption offenses; offenses against the financial interests of the European Union; crimes which are committed through computer systems or electronic communication means; other offenses for which the law provides imprisonment of five years or more.

Romanian law, it will grant the request and thus the interception and recording of communications.

The second situation will exist when the wanted person is located on the Romanian territory, in which case besides the provisions of article 184 of the special law and the provisions of article 139 of the Criminal Procedure Code, there should be taken into consideration other elements as well.

According to the Romanian law¹, the interception and recording of conversations or communications by telephone or by any other electronic means of communication is achieved with the motivated authorization of the judge, at the request of the prosecutor who performs or supervises the prosecution, as provided by law, if there are given solid clues regarding the preparation or commission of an offense for which prosecution is carried out automatically, and the interception and recording are required for establishing the facts or because the identification or location of participants cannot be made by other means or the investigation would be delayed.²

Taking into consideration the provisions of the mentioned Romanian law, we believe that they should be respected also in the case of executing the international rogatory commission in criminal matters by the competent Romanian judiciary authorities.

In this context, we consider that such a request must necessarily be accompanied by other documents justifying the need for interception, such as the decision of the judicial authorities of the requesting State approving such a measure. The application and the documents gathered in order to sustain it, must first be recognized by the court of Romania, after which it will obtain the reasoned authorization from the judge of the district court where the person is located, whose call is required to be intercepted and recorded.

We believe that for a better understanding and interpretation of the Romanian law, the special law must be supplemented by provisions that would refer to the procedure for recognition and enforcement of such a request.

¹ Criminal Procedure Code, article 91¹ and the following.

² Criminal Procedure Code, article 91¹ line (1).

3.8. The Examination of Archival Documents and Specialized Files

The examination of archival documents and specialized files does not raise special problems which would require further work aiming at recognition and enforcement, assuming communicating useful information to the judicial authorities of the requesting State.

3.9. Other Procedure Acts

By mentioning such provisions, the Romanian legislator left it to the Member concerned the opportunity of enforcing such claims relating to any other procedure acts required to solve a criminal trial by the judicial authorities of the requesting State, in compliance with the internal law of the requested State.

3.10. The Transmission of Means for Sampling

The transmission of means for sampling involves sending by the competent judicial authorities of the requested State means of material received sampling, in original or in certified copies of the judicial authority, by the judicial authority of the requesting State.¹

3.11. Communication of Documents and Records

Communication of documents or records necessary to solve a criminal case will be performed in accordance with the laws of the requested State. In general, the activity itself does not raise any particular issues related to decisions, approvals or procedures.

4. Conclusions

In the recent years, on a background of unprecedented increase in transnational crime, the European Union Member States, in order to prevent and combat this phenomenon with complex effects, there have been intensified specific activities of judicial cooperation in criminal matters. One of the forms of international judicial cooperation in criminal matters is legal assistance, an institution that the European countries assist each other in order to solve a criminal trial.

The international rogatory commission, seen as a way to provide legal assistance in criminal matters, is achieved in the manner mentioned in the study. The modalities

¹ See also the subsection where it was analyzed the transmission of information required in a particular process.

of achieving the rogatory commissions between Member States have known continuing development, in full agreement with the evolution of crime, identifying in the recent years some other such as: extended seizure and confiscation and recording conversations.

The importance of this institution is that it contributes decisively to the increase of efficiency in the resolution of any criminal proceedings. The principle generally accepted by the Member States of the European Union, under which the rogatory commission is sought or executed in criminal matters is the recognition and enforcement of criminal judgments and judicial acts, emanating from a competent authority of another Member State.

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****Criminal Procedure Code*