

Execution of the European Arrest Warrant by the Romanian Judicial Authorities¹

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Abstract: The unprecedented development of criminality at the social and economical levels, the tendency to globalize some categories of crimes, of maximum gravity, as terrorism, armament traffic, drug traffic or human traffic, have determined the world states to undertake specific measures to prevent, combat and finally reduce it. The first and most important measure taken by the Europe's Council, regarding the intensification of judicial cooperation in criminal matters was the adoption of the European Convention on extradition, in Paris on 13 December 1957, completed by the two Additional Protocols in Strasbourg, on 15 October 1975 and 17 March 1978. In this context, the release of the Council's Framework Decision on 13 June 2002 on the European arrest warrant and the procedures of delivery among the member states (2002/584/JAI) represented a natural decision, with the purpose of contributing at ensuring a free, secure and just European space. The European arrest warrant is a judicial decision through which a competent judicial authority of a European Union member state solicits the arrest and delivery by another member state, in order to proceed to the prosecution, trial or execution of a penalty or safety measure that is privative of freedom.

Keywords: Judicial cooperation, State, European Union

1. Introductory Considerations. The Necessity of the Institution and the Importance of the European Arrest Warrant

In its historical evolution, the institution of extradition represented a permanent negotiation between the world states, the final purpose being the finding the most efficient ways to deliver the lawbreakers refugee on the territory of another state. The bilateral agreements became a fact throughout treaties, conventions or other similar instruments that had a determined role in prevention and combating crime with a greater efficiency.

One of the fundamental problems that caused numerous discussions at a political and judicial level between the world states was of course the one of the extradition of their own citizens.²

For a long time, all the world states (except the United States and Great Britain, but only at a bilateral level and in certain conditions) did not accept the extradition of their own citizens, moreover, they did not commit in trailing them according to the internal law on the states where they committed the crimes.³

As the time passed, the criminality developed, manifested in the most divers and violent forms, threatening the individual security of the citizens and even the internal security of some countries. Creating the real possibilities for the citizens to circulate in Europe (starting with the second half of the last century) determined the development of new mutations in the structure of trans-boundary crime, mutations that were caused by the possibility to circulate of the criminal elements, providing for a competitive logistic and organization. Aware of the growing danger represented by the globalization

¹ The institution of the European arrest warrant is examined taking into account the last modifications introduced by Law no.222/2008 on the amendment and completion of Law no.302/2004 on the international judicial cooperation in criminal matters, published in the Official Monitor of Romania, no.758 of 10 November 2008

² Al. Boroi, I. Rusu, *International Judicial Cooperation in Criminal Matters*, Ed. C.H.Beck, Bucharest, 2008; p. 299

³ *Ibidem*, op. cit. p. 299

attempts of some serious forms of organized crime, among which we mention terrorist acts, drug traffic, arms and armament traffic, human beings etc, the governments of the European states constantly insisted on improving the international judicial cooperation frame in criminal matters.

The first and the most important step that has been made for this improvement and modernization of the extradition institutions was accomplished in the second half of the last century, by the Europe's Council, through the adoption of the European Convention of extradition on 13 December 1957⁴. Although the initially the European normative act proved to be efficient, being amended by two additional protocols, in time the institution proved to have serious flaws.

The European Union institution and subsequently the Schengen Space have created new possibilities of action for the criminal elements and the development of criminality, accentuated maybe by the evolution of action terrorism through the implication of new states. In this new context created at the beginning of the XXI century, the criminal circulation all over Europe is accomplished with no risk involved.

This determined the criminality augmentation and the European Union's objective to become a free, secure and just space seemed to be in danger.⁵

The solution that has been found consisted in a new procedure to deliver the criminals, among the member states, which could simplify the entire activity so that all those committing crimes within the European Union could be identified and delivered to the states where they committed the crimes, to be trialed and convicted in a short period of time.

The doctrine stated that "in essence, the step towards the European arrest warrant was made through the terms of the Tampere meeting: *the formal procedure of extradition should be suppressed between member states, for the individuals that have the tendency to escape the law, after being the object of a definitive conviction and be replaced by a simple transfer of the person.*

European Union's strategy mentioned the European arrest warrant through Recommendation 28 in preventing and control of organized crime that stated the possibility to create a European judicial space in matters of extradition and examine in this context the extradition issue in the procedures by fault, respecting the fundamental rights guaranteed by the European Convention of Human Rights. As a consequence of the events on 11 September in New York, the European officials invoked the set up of the European arrest warrant through a decision framework. This arrest warrant covers an application scope equal to that belonging to extradition to which it is substituted, referring both at the stage before the sentence pronounciation in a criminal lawsuit as well as after its pronounciation.⁶

It has been stated that "the European Union member state's practice demonstrated that the simple reconsideration of the traditional principles in extradition matters is a heavy demarche that faces the states opposition and is not in the position to bring effective and rapid solutions in the international judicial cooperation in criminal matters. In these conditions, taking advantage of the new cooperation instruments introduced by the Amsterdam Treaty in the 3rd Pillar, through a framework decision the commitment mechanism of a person being on the territory of a member state solicited by the judicial authorities of another member state was completely reformed".⁷

In this context was established the decision framework of the European Council on 13 July 2002 on the European arrest warrant and the delivery procedures among the member states.

⁴ Ibidem, op. cit. p. 299

⁵ Ibidem, op. cit. p. 300.

⁶ G. Stroe, *European arrest warrant. Romanian law in the conditions post adherence to the European Union*, vol. V, Institute of Judicial Research, Ed. Dacoromână, T.D.C., Bucharest, 2007; p. 281.

⁷ F. Stretanu, *Considerations on the European arrest warrant, Criminal law Notebooks*, no. 1/2008; p. 2.

The importance of this international instrument results from the new elements it introduces in the delivery of the lawbreakers among member states, through the simplification and promptness of the judicial cooperation within the European Union.

Among the new elements brought in by the European arrest warrant (in regard of the extradition institution), are the following:

- The member state's obligation to apply the provisions of the framework decision
- The enlargement of the application scope of the criminal categories
- The simplification of the delivery procedure
- The curtailment of the delivery terms
- The simplification of the administrative stage
- The possibility for direct collaboration between the application institutions of the law etc.

The doctrine states that the mechanism of the European arrest warrant refers to the forced transfer of a person from a member state in another member state (replacing the traditional procedure of extradition), represents a horizontal system that substitutes the extradition in all matters, extending to all matters, through mutual recognition of the judicial decisions that have to be automatically executed all over the European Union.⁸

The European arrest warrant is a valid institution only within the European Union and practically replaced the European Convention on extradition, which is an international instrument that remains effectual and is applied in the relation between a member state and a third party or between two states that are not European Union members, but only members of the Europe's Council.

2. The Facts that Allow the Delivery

In this context we are talking about the issuance of a European arrest warrant in another member state of the Union that will be executed in Romania, because this is where the person subjected to the warrant is located.⁹

According to law, only a certain series of crimes, regardless of their denomination in the legislation of the issuing state, if they are sanctioned by the issuing state with a punishment or a privation or freedom measure that lasts at least 3 years, will not be subjected to the completion of the double incrimination condition.¹⁰

For crimes other than the one mentioned above, the transfer of the criminals is subordinated to the condition that the actions that determine the issuance of the European warrant represent crimes according to the Romanian law, regardless of the constitutive elements or their legal classification.

According to the provisions in the framework decision, the Council can decide at all times, in unanimity and after consulting the European Parliament, to add other categories of crimes.¹¹

Thus, the crimes for which a European warrant can be executed by the Romanian judicial authorities can be classified in two categories, as follows:

⁸ *G.Stroe*, op. cit. p. 283.

⁹ *F..Streteanu*, op. cit.p. 5.

¹⁰ These crimes are stated in the article 85, (1), Law no.302/2004, according to the modifications made by article 1.36 in Law no.222/2008.

¹¹ *A.Boroi, I.Rusu*, op. cit. p. 313; Decizia-cadru art. 2 alin. (3).

- Crimes stated in article 85 (1) of Law 302/2004, with the subsequent modifications and completions¹² (crimes assumed by the framework decision, article 2 (2))
- Other crimes stated by the issuing state's law, with the condition of double incrimination¹³

3. Special Conditions

According to law, the execution of a European arrest warrant by the Romanian judicial authorities can be subjected to the following conditions:

- a) In case the European arrest warrant is issued for the execution of a punishment or a safety measure that is freedom privative, applied through a fault decision, if the person in question was not personally cited or informed regarding the date and place of the trial that led to the decision, the delivery of the person will be granted if the issuing judicial authority guarantees that the person object of the European arrest warrant has the possibility to be trialed in the issuing member state, in his/her presence;
- b) In case the crime that resulted in the issuance of the European arrest warrant is sanctioned with a punishment of life in prison or a measure of safety that is freedom privative, the legal dispositions of the issuing member state have to state the possibility to review the punishment or the relevant safety measure, after the execution of 20 years of punishment, or to grant the clemency measure.¹⁴

In case of investigating Romanian citizens, the law stipulates a special condition, meaning that they will be handed over following a European arrest warrant in view of executing a prosecution or a trial on condition that, in case a measure of freedom privation will be taken, the person delivered will be transferred in Romania in order to execute the punishment.

4. Optional and Mandatory Reasons to Reject the Extradition

According to the examination of the law, the member states have two categories of reasons to reject a European arrest warrant, first for mandatory reasons and second optional reasons.¹⁵

4.1. Mandatory reasons

According to the law's stipulations, the Romanian judicial authority refuses the execution of a European arrest warrant in the following situations:

- a) When, depending on the information held, the person being prosecuted was decisively trialed for the same actions by a member state, other than the issuing one, on condition that in case of conviction, the punishment was executed or was in progress at that moment or the execution was prescribed, the punishment was pardoned or the crime was amnestied or any other different cause that might have prevented the execution, according to the conviction law of the state

¹² The last amendment was made by law 222/2008

¹³ *F.Streteanu*, op. cit. p. 6-8.

¹⁴ Article 87 (1), a) and b) from Law no.302/2004 with the subsequent modifications and completions brought by Law no.222/2008

¹⁵ *A.Boroi, I.Rusu*, op. cit. p. 320.

- b) When the crime that resulted in the issuance of the European arrest warrant is covered by amnesty in Romania, if the Romanian authorities have, according to law, the competence to prosecute that crime
- c) When the person subjected to the European arrest warrant cannot have criminal liability because of his/her age for the crimes that resulted in the issuance of the European arrest warrant, complying with the Romanian law.

The above mentioned text is part of the framework decision¹⁶ and its examination results in the fact that whenever these reasons will be put forward, the Romanian execution judicial authority, which is the appeal court, will refuse the arrest and delivery of the person in question, following a European arrest warrant issued by a competent judicial authority in a European Union member state.

4.2. Optional reasons

The law stipulates some optional reasons to refuse the execution of a European arrest warrant by the competent Romanian judicial authorities, such as:

- When the delivery is subjected to the condition that the actions that motivate the issuance the European arrest warrant represent crimes according to the Romanian law, independent from their constitutive elements or the legal classification; an exception is represented by the tax and excise, customs and currency exchange, the execution of the European arrest warrant will not be refused because the Romanian legislation does not impose the same tax and excise system or does not contain the same regulations in matters related to taxation, currency exchange and customs as the issuing state's legislation.
- When the person object of the European arrest warrant is subjected to a criminal procedure in Romania, for the same actions that resulted in the issuance of the European arrest warrant
- When the European arrest warrant was issued with the purpose of executing a punishment of life in prison or a safety measure that is freedom privative, if the solicited person is a Romanian citizen and refuses to execute the punishment in the issuing state
- When the person object of the European arrest warrant was trialed for the same actions in a third country that is not a European Union member, on the condition that in case of conviction, the sanction was executed or was in progress at that time or the execution has been prescribed or the crime amnestied or the punishment pardoned according to the conviction state's legislation.
- When the European arrest warrant refers to crimes that, according to the Romanian legislation, are committed on Romanian territory
- When the European arrest warrant comprises crimes committed outside the issuing state's territory and the Romanian law does not allow the prosecution of those actions, if the actions would be covered by the competence of the Romanian authorities
- When a Romanian authority decided not to begin the prosecution or the termination of the prosecution, or the relegation of the crime that resulted in the issuance of the European arrest warrant or issued, in what regards the person in question, a definitive decision for the same actions, that prevents future procedures.

According to the law's provisions, in the cases in which in question there is a case that refers to the situation in which the European arrest warrant was issued aiming at the execution of a prison penalty or a safety measure that is freedom privative, if the solicited person is a Romanian citizen and declares that it

¹⁶ Article 3 from the framework decision (reasons for non executing the European arrest warrant)

refuses to execute the penalty or safety measure in the issuing state, before the decision's pronouncement, the Romanian judicial authority solicits the issuing judicial authority a certified copy of the decision, as well as other necessary information, informing the issuing judicial authority regarding the purpose for which this type of documents are solicited. The recognition of the foreign criminal decision is made by the judicial instance where the execution of the European arrest warrant is pending. In case the Romanian judicial authority recognizes the foreign criminal decision the execution warrant is sent in the moment the decision is issued.

In the abovementioned situation, if the solicited person is in arrest and the issuing judicial authority delays the issuance of the solicited corresponding documents, the dispositions concerning Romanian citizens will be adequately applied.¹⁷ In case the issuing judicial authority does not transmit the abovementioned documents, within 20 days from receiving the request, if the Romanian judicial authority refuses the execution of the European arrest warrant, the latter informs the issuing judicial authority on the possibility to solicit the recognition and execution of the criminal decision of penalty in virtue of the instruments applicable in the relations between Romania and the issuing state or in their default, in the virtue of reciprocity.

5. Prior Procedures

Within 24 hours from the receipt of a European arrest warrant or a reporting in the Schengen Software System, the prosecutor nominated from the prosecutor's office in the appeal court verifies if the European arrest warrant is accompanied by a Romanian translated version or one in English or French. In case the warrant is not translated in one of the languages abovementioned, the prosecutor's office solicits the issuing judicial authority to send the translation. If the warrant is translated in either English or French, the competent prosecutor is in condition to take measures in order that the warrant is translated in Romanian, within 2 days. In case that following the verifications, the European arrest warrant does not comprise the necessary information, the prosecutor solicits the issuing judicial authority to add the missing information and sets a deadline for their receipt.

In the case in which the European arrest warrant contains all the necessary information and is translated in one of the languages abovementioned, the prosecutor takes the necessary measures for the identification, search and detention of the solicited person. In order to accomplish that, the prosecutor solicits the local police organ the identification and detention of the person in question. If the police organs ascertain that the person in question is missing, they will communicate that to the prosecutor, which will ask the police to put that person in register.

Thus, according to law, in order to detain a solicited person, the prosecutor will apply the dispositions of Chapter II.1, Title IV in the Criminal procedure code.¹⁸

When after the verifications the person in question is found to be located in the territorial circumscription of another prosecutor's office, the prosecutor will send the European arrest warrant to the competent prosecutor's office and informs the issuing authority and the Ministry of Justice on that matter.

In case the verifications result in the fact that the person in question is not on Romanian territory, the prosecutor classifies it and informs the issuing judicial authority and the Ministry of Justice on that matter.

¹⁷ Article 90 (4) states that in case in which the European arrest warrant was issued against a Romanian citizen, in view of executing a prison penalty or a safety measure that is freedom privative, the judge asks the solicited person if he/she agrees to execute the penalty or safety measure in the issuing member state.

¹⁸ Chapter II.1 establishes the procedure of prosecution.

In the solicited person is object of criminal procedures in progress, for the same actions that resulted in the issuance of the European arrest warrant, the prosecutor transmits to the prosecutor of that case and the competent court a copy of the European arrest warrant, the translation and if necessary, additional information communicated by the issuing judicial authority, requesting to appreciate and urgently inform if the prosecution or trial can be suspended until the solution of the case by the Romanian judicial authority. The dispositions of article 240 (the suspension ordinance) and those of article 303 (the suspension of judgment in case of active extradition) from the Criminal procedure Code are applied adequately.

If the existent criminal procedures against the person in question refer to other actions than the one that resulted in the issuance on the European arrest warrant, the competent prosecutor transmits a copy of the warrant and the additional information communicated by the issuing authority to the competent court, requesting immediate information on the stage of the procedure.

The prior procedures abovementioned do not comprise the measures to identify, search, locate and capture the person in question.

In case the delivery of the solicited person is conditioned by the consent of another member state or a third state, taking the necessary measures to capture the solicited person will be taken when receiving the consent of that state.

The prior procedures mentioned will not be made public, in virtue of confidential statute.

6. Detention of the Solicited Person

The detention measure can be taken by the prosecutor only after its listening in the presence of the defender. The detention measure is issued by ordinance and can last 24 hours at most.

The person in question is immediately informed, in a familiar language, the detention reasons and the content of the European arrest warrant. The person will be also given a copy of the arrest warrant and its translation. This provision will be applied as well in the case the competent prosecutor receives a new European arrest warrant subsequent to the addressing of the competent appeal court.

The detained person has the right to solicit that a member of the family or another nominated person is informed on the measures being taken. Both the request and the notice will be registered in a protocol. In exceptional cases, if the prosecutor appreciates that this thing could prejudice the execution of the European arrest warrant issued against the solicited person or if the prosecutor is aware of European arrest warrants issued against other participants on the crime, can reject the solicitation.

In case the person in question in a minor, the maximum period of detention will be 12 hours. In this case, the detention can be prolonged, if imposed, by a motivated ordinance, for 8 hours at most.

According to the law's stipulations in the detention of a solicited person, the competent organ can enter any residence in which the solicited person is known to be, without her consent or the person to which the place belongs to. This provision exceeds the ones existent in the Romanian legislation, granting the European arrest warrant a judicial power equal to that of a arrest warrant issued by a Romanian authority or a court order issued by a Romanian court.¹⁹

¹⁹ Romanian Constitution, article 27 (2), a)

7. Detention and Arrest of the Solicited Person in Case of Emergency

In case of emergency, with exception to the abovementioned provisions, the detention can be executed following the signals of the International Organization of Criminal Police (INTERPOL) which is not equivalent with the European arrest warrant. In this case, the International Police Cooperation Center solicits the Central National Interpol Office the transmission to the competent prosecutor's office, within at most 48 hours from detention of the person in question.

The person in question will be notified with the detention reasons, in a known language.

When the detention measure was taken by the criminal investigation organ in the judicial police, the former is obliged to deliver the detained person to the prosecutor assigned by the general prosecutor of the prosecutor's office in the appeal court in the circumscription the persona was detained.

8. Court Referral on the Arrest and Delivery of the Solicited Person

The competent prosecutor (the one nominated by the general prosecutor from the prosecutor's office in the appeal court) will refer to the appeal court with the proposition to take measures for arresting the solicited person.

As soon as the instance is referred to, the case is assigned, according to the law, to an authority consisting in a judge, to make the necessary appreciations on the arrest and deliver measures regarding the solicited person.

For the records of the court's activity, the Register on the arrest and delivery in virtue of the European arrest warrant is prepared and preserved. The register will comprise the following: the current number; the name of the solicited person; the date and number of the address of the prosecutor's office; the date and number of the European arrest warrant; the issuing judicial authority; the number of the court's file; the date and the solution pronounced; the number and date on the internal arrest warrant; the duration of the arrest, with mentioning the date of the beginning and the termination of the measure; full name of the judge that issued the arrest measure and/or the delivery of the solicited person; the date of the appeal, with separate information on each solution against which the appeal is addressing ; the date of the appeal in the instance of judicial control; the solution of the appeal court as well as its prolongations; the date of communicating the decision on the delivery to the issuing judicial authority, which is the Ministry of Justice and the International Police Cooperation Center, in the Ministry of Administration and Internal Affairs.

9. The Procedure of Execution of the European Arrest Warrant

The judge will first verify the identity of the solicited person and make sure that a copy of the European arrest warrant was provided to her or, in case of detention and arrest, and was informed on the detention reasons.

If the person has been detained in a case of emergency, the judge can dispose, through motivated closure and following the signal of Interpol, the arrest of the solicited person or prohibit that person to leave her location for 5 days. In this case the instance postpones the case and sets a 5 days term for the prosecutor to present the European arrest warrant, accompanied by the Romanian translated version of it.

After receiving the European arrest warrant, the judge informs the solicited person in the rights stipulated by law (the right to be informed on the content of the European arrest warrant, the right to be assisted by a chosen defendant or an appointed one by the court and the right to an interpreter provided by the court), the effects of the specialty rule, as well as the option to agree with the delivery to the issuing judicial authority, presenting the consequences of the delivery consent, especially its irrevocable statute.

In case in which the European arrest warrant was issued against a Romanian citizen, in view of executing a penalty or a safety measure that is freedom privative, the judge asks the solicited person if she agrees with the execution of the penalty or the safety measure in the issuing state.

If the solicited person agrees her delivery, her consent is registered in a protocol, signed by the judge, the registrar and the solicited person. The same protocol will comprise the fact that the solicited person gave up the right conferred by the specialty rule.

In the situation abovementioned, if one of the reasons to refuse the execution is implied, the procedure of execution of the European arrest warrant continues with the hearing of the solicited person, which is limited to the consignment of her position towards the existence of one of the mandatory or optional reasons to refuse the execution and the eventual objections regarding identity.

In the cases mentioned, when the judge appreciates that it is necessary to grant a term for the delivery decision, the person's arrest during the procedure of execution of the European arrest warrant is disposed by motivated closure.

The instance periodically verifies if the arrest is maintained in view of delivery, but no later than within 30 days, according to the law's stipulations.

In all the cases, the arrest measure in view of delivery cannot be taken after the person's hearing in the presence of the defendant. The initial duration of the arrest cannot exceed 30 days and the total duration, until the delivery to the issuing member state, cannot exceed 180 days.

When the solicited person is released, the court imposes the interdiction to leave the location, in accordance with the Criminal procedure code and its provisions. In this case, if the court subsequently disposed the execution of the European arrest warrant, the delivery decision contains also the arrest of the solicited person in view of delivery to the issuing judicial authority.

If the judge assesses that in that specific case the solicitation of additional information or guarantees from the issuing judicial authority is imposed, postpones the case and sets a deadline for the receipt of the information, which cannot exceed 20 days,

After deciding the sentence or the closure stipulated by law, the judge will issue an arrest warrant. The Dispositions in the criminal procedure code that refer to the content and execution of the arrest warrant are adequately applied.

The trial is public, besides the case in which, at the prosecutor's request, the solicited person's request or officio request, the judges decides that the trial will be secret. The prosecutor's participation is mandatory.

10. Delivery of the Solicited Person, Delayed or Conditional Delivery, Transfer of Possessions

The delivery is ensured by the International Police Cooperation Center, with the support of the police station in the circumscription of the detention center, within 10 days of the definitive decision of delivery.

If, due to reasons independent from the will of one of the issuing or execution states, the delivery cannot be accomplished in this period of time, the relevant judicial authorities will immediately contact each

other and set a new delivery date. In this case, the delivery will take place no later than 10 days after the set up of the new date.

In exceptional cases, the delivery can be temporarily postponed, due to serious humanitarian reasons, as the existence of sufficient proofs to think that the delivery will prejudice the life or health of the solicited person. The execution of the European arrest warrant will be applied as soon as these two reasons cease to exist. In this context, the execution judicial authority will immediately inform the issuing judicial authority on that matter and together they will set up a new delivery date. In this case the delivery will not exceed the new date by more than 10 days.

When the maximum terms of delivery are exceeded without the person in question being received by the issuing state, the release of the solicited person will be proceeded, without representing a reason to refuse the execution of the European arrest warrant, based on the same facts.

In all cases, in at the moment of the delivery, the Romanian execution judicial authority will inform the issuing judicial authority on the arrest duration of the object of the European arrest warrant, with the purpose of being deduced from the penalty or applied the safety measure.

When the solicited person is prosecuted or tried by the Romanian judicial authorities for a different crime than the one that resulted in the European arrest warrant, the Romanian judicial authority of execution will be able to postpone the delivery until the termination of the trial or the execution of the penalty, even if the warrant is in execution.

In the abovementioned situation, if the issuing judicial authority solicits it, the Romanian judicial authority of execution can dispose the temporary delivery of the solicited person, in the conditions established by an agreement signed by the issuing judicial authority.

According to law, at the request of the issuing judicial authority, the Romanian judicial authority of execution will dispose the transfer of the possessions and objects that represent evidence or have been acquired by the solicited person when committing the crime that represents the object of the European arrest warrant, without prejudice to the rights that the Romanian state or third parties can have over them. The objects will be given back at the termination of the trial. The entire procedure will be accomplished according to the Romanian law provisions. The above mentioned objects will be transferred even in the cases in which the European arrest warrant cannot be executed due to the decease or the escape of the prosecuted. In the cases in which the possessions are subjected to seizure in Romania, the judicial authority of execution will have the possibility to refuse their transfer or do that in a temporary condition, if that is necessary for the good progress of the criminal trial in a Romanian court.

11. Request Contest

In case there are several member states that issued a European arrest warrant regarding the same person, the Romanian judicial authority of execution will decide on the priority of execution, bearing in mind all the circumstances and most of all the place in which the crime was committed and its gravity, the issuance date of the warrants as well as the circumstances in which the warrant was issued in view of prosecution, trial or execution of a penalty or safety measure. The Romanian judicial authority of execution will have the capacity to solicit, if it is necessary, the Eurojust notice on that decision,

In the situation in which there is a request contest, between a European arrest warrant and an extradition request issued by a third country, the Romanian judicial authority of execution will decide taking into consideration all the circumstances and most of all the ones mentioned above, as well as those comprised in the extradition convention, applicable to the third country. In case the extradition request will be given priority, all the measures provisioned in this case will be applied and the Romanian judicial authority of execution will inform the issuing authority of the European arrest warrant on this matter.

In the case regarding the same person in which, before the delivery, the Romanian authorities receive two or more warrants from the same issuing member state, the causes regarding the execution of these European arrest warrants will be added to the instance referred to in the first place with the proposal of a single decision regarding the execution of each of the European arrest warrants. In case the delivery is admitted only for one or more of the actions, these have to be stipulated in the delivery decision. According to the law's provisions, the abovementioned dispositions do not prejudice the obligations stemming from the membership of the International Statute of the Criminal Court.

Bibliography

- Al. Boroii, I. Rusu, *International Judicial Cooperation in Criminal Matters*, Ed. C.H.Beck, Bucharest, 2008;
- F. Stretianu, *Treaty of criminal law, general part*, vol. I, Ed. C. H. Beck, Bucharest, 2008;
- F. Stretianu, Considerations on the European arrest warrant, *Criminal law Notebooks*, no. 1/2008;
- G. Stroe, *European arrest warrant. Romanian law in the conditions post adherence to the European Union*, vol. V, Institutul de Cercetări Juridice, Ed. Dacoromână, T.D.C., Bucharest, 2007;
- ****Framework decision 2002/584/JAI on 13 June 2002, on the European arrest warrant and the delivery procedures among member states, published in the Official Monitor, no. L 190/2002, P. 1-20;*
- ****Romanian Constitution;*
- ****Law no. 302 on 28 June 2004, on the international judicial cooperation in criminal matters, published in The Official Monitor of Romania, no. 594 on 1 July 2004;*
- ****Law no. 224/2006 on the modification and completion of law no. 302/2004, published in the Official Monitor, no.534 on 21.06.2006;*
- ****O.U.G. no. 103/2006 regarding some measures for the facilitation of international police cooperation, published in the Official Monitor no. 1019/21.02.2006, approved by law no.104/2007, published in the Official Monitor no. 275/04.2007*
- ****Law no. 222/2008 on the modification and completion of law no. 302/2004, on the international judicial cooperation in criminal matters, published in the Official Monitor no. 758, on 10 November 2008.*