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The European Investigation Order Instrument of International Judicial Cooperation in Criminal Matters

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Abstract: The European Order of Inquiry is a court decision issued or validated by a judicial authority in an EU Member State in order to carry out the necessary investigative measures in another EU Member State to gather evidence in criminal matters. It is based on mutual recognition, which means that the executing authority has an obligation to recognize and enforce the application of the other State. Enforcement shall be carried out in the same manner and by the same means as if the investigative measure in question had been ordered by an authority of the executing State. A European investigation order may also be issued to obtain evidence that already exists.

Keywords: The European Order of Inquiry, mutual recognition, enforcement, investigation

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1. Introduction

The unprecedented development of international relations in contemporary society was accompanied by an increase in international crime through the proliferation of some forms of organized crime on the territory of several states.

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The technical-scientific progress recorded, as well as the extension of the democratization process at the international level, it created the possibility of easy movement of people and goods, leading implicitly to the development of human society as a whole. The indisputable beneficial effect, for the whole of humanity, also created the possibility of a wide proliferation of the crime phenomenon worldwide.

The ever-increasing danger determined by the growth of transnational crime, the need to prevent and fight it with more efficiency in a framework organized at the world level, have determined the adoption of regional or world instruments that unify the efforts of the states of the world to stop the phenomenon.

Thus, the need for cooperation between states gradually emerged for the surrender or reception of persons who committed crimes on the territory of a state, then took refuge in another state in order to avoid criminal prosecution, trial or execution of the punishment. Also, the conviction of a person in a state, followed by the execution of the sentence in the state of which he is a national, implies as a necessity the cooperation between the two states for the recognition of the foreign judgment and its execution.

With a view to the fair resolution of a case with extraneous elements, other methods of judicial cooperation are also necessary, such as the unavailability or confiscation of the assets that served to commit the crime or its product, assets that are located on the territory of another state, the transmission of some objects that constitute evidence, the hearing of witnesses or experts who are located in a different state than the one in which the criminal trial is taking place, the formation of joint investigation teams in order to solve cases of a transnational nature.

International judicial cooperation in criminal matters, regulated in Romania through Law no. 302/2004, is a very topical challenge in the field of law, both due to its importance and the complexity it involves, with consequences both on a national and international level.

2. General Aspects

Since the European Union aims to maintain and develop an area of freedom, security and justice, pursuant to the provisions of art. 82 para. (1) of the Treaty on the Functioning of the European Union (TFEU), judicial cooperation in criminal matters within the Union is based on the principle of mutual recognition of court

judgments and judicial decisions, which is considered, since the European Council of Tampere[1], to be the cornerstone of the foundation of judicial cooperation in criminal matters within the Union.

Council Framework Decision 2003/577/JHA[2] addressed the need for immediate mutual recognition of orders to prevent destruction, transformation, displacement, transfer or disposal of evidence.

Therefore, this phenomenon is limited to the phase of unavailability; the freezing order must be accompanied by a separate request for the transfer of the evidence to the issuing state (hereinafter referred to as the "issuing state") in accordance with the rules applicable to mutual assistance in criminal matters. This involves a two-step procedure, which affects its efficiency. Furthermore, that regime coexists with traditional cooperation instruments and is consequently rarely used in practice by competent authorities.

Council Framework Decision 2008/978/JHA on the European Evidence[3] Warrant (EEW) was adopted for the application of the principle of mutual recognition for the purpose of obtaining objects, documents and data for use in criminal proceedings. However, the MEP only applies to already existing evidence and therefore covers a limited spectrum of judicial cooperation in criminal matters with respect to evidence. Because of the limited scope, the competent authorities were free to use either the new regime or the mutual legal assistance procedures, which would in any case remain applicable to evidence that does not fall within the scope of the MEP.

The Stockholm Program[4] considered that a comprehensive system for obtaining evidence in cases with a cross-border dimension should be sought, based on the principle of mutual recognition. The European Council has shown that the existing instruments in this field constitute a fragmented regime and that a new approach is needed, based on the principle of mutual recognition, but which also considers the flexibility of the traditional mutual legal assistance system.

[1] The Tampere Council, Finland, October 15-16, 1999. The program of measures adopted on this occasion was published in the Official Journal of the European Communities no. C 12 E of 15 January 2001.
[2] Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders to freeze assets or evidence (OJ L 196, 2.8.2003, p. 45)
[3] Framework Decision 2008/978/JHA of the Council of 18 December 2008 on the European mandate to obtain evidence for the purpose of obtaining objects, documents and data for their use in criminal proceedings (OJ L 350, 30.12.2008, p 72).
[4] See point 3.1.1. from the Stockholm Program - An open and secure Europe at the service of citizens and for their protection, published in Official Journal C 115 of May 4, 2010.

Consequently, the European Council called for a comprehensive system to replace all existing instruments in this area, including Council Framework Decision 2008/978/JHA, and to include as far as possible all types of evidence and to provide for time limits for application, limiting the reasons for refusal as much as possible.

This new approach is based on a unique tool, called the European investigation order. A European investigation order is to be issued for the purpose of carrying out one or more specific investigative measures in the state executing the European investigation order (hereinafter referred to as the "executing state") with a view to gathering evidence, a procedure which includes obtaining evidence that are already in the possession of the executing authority. The EIO should therefore have a horizontal scope and therefore apply to all investigative measures aimed at gathering evidence. However, the establishment of a joint investigation team and the collection of evidence within such a team require specific rules that are more effectively dealt with separately. Therefore, without prejudice to the application of this Directive, existing instruments should continue to apply to this type of investigative measure.

The EIO must focus on the investigative measure that is requested to be implemented. The issuing authority is in the best position to decide which investigative measure to use, based on knowledge of the details of that investigation. However, the executing authority must, whenever possible, use another type of investigative measure, if the indicated measure does not exist under its domestic law or would not be available in a similar domestic case. Availability should refer to cases where the investigative measure indicated exists under the law of the executing State, but is legally available only in certain situations; for example, when the investigative measure can be executed only for violations of a certain gravity, against persons against whom there is already a certain level of suspicion or with the consent of the person concerned.

The executing authority may also resort to another type of investigative measure when it would lead to the same result as the investigative measure indicated in the EIO by means that affect less the fundamental rights of the person concerned.

Recourse to the European investigation order must be made when the execution of an investigative measure appears proportionate, appropriate and applicable to the case in question. The issuing authority should therefore determine whether the evidence requested is necessary and proportionate to the purpose of the proceedings, whether the investigative measure chosen is necessary and

proportionate to the collection of the evidence in question and whether, by issuing a European investigation order, another Member State should be involved in the collection of the relevant evidence.

The executing authority must have the right to opt for a less intrusive investigative measure than that indicated in a European investigation order, if this allows for similar results.

In the situation where a European investigation order is issued, the issuing authority must pay special attention to ensuring full respect of the rights as enshrined in Article 48 of the Charter of Fundamental Rights of the European Union (hereinafter referred to as the "Charter"). The presumption of innocence and the right to a defense in criminal proceedings are a cornerstone of the Charter's fundamental rights in criminal justice. Any limitation of these rights by an investigative measure ordered in accordance with the provisions of Directive 2014/41/EU must be in accordance with the requirements set out in Article 52 of the Charter, as regards the necessity and the general interest objectives that should to pursue them, in particular the protection of the rights and freedoms of others.

3. Scope of Application of the European Investigation Order

According to art. 34 of the Directive, the European investigation order in criminal matters replaces the "corresponding provisions"[1] of the legal assistance conventions applicable between member states, in particular: the European Convention on Mutual Legal Assistance in Criminal Matters of the Council of Europe of April 20, 1959, as well as the two related additional protocols, the Convention implementing the Schengen Agreement of 14 June 1985 between the governments of the states of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders[2], the Convention on mutual legal assistance in criminal matters between Member States of the European Union from May 29, 2000 and its additional protocol.

[1] Regarding an analysis of the notion of "corresponding provisions" in the sense of the Directive, see Eurojust, Note on the meaning of "corresponding provisions" and the applicable legal regime in case of delayed transposition of the EIO Directive, available on the website http://data.consilium.europa.eu/doc/document/ST-9936-2017-INIT/en/pdf (accessed on 18 July 2018).

[2] Published in the Official Journal of the European Union, series L, no. 239 of September 22, 2000.

However, these instruments are not eliminated, the Directive replacing their provisions relating to the execution of investigative measures (Flore, 2014, p. 559). The European Investigation Order also replaces other instruments in the scope of mutual recognition: Framework Decision 2008/978/JHA on the European Evidence Warrant for the purpose of obtaining objects, documents and data with a view to their use in criminal proceedings , as well as the provisions of the Framework Decision 2003/577/JHA[1] of the Council of 22 July 2003 on the execution in the European Union of orders for the freezing of goods or evidence, but only with regard to the freezing of evidence[2].

We note again that the most important tool replaced by the European investigation order is represented by the international rogatory commission. From the practitioners' point of view, the distinction between the two instruments is extremely important, which can be deduced, first of all, from the foundations of the two mechanisms. Thus, while the rogatory commission is based on the principle of request (Ouwerkerk, 2011, p. 46), the principle of mutual recognition is the basis of the European investigation order.

As it follows from the very name of the rogatory commission[3], such a request is carried out by the authorities of the executing state at the request of the authorities from another state, a request that can be accepted or rejected, within a time interval, for various reasons, left at the discretion of the execution authority.

Instead, the European investigation order is presented as a provision given by the issuing authority for the administration of evidence, which is binding on the executing authority, except for reasons expressly regulated by the Directive[4].

According to art. 1 paragraph (1) of the Directive, the European investigation order is a judicial decision issued or validated by a judicial authority of a member state, for the purpose of carrying out one or more specific investigative measures in another member state, in order to obtaining evidence or in that of transmitting evidence that is already in the possession of the competent authority in the executing state.

[1] Published in the Official Journal of the European Union, series L, no. 350 of December 30, 2008
[2] Published in the Official Journal of the European Union, series L, no. 196/45 of August 2, 2003
[3] The term comes from the French language: "rogatoire", which means relative to a request, according (Dictionnaire Universel de Poche, 1999, p. 481).
[4] For a detailed analysis of the reasons for non-recognition and non-execution of an EIO, see (Dediu, 2018, pp. 66-71) available at http://cks.univnt.ro/cks_2018_archive.html (accessed on July 18, 2018).

An EIO may be issued for any investigative measure, except for the establishment of a joint investigation team and the collection of evidence within such a team. The exclusion from the scope of the European investigation order of the joint investigation teams is explained by the fact that the order is based on the principle of mutual recognition, and the joint investigation teams, on the understanding between the involved judicial authorities; also, the teams may involve countries that are not members of the European Union. As noted in the doctrine, the regulation of this instrument of cooperation is already more favorable to the obtaining of evidence than that provided by mutual recognition, the evidence thus resulting can be used without restriction between the members of the investigation team (Flore, 2014, p. 558).

We also point out that, although they are not expressly regulated, other forms of assistance that are not aimed at obtaining evidence or for which there is a simpler transmission or enforcement procedure, such as the notification of procedural documents, for which art. 5 para. (1) of the 2000 Convention provides for service by post[1]

The Directive applies in the relationship between the Member States that have transposed the act into national law, except Ireland and Denmark[2]

4. Types of Proceedings for which the European Investigation order may be Issued

The European Investigation Order sets out a unique regime for obtaining evidence. However, additional rules are required for some types of investigative measures that must be indicated in the EIO, such as the temporary transfer of persons deprived of their liberty, hearings by teleconference or videoconference, obtaining information about bank accounts or bank transactions, controlled deliveries or the undercover investigations.

Investigative measures involving the collection of evidence in real time, continuously and over a certain period of time must be included in the EIO, but where necessary, the modalities must be agreed between the issuing and the

[1] See Eurojust, Note on the meaning of "corresponding provisions" and the applicable legal regime in case of delayed transposition of the EIO Directive.

[2] Regarding the state of transposition in the Member States, see https://eur-lex.europa.eu/legal-content/RO/NIM/?uri=CELEX:32014L0041 (accessed 18 July 2018).

executing State practical ways of approaching the existing differences in the domestic law of the respective states.

The European Investigation Order includes any investigative measure, except for the establishment of a joint investigation team and the collection of evidence within a joint investigation team established in accordance with Article 13 of the Convention on Mutual Legal Assistance in Criminal Matters between Member States of European Union[1]. (hereinafter referred to as "the Convention") and in Council Framework Decision 2002/465/JHA[2]. unless the purpose is to apply art. 13 para. 8 of the Convention and, respectively, art. 1 paragraph 8 of the Framework Decision.

The European investigation order can be issued:

- in the case of criminal proceedings initiated by a judicial authority or that may be initiated before a judicial authority regarding an offense under the domestic law of the issuing state;
- in procedures initiated by administrative authorities or judicial authorities regarding facts that constitute violations of the rules of law and which are criminalized by the domestic law of the issuing state and in the event that the decision may give rise to an action before a competent court, in particular in criminal matter;
- in the case of proceedings initiated by judicial authorities regarding facts that constitute violations of the rules of law and which are criminalized by the domestic law of the issuing state and in the event that the decision of the said authorities may give rise to an action before a competent court, in particular, in criminal matters;
- in connection with the aforementioned procedures concerning crimes or violations that may involve the liability of a legal person or that may lead to the application of penalties to a legal person in the issuing state.

If, from the point of view of the Romanian legal system, the inclusion of some categories of non-criminal procedures in the scope of those that can give rise to the issuance of a European investigation order, it should be noted that in other legal

[1] Convention drawn up by the Council pursuant to Article 34 of the Treaty on European Union, regarding mutual legal assistance in criminal matters between the Member States of the European Union (OJ C 197, 12.7.2000, p. 3).
[2] Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams (OJ L 162, 20.6.2002, p. 1).

systems of the member states they are regulated as such the so-called "administrative crimes". For example, in the German legal system there is a category of crimes called "Ordnungswidrigkeiten", which are not sanctioned by the criminal courts, but by the administrative courts, but following the decision taken by the administrative body, a procedure can be initiated before the criminal courts.[1]

5. The Content and the Form of the European Investigation Order

The obligatory content of the European investigation order is found in the provisions of art. 5 of the Framework Decision which is reflected in art. 268 index 4 para. 2 of Law no. 302/2004 and is developed in the form attached to both normative acts.

So, from a formal point of view, the European investigation order is represented by a single form available to the judicial authorities of the member states, intended to compensate for the differences between their judicial systems.

In particular, the European investigation order includes the following information:

- data relating to the issuing authority and, as the case may be, the validating authority;
- the object and reasons of the European investigation order;
- the necessary information available on the person or persons concerned;
- a description of the criminal act that is the subject of the investigation or the proceedings, as well as the applicable provisions of criminal law of the issuing state;
- a description of the requested investigative measure or measures and of the evidence to be obtained.

Each Member State specifies the language(s) which, among the official languages of the institutions of the Union and in addition to the official language(s) of the Member State(s) in question, may be used for the completion or translation of the order European investigative body when the Member State in question is the executing State.

[1] See www.gesetze-im-internet.de.

The competent authority of the issuing State shall translate the European order into an official language of the executing State or into any other language indicated by the executing State.

6. Conditions for the Issuance of the European Investigation Order - Proportionality

According to art. 6, of the Directive, a European investigation order can be issued if its issuance is necessary and proportionate to the purpose of the procedures referred to in point 3, considering the rights of the suspected or accused person and the investigative measure or measures indicated in the European investigation order which could be ordered under the same conditions in a similar domestic case.

Before issuing or validating the European investigation order, it is thus up to the issuing authority to determine whether both the issuance of a European investigation order and the evidence or measures required are necessary, appropriate and proportionate. Among these conditions - proportionality is certainly the most difficult to establish, but especially it is difficult to find a valid general meaning of the term in all member states (Bachmaier, 2015, p. 51)

In principle, mutual recognition is incompatible with proportionality, the execution of the decision that is the subject of the European order, being done in an automatic manner, without an assessment of the foreign decision. (Flore, 2014, p. 629) Equally, the experience of the European arrest warrant led the member states to show more caution about the European investigation order, trying to limit its abusive use in criminal proceedings.[1]

However, the Directive does not introduce a reason for refusal based on the lack of proportionality, the control of necessity and proportionality rests with the issuing judicial authority, and the executing authority has the possibility, in the conditions in which it considers that these conditions are not met, to consult with the issuing authority regarding the importance of executing the European investigation order, following which the issuing authority may choose to withdraw the European investigation order.

For the issuing authority, recital 11 of the Preamble of the Directive explains the content of the proportionality check that must be carried out by it: “to determine

[1] See (Alegrezza, 2014, pp. 51-65)

whether the requested evidence is necessary and proportionate to the purpose of the proceedings, whether the investigative measure chosen is necessary and proportionate to the gathering of the evidence in question and whether, by issuing a European investigation order, another member state should be involved in gathering the relevant evidence"

Likewise, another proportionality element can be found in art. 10 para. 3 of the Directive which introduces the "less intrusive measure" (Alegrezza, 2014, p. 64) rule, which authorizes the executing authority to resort to an investigative measure other than that indicated in the European investigation order, when the investigative measure selected by the executing authority would have the same result as the investigation measure indicated in the European investigation order, through less intrusive means.

Apart from the assessment of the measure's proportionality, another element that can also be included in the concept of proportionality refers to the practical dimension (Flore, 2014, p. 631), more precisely to the cost impact for the executing state. As a rule, the executing state bears all the costs incurred on its territory that are related to the execution of a European investigation order (art. 21. para. 1 of the Directive). However, art. 21 para. 2 of the Directive introduces a consultation procedure between the authorities involved, if the executing authority considers that the costs of executing the European investigation order may become exceptionally high. The consultation concerns the possibility and method of sharing costs or modifying the European investigative order.

In the event that an agreement cannot be reached regarding the costs of execution, the issuing authority may decide: to partially or totally withdraw the EIO or to maintain the EIO and bear that part of the costs considered exceptionally high.

7. The Issuing Authorities of the European Investigation Order within the Meaning of the Directive

According to art. 2 lit. c) point i) of the Directive, "issuing judicial authority" means a judge, a court, an investigating judge or a prosecutor competent for the case in question. However, again taking into account the diversity of Member States' legal systems, the Directive recognizes as originating from a competent judicial authority and a European Investigation Order issued by any other competent authority, as defined by the issuing State, acting, in that case, as an investigative authority in criminal proceedings, having the power to order the

collection of evidence in accordance with domestic law, if, before being transmitted to the executing authority, the European investigation order is validated, after examining its compliance with the conditions for issuing a European investigation order, by a judge, a court, an investigating judge or a prosecutor in the issuing state[1].

If the European investigation order has been validated by a judicial authority, that authority can also be considered the issuing authority for the purpose of sending the European investigation order[2].

Likewise, in this sense, the principles developed by the Court of Justice of the European Union in a series of recent decisions, in relation to the European arrest warrant, can be used, in which it denied the possibility that the Ministry of Justice of a Member State or a police body to be included in the scope of the notion of judicial authority, but recognized the inclusion of a warrant issued by the national police and validated by the prosecutor in the notion of a judicial decision[3].

Therefore, the task of the executing judicial authority is to identify whether the issuing authority is compatible with the meaning of the concept, as recognized by the Directive.

Competent authorities, in the sense of Law no. 302/2004. According to art. 2683 para. (1) of the Law, the Romanian competent authority for issuing a European investigation order is the prosecutor who carries out or supervises the criminal investigation or the competent judge, according to the procedural phase, ex officio or at the request of the parties or the main procedural subjects, under the conditions provided by the Code of Procedure criminal.

When Romania is the executing state, the recognition and execution of a European investigation order are the competence of the prosecutor's office or the materially competent court and, according to the person's capacity, according to Romanian law. Territorial competence is determined according to the place where the investigative measure is to be carried out. European investigation orders concerning facts which, according to the law, are within the competence of the

[1] See (Dediu, 2018, pp. 455-456)
[2] See, for details (Bachmaier, 2015, pp. 49-50)
[3] See, in this sense, the Court of Justice of the European Union: C-452/16 PPU, K.M.P., Judgment of 10 November 2016, ECLI:EU:C:2016:858; C-477/16 PPU, R.K., Judgment of 10 November 2016, ECLI:EU:C:2016:861; C-452/16 PPU, H.I.Ö., Judgment of 10 November 2016, ECLI:EU:C:2016:860. See also (Dediu, The European Investigation Order - the newest instrument of international judicial cooperation in criminal matters, 2018, pp. 633-643).

Directorate for the Investigation of Organized Crime and Terrorism or the National Anti-Corruption Directorate are recognized and executed by them.

The above-mentioned provisions must be corroborated with those of art. 268 index 6 para. (1) of the Law, according to which the European investigation order is recognized, without the need for any other formality, and executed by the competent authority according to art. 268 index 3 para. (2) of the same Law, except in cases where any of the reasons provided for in art. 268 index 7 para. (5), art. 268 index 8 or 268 index 12 of the Law. The competent Romanian authority ensures the execution of the European investigation order in the same way and with the same means, as in the situation where the investigation measure would have been ordered by a Romanian authority. If the European investigation order, issued during the criminal investigation phase, has as its object the taking of measures which, according to Romanian law, are within the competence of the judge of rights and freedoms, the competent prosecutor will notify the judge of rights and freedoms from the appropriate court in the degree in whose territorial constituency the prosecutor's office is based, in order to recognize the European investigation order.

Regulation is not without its critics. First of all, it should be emphasized that the procedure for the full execution of a European investigation order involves two stages: “recognition” and “execution”. The first stage - recognition - is procedurally manifested by an order of the prosecutor or a conclusion of the judge/court by which the judicial decision (containing the European investigation order) is recognized based on the principle of mutual recognition, if the conditions expressly specified in the law are met. After recognition, the measures ordered by the issuing authority will be carried out according to Romanian law. In this sense, we consider that the assignment of recognition competence in the hypothesis in which the European investigation order, issued in the criminal investigation phase, has as its object the taking of measures which, according to Romanian law, are the competence of the judge of rights and liberties, the judge of rights and liberties from the appropriate court in whose territorial district the prosecutor's office is based, upon referral to the prosecutor, represents an aspect that complicates the execution of the European investigation order and prolongs the period necessary to carry out the requested measures.

Most of the time, such an order includes the request for various investigative measures, among which some are authorized, according to Romanian law, by the judge of rights and liberties, and others are carried out by the prosecutor, without

prior authorization. We believe that the regulation was "friendlier" with the enforcement authorities, given that the recognition was the responsibility of the prosecutor, who was to refer the judge of rights and freedoms only to rule on some specific measures.

Another second aspect intended to make it more difficult for the Romanian authorities to execute European investigation orders resides in the assignment of exclusive territorial jurisdiction to the judge of rights and freedoms from the court corresponding to the degree in whose territorial constituency the prosecutor's office is based, departing from the paradigm of the Code of criminal procedure that provides for alternative powers in such cases.[1]

In this sense, it should be emphasized that the prosecutor's offices attached to the judges located in the city of Bucharest are all based in the territorial constituency of the 3rd District Court, so this court will be the only one notified in the case of orders to be executed in the city of Bucharest, an aspect that will generate a considerable burden with such causes.

Apart from the legislative elements indicated above, without considering the legal realities of judicial practice, the Romanian law failed to pronounce on an extremely important element in the execution of European investigation orders, namely the authority competent to execute the order, in the situation in which the measures requested to be carried out are under the jurisdiction of different prosecutor's offices or courts.

Conclusion

As I have shown, the territorial jurisdiction is determined according to the place where the investigation measure is to be carried out. But in practice, European investigation orders include several measures that are under the territorial jurisdiction of several prosecutors' offices/courts. Unlike rotatory commissions which, as a rule, were forwarded to the central authorities (especially in the criminal prosecution phase), European investigation orders are transmitted directly between judicial authorities.

[1] See, for example, art. 140 para. (1) of the Criminal Procedure Code which has the following content: "(1) Technical supervision can be ordered during the criminal investigation, for a maximum duration of 30 days, at the request of the prosecutor, by the judge of rights and liberties from the court that would have jurisdiction to judge the case in the first instance or from the corresponding court in whose jurisdiction is located the headquarters of the prosecutor's office of which the prosecutor who made the request is a member (emphasis ours, D. Dediu)."

In the previous practice, the Prosecutor's Office attached to the High Court of Cassation and Justice used to "split" the measures requested by the foreign authority through the rogatory commission and send them to the prosecutor's offices within the scope of which the procedural documents were to be carried out, but in the paradigm of the European investigation order , in the current regulation, we believe that this is not possible, as it is a judicial decision that must be recognized unitarily. In this context, we believe that it would be necessary for the Law to regulate a procedure, in the situation of such orders, by which the enforcement authority is designated according to express criteria. For example, such special rules of competence are regulated in the case of other instruments of judicial cooperation in criminal matters, such as extradition.

Thus, according to art. 42 para. (11) of the Law, if the requesting state requests at the same time the extradition of two or more persons, investigated in the same criminal case or in related cases, who were located in the constituencies of different appeal courts, the competence to resolve requests for extradition belongs to the Bucharest Court of Appeal.

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