BABES BOLYAI UNIVERSITY CLUJ-NAPOCA
FACULTY OF LAW

INTERNATIONAL JUDICIAL COOPERATION IN CRIMINAL MATTERS

(table of contents and abstract)

Ph. D. Coordinator **Ph. D. Candidate**

Prof. univ. dr. Gheorghiţă Mateuţ **Mihaela Vasiescu**

CLUJ-NAPOCA

2013

KEYWORDS: judicial cooperation, mutual legal assistance, extradition, European Arrest Warrant, transfer of proceedings, transfer of sentenced persons, recognition of foreign judgements, mutual recognition, remission, surrender, international instrument, treaty, convention, agreement, framework decision, decision, certificate, requesting State, requested State, the issuing State, executing State, central authority, judicial authority, criminal proceedings, claimed person, requested person, national, punishment, custodial measures, pecuniary sanction, sentencing, judgement.

TABLE OF CONTENTS

Abbreviations and acronyms……. 11
Chapter I. Introduction 13
1. Overview of international judicial cooperation in criminal matters……..... 13
2. Principles of international judicial cooperation in criminal matters 16
3. Sources of international judicial cooperation in criminal matters 34
4. Particular forms of international judicial cooperation in criminal matters 40
5. The objective elements of international judicial cooperation in criminal matters 40
6. The subjective elements of international judicial cooperation in criminal matters …….. 41

Chapter II. Extradition..... 57
1. General remarks on extradition..... 57
1.1. Concepts. Developments……... 57
1.2. Sources…….. 63
2. Principles 72
3. Classification 80
4. Passive extradition 82
4.1. Conditions of passive extradition 82
4.1.1. Form conditions.. 83
4.1.2. Substantive conditions 87
4.1.2.1. Conditions concerning the person to be surrendered..... 88
4.1.2.2. Conditions regarding the offence and the punishment…… 97
4.1.2.3. Conditions on safeguarding human rights and fundamental freedoms……. 108
4.1.2.4. Conditions on competence..... 120
4.1.2.5. Conditions regarding the exercise of pursuit…….. 122
4.1.2.6. The exercise of pursuit by the requested State ….. 128
4.2. Proceedings in the passive extradition 131
4.2.1. Proceedings before the Ministry of Justice ……... 133

4.2.2. Proceedings before the Public Prosecutor 136
4.2.3. Proceedings before the Court..... 140
4.2.3.1. Provisional arrest 142
4.2.3.2. Settlement procedure of extradition request..... 158
4.2.3.2.1. Voluntary extradition 159
4.2.3.2.2. Simplified extradition 161
4.2.3.2.3. Common extradition 162
4.2.3.3. Settling the request for extradition 164
4.3. Effects of extradition from Romania 167
4.4. Transit 174
5.Active extradition 175
5.1. Conditions of active extradition 175
5.2. Active extradition proceedings 176
5.2.1. Issuing and disseminating the international search warrant 177
5.2.2. Preparation and submission of the extradition request 179
5.2.3. Withdrawal of the extradition request 183
5.3. Effects of extradition to Romania 184
6.Rule of speciality..... 185
7. Retrial after extradition or surrender 187
7.1. Defendant's right to appear at his own trial. 187
7.2. The right to a new trial in the case of extradition or surrender of a person tried in absentia..... 189
7.3. Internal guarantees. Retrial in case of extradition or surrender..... 191
7.3.1. Legal nature 192
7.3.2. Grounds of retrial 195
7.3.3. Holder of the retrial request..... 200
7.3.4. Time limit to submit a request for retrial 201
7.3.5. The competent Court 201
7.3.6. Trial Procedures 201
7.3.6.1. Admissibility as a rule 202
7.3.6.2. Judgement after admission as a rule 205
7.3.7. Concurrence with other remedies..... 208

Chapter III. The European Arrest Warrant 209
1. Overview of the European Arrest Warrant 209
2. Implementation of the European Arrest Warrant principles..... 220

3. Scope of the European Arrest Warrant…… 227
4. Issuing a European Arrest Warrant under the Framework Decision Law no. 302/2004 on international judicial cooperation in criminal matters…….... 228
4.1. Conditions 228
4.1.1. Prerequisites..... 228
4.1.2. Substantive conditions 229
4.1.3. Form conditions..... 232
4.2. Procedures concerning the issuing of a European Arrest Warrant…… 239
4.3. Temporary transfer and hearing of the requested person invoked during the execution of a European Arrest Warrant 246
4.4. Revocation of a European Arrest Warrant…… 248
4.4.1. Grounds for the revocation 248
4.4.2. Revocation procedure 251
4.4.3. Effects of revocation 251
5. Enforcement of the European Arrest Warrant under the Framework Decision Law no. 302/2004 on international judicial cooperation in criminal matters……..... 252
5.1. Conditions..... 252
5.1.1. Grounds for mandatory non-execution..... 253
5.1.2. Grounds for optional non-execution..... 265
5.1.3. Special conditions of execution……. 285
5.2. Proceedings in execution of the European Arrest Warrant 293
5.2.1. Competence..... 293
5.2.2. Proceeding before the Public Prosecutor..... 293
5.2.2.1. Preliminary proceedings..... 294
5.2.2.1.1. Translation of the European Arrest Warrant……. 294
5.2.2.1.2. Supplementary information..... 294
5.2.2.1.3. Identifying, searching, locating and apprehending the requested person..... 295
5.2.2.2. Apprehension of the requested person..... 298
5.2.2.3. Referral to the Court of Appeal…….. 300
5.2.3. Proceedings before the court 300
5.2.3.1. The urgency procedure 301
5.2.3.2. Proceedings for reception of the European Arrest Warrant……. 302
5.2.3.2.1 Proceedings where the requested person

consents to the surrender 303
5.2.3.2.2. Proceedings where the requested person does not consent to surrender…….. 304
5.2.3.2.3. Temporary surrender or administration of the requested person 's statutory declaration..... 311
5.2.3.3. Interim Measures 313
5.3. Effects of the execution of a European Arrest Warrant..... 324
5.3.1. Surrender of the requested person 324
5.3.2. Handing over property..... 332
6. The rule of speciality 332
7. Transit 339

Chapter IV. Transfer of Proceedings in Criminal Matters 341
1. Concepts. Sources..... 341
2. Transfer of proceedings under the Convention of 1972 and Law no.302/2004 on international judicial cooperation in criminal matters... 346
2.1. Conditions for the transfer of proceedings…… 348
2.1.1. Form conditions..... 349
2.1.2. Substantive conditions 351
2.1.2.1. Competence of the requested State..... 351
2.1.2.2. Double criminality 352
2.1.2.3. Incidence of indicators under art. 8 of the Convention of 1972 or art. 124 of Law no. 302/2004..... 353

2.2. The transfer procedure 362
2.2.1. Transfer of criminal proceedings from Romania 363
2.2.1.1. Proceedings in the stage of criminal prosecution..... 363
2.2.1.2. Proceedings in the trial stage 365
2.2.2. Transfer of criminal proceedings to Romania..... 369
2.2.2.1. Proceedings in case of request to transfer the criminal prosecution 369
2.2.2.2. Proceedings in case of request to transfer the trial…….. 370
2.2.2.3. Settlement of the request to transfer proceedings 372
2.2.2.4. Interim Measures 375
2.3. Effects of the transfer of proceedings 378
2.3.1. Effects for the requesting Romanian state 378

2.3.1.1. Provisional Effects 378
2.3.1.2. Final Effects 381
2.3.2. Effects for the requested Romanian State 383
3. Parallel proceedings opened by two or several Member States..... 387

Chapter V. Recognition of foreign criminal decisions 393
1. Concepts. Evolutions 393
2. Recognition and enforcement of criminal decisions and judicial proceedings under Law no. 302/2004 on international judicial cooperation in criminal matters 415
2.1. Object of the recognition and enforcement..... 416
2.2. Recognition and enforcement in Romania of foreign criminal decisions and judicial proceedings 418
2.2.1. Conditions for recognition in Romania of foreign criminal decisions and judicial proceedings..... 418
2.2.1.1. Form conditions 419
2.2.1.2. Substantive conditions..... 419
2.2.2. Procedure for recognition in Romania of foreign criminal decisions and judicial proceedings …… 426
2.2.2.1. Direct recognition 426
2.2.2.2. Indirect recognition 433
2.2.3. Effects of recognition in Romania of foreign criminal decisions and judicial proceedings 435
2.2.4. Termination of enforcement..... 437
2.3. Recognition and enforcement abroad of Romanian criminal decisions 438
2.3.1. Substantive conditions for the request by the Romanian state to have Romanian criminal decisions recognized and enforced 438
2.3.2. Procedure of requesting recognition and enforcement of Romanian criminal decisions
in a foreign country..... 440
2.3.3. Effects of recognition and enforcement of Romanian criminal decisions in a foreign state 441
3. Recognition of criminal judgements delivered by the Member States... …….. 441
3.1. Council Framework Decision. 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property and material evidence 442

3.2. Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders 442
3.3. Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition of financial penalties..... 442
3.3.1. Delivery and transmission of the decision..... 446
3.3.2. Recognition and enforcement by the Romanian judicial authorities of decisions imposing a financial penalty 447
3.3.3. Effects of recognition of the decision ordering a financial penalty..... 448
3.3.4. Notices 455
3.4. Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union .....…… 457
3.5. Council Framework Decision 2008/947/JHA of 27 November 2008 on the principle of mutual recognition to judgements and probation decisions with a view to the supervision of probation measures and alternative sanctions 457
3.5.1. Delivery and transmission of a decision or, as appropriate, of a probation decision..... 464
3.5.2. Recognition and enforcement of a decision or, as appropriate, of a probation decision 465
3.5.3. Effects of the transmission and recognition of a decision or probation decision…… 471
3.6. Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures
as an alternative to provisional detention 475
3.6.1. Delivery and forwarding of a decision on supervision measures 478
3.6.2. Recognition and enforcement of a decision on supervision measures 479
3.6.3. Effects of transmission and recognition of a decision

on supervision measures..... 484

Chapter VI Transfer of sentenced persons 489
1. Justification of the transfer..... 489
2. Transfer of sentenced persons under the European Convention of 1983 and the Law no. 302/2004 494
2.1. Conditions for transfer..... 499
2.1.1. Form conditions 499
2.1.2. Substantive conditions 500
2.2. Procedure 508
2.2.1. Transfer of a sentenced person to a foreign country …. 509
2.2.1.1. Proceedings before the Ministry of Justice …… 510
2.2.1.2. Proceedings before the judicial authorities……. 510
2.2.1.2.1. Proceeding before the Public Prosecutor ……... 511
2.2.1.2.2. Proceeding before the Court 515
2.2.1.3. Taking over the enforcing of the sentence ……. 519
2.2.2. Transfer of a sentenced persons to Romania 520
2.2.2.1. Proceedings before the Ministry of Justice……. 520
2.2.2.2. Proceedings before the Public Prosecutor..... 522
2.2.2.3. Proceedings before the court 522
2.3. Effects of transfer 526
2.3.1. Effects of transfer for the sentencing State 526
2.3.2. Effects of transfer for administering State 528
2.3.2.1. Continue the enforcement of the sentence..... 528
2.3.2.2. Conversion of the sentence 530
2.3.2.2.1. Adapting the penalty ……... 530
2.3.2.2.2. Commuting the sentence 531
2.3.3. Transit 534
2.4. Termination of the enforcement 536
3. Rules applicable between Member States of the European Union under Council Framework Decision 2008/909/JHA 538

Chapter VII. International judicial assistance in criminal matters .. 555
1. Definition and sources of international legal assistance in criminal matters……... 555
2. The scope of application of international legal assistance in criminal matters 568
3. Form conditions of international judicial assistance in criminal

matters…….. 572
4. Particular forms of international judicial assistance in criminal matters…….. 582
4.1. International letters rogatory 583
4.1.1. Definition 583
4.1.2. Object of the international letters rogatory..... 584
4.1.3. Applicable proceedings 587
4.1.4. Special Rules …… 603
4.1.4.1. Searches. Seizing objects or documents. Seizures 603
4.1.4.1.1. Double criminality. Compatibility with the law of the requested State..... 603
4.1.4.1.2. Council Framework Decision. 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence 605
4.1.4.1.3. Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders 618
4.1.4.2. Interceptions and audio and video taping 630
4.2. Service of documents prepared or filed in a criminal trial 638
4.2.1. Definition 638
4.2.2. Applicable proceedings..... 638
4.3. Hearing witnesses, experts and prosecuted persons by alternative means of letters rogatory…… 642
4.3.1. Overview 642
4.3.2. Appearance in the Requesting State of witnesses or experts…….. 643
4.3.3. Temporary transfer, within the requesting State, of detained persons..... …… 645
4.3.3.1. Form conditions 646
4.3.3.2. Substantive conditions..... 647
4.3.3.3. Transfer proceedings 648
4.3.3.4. Effects of transfer 650
4.3.3.5. Transit 651
4.3.4. Temporary transfer, on the territory of the requested State, of detained persons..... 651
4.3.5. Hearing conducted through video and teleconference .. 652
4.3.5.1. Hearings conducted through video-conference... 653
4.3.5.1.1. Conditions of conducting hearings through video-conference …… 658

4.3.5.1.2. Audition by video-conference..... 658
4.3.5.2. Hearings by teleconference 660
4.4. Monitored deliveries 661
4.5. Cross-border monitoring 664
4.5.1. Conditions of cross-border monitoring..... 665
4.5.2. Cross-border monitoring procedures 666
4.6. Undercover investigations 668
4.7. Joint investigation teams 671
4.8. Information on accounts and banking transactions. Monitoring banking transactions 677
4.8.1. Information on bank accounts 678
4.8.2. Information on banking transactions 680
4.8.3. Monitoring banking transactions 680
4.9. Criminal Records and information on criminal convictions…. 681
4.10. Spontaneous transmission of information…… 687

References 689

ABSTRACT

1. The object and purpose of this research

Borders and long distances are no longer an obstacle to crime and in order to evade justice criminals seem to speculate very skilfully the flaws of certain legal systems and their institutional weaknesses. The classical procedures of international cooperation in criminal matters were no longer able to cope properly with this distress, so states were challenged to think about and implement quickly flexible and efficient mechanisms to mitigate the serious and increasing forms of crime. In this context, the international cooperation policies, on the whole, and international judicial cooperation, in particular, have experienced spectacular changes in recent years, being continually adapted to meet successfully the fight against transnational crime. This way, boundaries and distances seem to be no problem in the way of performing justice.

This scientific essay is dedicated to international judicial cooperation in criminal matters in the light of international instruments to which Romania is a party and of the relevant national legislation, aiming at capturing the evolution and prospects of the main specific forms in this domain as well as their practical implications and difficulties faced by judicial authorities. To this effect I have used established research methods, especially: the method of documentation, the logical method, the comparative method and the case method.

I dedicate this thesis particularly to the horizontal international judicial

cooperation developed in criminal matters between states. The other two dimensions of international cooperation, the vertical cooperation that arises between states and international criminal courts and the police cooperation carried out between police forces, will not be dealt with now otherwise than sequentially when they are in direct connection with the judicial cooperation. This is because the abundance, the intricacy and specificity of the norms governing the three dimensions of international cooperation and the novelty of the practical problems revealed by each of them advocates for a more detailed approach, which would not be possible within this thesis. Therefore, the vertical cooperation and the police cooperation remain to be dealt with on another occasion.

2. Structure

The thesis is structured into seven chapters.

In the first chapter, as a preliminary element, I have presented the concept, the specific principles, the nature of the sources, the forms and areas -objective and subjective- of international judicial cooperation in criminal matters.

In the following six chapters I have analysed separately the main forms of international judicial cooperation. The structure of each chapter is basically uniform, including introductory concepts and particular sources of the form of judicial cooperation dealt with, the form and substantive requirements, the process of forwarding and enforcing various requests for judicial cooperation and the effects resulting from the use of one or other form of judicial cooperation. In the case of other mechanisms of judicial cooperation, apart from the European Arrest Warrant, I have analysed the framework decisions, both those transposed into national law and those

waiting to be incorporated into national law, which in the European Union, are meant to give life to the principle of mutual recognition. These are:

- Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property and material evidence;

- Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognition to confiscation orders;

- Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition of financial penalties;

- Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947 / JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial;

- Council Framework Decision 2008/909/JHA of 27 November 2008 on the principle of mutual recognition to judgements in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union;

- Council Framework Decision 2008/947/JHA of 27 November 2008 on the principle of mutual recognition to judgements and probation decisions with a view to the supervision of probation measures and alternative sanctions;

- Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions on supervision measures as an alternative to detention.

Specifically, in the second chapter, in seven sections I have dealt with the theoretical and practical issues involved in extradition -the most common form of judicial cooperation, whose origins come from Antiquity. Essentially, extradition appears as a legal commitment between two sovereign states, to deliver a person to the requesting state for the purpose of conducting a criminal investigation or for execution of a custodial sentence. Although initially it was connected to the classical principles of double criminality, no-extradition for own nationals and political and military offenders, in the front of the challenges brought about by the new forms of crime, the extradition law has undergone gradually significant changes, the democratic states showing willingness, with certain reservations and under certain conditions, to extradite their own citizens, to soften the rigid obstacle of double criminality and exclude political and military offences from among the non-extradition clauses. At the same time, though political intervention has not been fully abandoned in the extradition procedure, an important role is recognized to courts as safeguards of human rights and fundamental freedoms. In Romania, after the review of the Constitution in 2003, no-extradition for own nationals is no longer an absolute rule, and the final decision is always to be given by the Court.

The third chapter, divided into seven sections, is dedicated to the European Arrest Warrant, the first materialization at the level of the European Union of the principle of mutual recognition and the first successful instrument which replaced the lengthy and tedious procedures of extradition by a slim and fast surrender mechanism between Member States. If extradition is qualified as the queen-institution of judicial cooperation then, during its nine years of existence, the EAW has certainly earned the status of king of European judicial cooperation. The European Arrest

Warrant is a judicial basis for the apprehension and surrender of a requested person, either in view of conducting pending criminal proceedings or to execute a punishment or measure involving deprivation of liberty. Conceived in this way, the European Arrest Warrant is designed to remove some of the major shortcomings of extradition, both by limiting the grounds for refusal of the surrender and by creating a fully operational and legal surrender procedure. But, since it involves a goal identical to extradition, yet moderating the form requirements and the grounds of refusal, the intricacy of the procedure being replaced by a simple and fast surrender, the European Arrest Warrant is in fact a simplified extradition. However, four important elements distinguish clearly extradition from the EAW: a "depoliticizing" of this cooperation mechanism, giving up the rule of no-extradition for own nationals, a partial abandonment of the double criminality and dismissal of political and military offences from among the grounds for refusal of surrender.

In the fourth chapter, in three sections I have tackled the transfer of criminal proceedings. Essentially, the transfer of criminal proceedings is the mechanism of international judicial cooperation through which the requesting state abandons, under certain conditions, the repressive procedures triggered under its jurisdiction and transfers them onto the requested State, and the latter receives and continues them. Originally seen as an auxiliary to extradition, designed to implement the rule *aut dedere aut judicare*, in time the transfer of proceedings imposed itself as an independent form of international judicial cooperation with appropriate and reliable solutions both to avoid the risk of a double punishment for the same criminal conduct and to regulate international conflicts of jurisdiction as well as to re-socialize offenders.

The fifth chapter is structured into three sections, being devoted to the recognition of foreign criminal decisions. Recognition of foreign decisions imposes the assimilation of a certain decision into the law of a state in the same manner as a decision delivered by the judicial authorities of that State and acceptance of its legal effects, to the same extent as domestic decisions, despite the differences between the two rules of law and its enforcement. In criminal matters, the recognition of foreign decisions is one of the most controversial and sensitive forms of international judicial cooperation, which originally faced two major obstacles: the principle of sovereignty and of dual criminality.

The evolution of concepts and principles born in Europe surely marked the manner of approach of the mechanism of recognition of criminal decisions given in Member States. While the recognition of foreign criminal decisions was not a new objective in the European Union, the concept of *mutual recognition* of criminal decisions became a principle of judicial cooperation with new, genuine and revolutionary values, on the occasion of the extraordinary summit in Tampere on 15 and 16 October 1999, being elevated to the position of "cornerstone" of international judicial cooperation. As such, mutual recognition means that a criminal decisions delivered by an authority of a Member State shall produce the same legal effect in all other Member States without being subject to unnecessary formalities or conformity requirements with the rule of law in the receiving state.

Closely related to the recognition of foreign criminal decisions is the transfer of sentenced persons, a mechanism that I have discussed in chapter six, divided into three sections. Through this form of international judicial cooperation, for the sake of social re-inclusion, a person sentenced on the

territory of a State to a punishment or a measure involving deprivation of liberty can serve that punishment in another state, in his social and family environment. The main international instrument governing the transfer of sentenced persons which has enjoyed success among Member States and third parties of the Council of Europe, is the Convention on the Transfer of Sentenced Persons, opened for signature in Strasbourg on 21 March 1983. Therefore, I have assigned a large part of this chapter to the analysis of conditions and procedures of the transfer under the Convention of 1983 and the Additional Protocol, which were precisely adopted by the Romanian legislator.

Along with the development initiated by the principle of mutual recognition in the EU and in accordance with the Program of measures to implement the principle of mutual recognition of decisions in criminal matters, adopted on 29 November 2000 and the Hague Programme on strengthening freedom, security and justice in the European Union of 10 May 2005, it has become increasingly necessary to implement modern mechanisms for mutual recognition of final decisions involving deprivation of liberty and the widespread application of the principle of transfer of sentenced persons so as to include persons residing in a Member State. At the same time, it seemed increasingly necessary to develop the cooperation laid down in the Council of Europe instruments on transfer of sentenced persons. This has become even more essential since neither the Convention of 1983 nor the Additional Protocol to this Convention impose an obligation in principle on the takeover of sentenced persons for the purpose of executing a punishment. Moreover, under the Convention of 1983, sentenced persons may be transferred only to their State of nationality and only with their consent, however no prevailing importance should be given

to the involvement of the sentenced person in the procedure. The Additional Protocol to the Convention allows the transfer without the person's consent, subject to certain conditions, but this protocol has not been ratified by all Member States. In this context, it was adopted the Council Framework Decision 2008/909/JHA of 27 November 2008 on the principle of mutual recognition to decisions in criminal matters imposing punishments or measures involving deprivation of liberty for the purpose of their enforcement in the European Union. The provisions of this Framework Decision, not yet transposed into national law, are analysed in detail in the latter part of the sixth chapter.

The last chapter, structured into four sections, is dedicated to accessory legal assistance a domain that, along with mutual recognition of criminal decisions, has experienced lately the most visible innovations in the domain of international judicial cooperation in criminal matters.

These advances are felt, on the one hand, in the abandonment of traditional rules circulated in cooperation practices. Thus, the rule of forwarding requests indirectly, through central authorities, was overthrown and replaced between Member States of the European Union with the rule of direct forwarding from one judicial authority to another. At the same time, the principle of *locus regit actum* governing the execution of requests for legal assistance, lost from its importance and significant improvements have been made to prevent certain problems concerning the validity of the act or the measure taken by the requested State, occurring in the requesting State, particularly because of differences between the two legal systems. In this context, the relevant international instruments have given way to the principle of *forum regit actum* according to which the request for legal assistance will be executed according to the formalities and procedures

provided by the law of the requesting State. Meanwhile, in parallel they enable the judicial authorities of the requested State to approve the participation of the competent authorities indicated by the requesting State in the rogatory commission, as well as the parties or their lawyers or agents.

On the other hand, alongside the traditional rogatory letters, the service of process, the transfer of persons detained in the requesting State, the criminal records, there are new, modern and sometimes sophisticated legal assistance forms that have emerged, such as hearings by video-and teleconference, spontaneous transmission of information, transnational monitoring, monitored deliveries, undercover investigations, joint investigation teams and interception of telecommunications.

All these changes are designed to streamline and expedite procedures, emphasizing the role of the judicial authorities and to decentralize the legal assistance, to make the important step from a simple aid of a state given in criminal proceedings conducted in another state to mutual assistance, to a co-ordination between the involved judicial authorities and generally, to have the important task of contributing to the proper administration of justice.