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**Importance and Necessity of
International Judicial Cooperation in Criminal Matters**

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Abstract: Development of human society as a whole, the states and nations of the world has been possible due to international relations have been established and settled in time. In bilateral or multilateral international relations, countries have developed cooperative activities in a variety of areas, focusing on economic, cultural, environmental, political, military and legal. Progress in all areas in the past century have imposed structural changes in the architecture world, something which inevitably led to the creation of a new international order, with the intensification of political dialogue that promoted peace, the need to respect human rights and fundamental freedoms, the principles of democracy and the rule of law. International cooperation is based on the principle of the permanent status and thus independence and sovereignty of their domestic law, held in legal rules produced. Over time, cooperation of states was carried out under bilateral or multilateral legal instruments, resulting in agreements, conventions, treaties etc. These legal instruments have a regional, regional or universal, against the interests of the signatories, the magnitude and importance of the areas addressed. Concerns in the direction of international cooperation have existed since ancient times (particularly in military and commercial), developing and diversifying them into permanent, over time, according to the existing common interests at a time between different states.

Keywords: legal instruments; national legislation; crime

International judicial cooperation in criminal matters is only one specific area of cooperation activities between countries of the world, very important area that has become a necessity since the beginning of last century.

In its historical development, the company sought and always found different ways of self-defense, which accounted for more than immediate reactions to a number of dangers that threatened peace and even existence. The dangers faced by human society can of course be considered, but only resulted in the general context of the overall evolution of society itself. Thus, some were quiet and even dangers which threatened the existence of the slave community, others in feudalism and thus other stage. Given the historical development of society, we find that these dangers are not identical, they are ultimately determined by a number of specific features of certain human communities, zonal, regional and global.

After careful consideration, we can say that in its evolution, human society was and is threatened by a number of factors can generally be divided into internal, external and natural. At present, it is hard to

assess which are the most dangerous threats to a community, requiring a rather complex analysis, which will eventually highlight the fact that every threat, minor as it would be appropriate untreated immediate reaction in terms of society, may in time become a real threat, lower or higher. It is known that most of the times, the company acted after an event, taking take a series of self-defense or coercive measures.

The unprecedented development of international relations in contemporary society has been accompanied by an increase also unprecedented, international crime, the proliferation of forms of organized crime in several states. Scientific and technical progress made, as well as enhancing the democratization process in several states, created the possibility of easy movement of people and goods, the default leading to the development of human society as a whole. Unquestionably beneficial effect for the entire humanity, and created some advantages in terms of broad opportunities for proliferation of the phenomenon of crime worldwide.

The growing danger caused by the growth of transnational crime, the need to prevent and fight more effectively in a globally organized, led to the adoption of international instruments, regional, regional and global efforts to unify the countries of the world.

Thus, the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of migrants by land, air and sea (both additional to the Convention) adopted in New York on November 15, 2000, established a series of measures aimed primarily international judicial cooperation in criminal matters aimed at preventing and combating more effectively (through a joint effort of the states) transnational organized crime.

Contemporary terrorism is the most advanced form of organization and action in the service of anarchist groups, often religious, with claims often political. A general analysis of the forms of international crime show highlights the first diversification of methods of action, organization and logistics of the perfect often involved in such events in the past 30-40 years, in addition to terrorism, were developed other forms of crime, namely drug trafficking and abuse, trafficking in arms, human trafficking, human trafficking etc. immigration purposes, criminal activities, even if not up to the dangers of terrorism, may the subject of analysis and concern at the level of any state. Romania's accession to the European Union in January 2007 since it involves a series of new obligations imposed by other EU status, obligations mainly focused on the need to contribute to achieving a European area of freedom, security and justice to the highest standards. In this context, Romania became a EU border country, with the mission of ensuring the external border of EU states against illegal immigration, trafficking of arms, ammunition, drugs, radioactive substances, etc.

Schengen enlargement, which includes Romania, will create new facilities for easy movement without risk of offense elements to another corner of Europe. An absolute must is the improvement of legislative framework aimed at criminalizing the threat of new acts committed in different villages States. .Approximation to criminalize acts of danger and discovery procedures, research and trial in the Member States, will allow the best conditions of public safety.

Over time, cooperation of states was carried out under bilateral or multilateral legal instruments, resulting in agreements, conventions, treaties etc. These legal instruments have a regional, regional or universal, against the interests of the signatories, the magnitude and importance of the areas addressed. Concerns in the direction of international cooperation have existed since ancient times (particularly in military and commercial), developing and diversifying them into permanent, over time, according to the existing common interests at a time between different states. A key element that led to the

emergence and further development of international cooperation without which it could not conceive, was the mutual trust in a well regulated institutional framework. In this context, we define the international cooperation as a means of mutual assistance among different states, in various fields, specifically established by treaties, conventions, agreements etc. Ultimately aimed at promoting and protecting national interests, regional world, based on the principle of the independence and sovereignty of each contracting party. International judicial cooperation in criminal matters is only one specific area of cooperation activities between countries of the world, very important area that has become a necessity since the beginning of last century. United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of migrants by land, air and sea (both additional to the Convention), adopted New York¹ on November 15, 2000, established a series of measures aimed primarily international judicial cooperation in criminal matters aimed at preventing and combating more effectively (through a joint effort of the states) transnational organized crime.

According to convention, "Organized criminal group means a structured group of three or more persons existing for a certain period and act in concert, the purpose of committing one or more serious crimes or offenses under the Convention to get direct or indirectly a financial or material advantage."

A particular danger to the security state is the unprecedented development represented by organized crime, with all its manifestations. The current phase of development of human society is faced with other hazards models, much different from those known from earlier historical periods.

The great and important in this regard is the danger of terrorism. About terrorism, although it is known in some form since antiquity, has been written and will write a long time, because at present the most dangerous manifestation of organized crime. Contemporary terrorism is the most advanced form of organization and action in the service of anarchist groups, often religious, with claims often political. A general analysis of the forms of international crime show highlights the first diversification of methods of action, organization and logistics of the perfect often involved in such events in the past 30-40 years, in addition to terrorism, were developed other forms of crime, namely drug trafficking and abuse, trafficking in arms, human trafficking, trafficking in persons for immigration etc., criminal activities, even if not up to the danger of terrorism may be the subject of analysis and concern at the level of any state.

The most important aspect in preventing and combating crime is the specific activities to enhance and improve the identification, mounting and criminal liability for the perpetrators of criminal acts. In addition to this very important, should be considered another, simplifying the teaching of individuals who have committed criminal acts in other member states. It is known that all persons who have committed criminal trying to escape from liability established by law, by adopting different strategies becoming more sophisticated, which stretch from corrupting members of law enforcement institutions responsible to hide the in other states. If in Romania before accession to the European Union target criminals hiding elements that only location in the country or in some cases, risk and other countries by illegally crossing the border now, especially in the perspective of the Schengen area. their escape and hiding them in other Member States is much simpler, without involving any risk. At the same time, our country can become a place to flee to escape the consequences of the law, other elements of offenses in other countries within the European Union, other countries that are not part of the Union or even from other continents. Legislative and procedural measures taken in implementation of

¹ Ratified by Romania by Law no. 565/2002 (Official Gazette. no. 813 of November 8, 2002).

legislation should be consistent with respect for human rights and fundamental freedoms enshrined in international legal instruments and the European Union. The unprecedented development of human society as a whole in the twentieth century created the premises for a permanent development in accordance with the new achievements of science and unwanted in crime. In this context, emerged a more pronounced increase in crime, reaching the peak by the development of complex forms of manifestation of organized crime, namely terrorism, manufacture, trafficking and consumption of drugs, human trafficking, trafficking Arms and ammunition, forged currency or other valuables, etc.

In recent years, these complex forms of manifestation of the crime exceeded the boundaries of one state, manifested in most situations in several countries or continents. Although difficult, countries with democratic regimes known, however, understood that the only way to achieve a better control in the preventive aspect (the phenomenon itself) is related to the achievement of appropriate international judicial cooperation. Organized crime is now able to create great economic or political stress, causing even the fall of governments, where it has managed to penetrate into the governing structures of political parties in the ruling coalition. Criminal organizations take full advantage of the strong growth of international tourism, a certain relaxation in the liberalization of immigration policy, free trade expansion, advanced communication equipment and not least the money laundering techniques to realize and protect goals. Service facilities offered to citizens within the European Union, especially in the Schengen area, create other benefits criminal organizations. Moreover, due to difficulties experienced by the economies of many countries and especially those in developing countries, criminal organizations have been directly involved in the process of privatization. Buying certain businesses sold by some governments that are trying to restart the national economy after long periods of crisis. Thus, banks that belonged to the purchase of state production companies, telecommunication services and have served them as a shield covering their illegal operations, while contributing to increased power and influence in the contemporary world.

Crime developed and that's always growing so-called "white collar" is a particular danger, always present, to the rule of law, because these structures are directors of economic and political power of governments to change certain decisions to their advantage. At the moment, but in perspective, the most serious threat to human existence is the resurgence of international terrorism, which has reached an unprecedented scale, often affect the security of States, destabilizing national economies, organizations and institutions, the default population, panicked, frightened and outraged by cruel and despicable means used by terrorists. The bloody events of recent years, culminating in the U.S. blow 11 September 2001 by members of the terrorist network Al-Qaeda, headed by billionaire Osama bin-Laden (view accountable and bomb attacks on American embassies in Kenya and Tanzania on 7 August 1998) were both horrified and realized the whole humanity in the same context enroll and terrorist attacks in Russia, Spain, England, Italy and Japan, causing casualties and significant damage. During this period, daily, press play, through all media and especially television, cruel consequences of acts of terrorism perpetrated by extremist elements in Iraq who do not want the establishment of a genuine democracy in this country. Hijacking of aircraft, bacteriological substances attacks, bomb attacks on trains or subways, suicide bombings are just some of the ways and places used by terrorists in recent years. The presence and proliferation concern international crime caused a response of solidarity from the states, making them aware of the need to strengthen collaboration in specific activities of identifying, fixing, restraint and conviction of the guilty. The ultimate goal of the activity of judicial cooperation between different countries is to achieve a reduction to acceptable levels of crime and therefore more safety nationals. The main problem which arises in the present process of globalization is accelerating in the coordination of national policies and strategies with the strategies,

policies and regulations stated and accepted internationally. In recent years, international judicial cooperation has seen new and diverse forms, some national legal rules enacted by other under the various international treaties and conventions.

Specialists in the field have made the definition of international judicial cooperation, this institution is appearing and showing only very active lately, due to mutations occurring in organized criminal activity and the need to prevent and reduce crime generated.

We think that this institution can be defined broadly or narrowly, in relation to quite complex issues addressed. Thus, broadly, the international judicial cooperation can understand that this form of cooperation designed complex activities by world governments to reduce crime and increase safety of their citizens, acting together, giving and helping each other to achieve specific activities as: extradition, surrender under a European arrest warrant, transfer of proceedings in criminal matters, recognition and enforcement, transfer of sentenced persons, mutual legal assistance in criminal matters or other similar forms or rules established by law, treaties, agreements, conventions or reciprocity. In a narrow sense, by international judicial cooperation means a specific way of action by world governments and unions act giving the forms established by law, agreements, treaties, conventions, the goal of capturing, proving and punishing perpetrators of criminal activity facts proceedings and of the reduction in crime.

The most common form of judicial cooperation in criminal matters is undoubtedly extradition; there is a certain period of Romanian law which was the only one. Regarding the provisions in the Penal Code prior to Charles II, to Constitution appreciate that: old Romanian criminal law does not contain any provision governing extradition. Article 32 of the 1923 (was 30 in Constitution of 1866) provides only that "the extradition of political refugees is stopped." Also, article 6 of the Act of 9 June 1886 concerning the abolition of the State Council stipulated that extradition Council of Ministers shall decide, after a preliminary inquiry. They were only available until the coming of the new penal code of Charles II. So, until the appearance of the Criminal Code of Charles II (Dongoroz, 1939, p. 165-166) there were no provisions governing judicial cooperation, even for extradition. Nevertheless, Romania, during the end of the twelfth century and the beginning of the twentieth century, concluded many conventions on extradition¹. Regarding the substance of extradition, criminal law rules provide that they are "the established international conventions, and their lack of reciprocity exists and the provisions of this section."

As noted, the Criminal Code is not provided other forms of international judicial cooperation in criminal matters.

During the communist dictatorship, according to treaties and conventions ratified by Romania, with the declarations of mutual bilateral forms of cooperation has diversified, but the most important remaining extradition.

The principle of universality, the Romanian criminal law applies to crimes committed abroad by a foreign citizen or stateless person who does not reside in the country, if the act is provided as a crime and the criminal law of the country where it was committed, and the offender is in the country. Criminalization of the Romanian penal law of dangerous acts, following the ratification of international conventions amid intensifying the fight against crime, countries have agreed to provide mutual support in this area.

Currently, there are many such conventions for the suppression of crimes that harm or endanger the common interests of states and that Romania has ratified or acceded to that by entering the appropriate

¹"the Romanian State has concluded, however, many extradition treaty, namely with Belgium, 15 August 1880, with Italy, 17 August 1880, with England, 21 March 1893", etc. (Dongoroz, 1939, p. 166)

criminal law provisions incriminating. These include the following: Convention against Torture and Other Cruel, Inhuman or cruel, inhuman or degrading treatment, adopted at New York's United Nations General Assembly on 10 December 1984, ratified by Romania by Law no. 19/1990, the European Convention for the Suppression of Terrorism, adopted in Strasbourg on 27 January 1977, ratified by Romania by Law no. 19/1997, the Convention for the Suppression of human trafficking and exploitation of prostitution of others, to which Romania joined in 1955 etc. Based on these international instruments ratified by Romania and in accordance with its provisions in criminal law have been provided for criminal penalties for certain offenses relating to: the right to life, prohibition of torture, inhuman or degrading treatment or punishment, prohibition of slavery and forced labor, inviolability of residence, inviolability of correspondence, freedom of assembly, freedom of association, etc. Thus, at the request of another State, the Romanian state, under reciprocity, can transmit information and data on the antecedents of person's copies of or extracts from the judgments or any other information of interest to that State and which may contribute to the fight against crime. According to the above-mentioned normative act, the Ministry of Interior and Administrative Reform, Ministry of Justice and Public cooperate directly and immediately, under the law and in compliance with obligations under international instruments to which Romania is party, with institutions having similar powers other countries and international organizations specialized in the field.

Criminal Code came into force on January 1969 provides that "extradition is granted or may be required based on international convention on the basis of reciprocity and, failing that, under the law."

In addition to these standards have been issued Law no. 4 of 18 March 1971 on extradition¹, which contained the substance and form under which the Romanian state or admitted extradition request. However, note that the provisions of this law could be applied only if there is no international convention or a declaration of reciprocity, which of course provide other rules of procedure.

In addition to extradition, which continues to be so this time the main form of international cooperation in criminal matters, reviewed the literature and other such forms. Forms of international legal framework was established and has grown gradually in the twentieth century and the trend is not only to enhance current forms of international legal assistance, but also their universalization. We divided, then, from this point of view, forms of criminal assistance in the informative forms (which relate to crime in general) and procedural character shapes (which relate to a specific crime), in addition to these informative or procedural forms meet According to the first classification listed above, both forms of law, and any acceptable form.

In the literature, showed that "are part of the object established forms of information acquisition, so informative forms: the furnishing of copies or extracts from criminal convictions, criminal history records remission and, ultimately, the exchange International information on a number of issues of concern to the states count in their joint fight against crime.

The same author, in examining these institutions, noted the contents of this information and its transmission. With reference to the forms informative, it is considered that they may serve to "fulfill the fight against crime in general, facilitating the transmission of information, combating crime, especially in terms of general prevention," further stated that: " Information acquired through these forms may, however, often serve and to the discovery, tracking and resolving a specific case and the

¹ According to art. 19 par. (5) of the Constitution, extradition shall be ruled by the court. Consequently, the final decision always lies with the judge, not the executive power, even if 'in Romania, the executive, through the Ministry of Justice, maintains a number of important matters of extradition, determined by the nature of extradition, as an act of sovereignty state, and that international treaties are concluded by the executive, which must ensure and enforce them.

background knowledge of offenders, facilitating their identification and individualization of punishment to apply. "

Information is targeted; generally, achieve a double purpose, understanding and knowledge of the phenomenon as a whole personality of the offender. "For the good fight against organized crime, a state has to know this phenomenon, both in relation to crimes committed on its territory and national data on people with criminal records and progress against crime and other states. For this reason a country is particularly interested to know that its citizen's crimes they have committed in other states and against their convictions. Cooperation judicial police (Interpol) is analyzed in the context of the idea of association of states in their fight against the crime of qualified trainers. Thus, the need for police cooperation has been asked, but rather sporadically addressed before the outbreak of WWI. The increase in crime in all states, especially border, determined to take concrete steps on the line, measures have resulted in the establishment in 1956 of the International Criminal Police Organization, based in Paris. Note is the fact that Romania is one of the founding members of this organization. The organization has affiliates in each country national police organization, with specific responsibilities in cooperative activity, without engaging in activities aimed at acts of criminal probation, in this context, taking account of its status, Interpol does not intervene directly, but by application to the national central offices affiliated to the identification of persons wanted by law and through exchange of information. The request is made at that time by means of a form "with the word, in case of discovery, to make the arrest, which is to be informed immediately asked the national headquarters and a secretariat, to prepare terms of reference Arrest and extradition request with an indication of settlement (shelter) that previously could not be specified.

Thus, as shown by its statutes, Interpol activity "is not only a procedural character, but one of information. As noted, the literature included in the category of procedural nature and business activities of police cooperation through Interpol, based on the fact that this organization carries out activities in specific tracking, identification and arrest of persons wanted by law in relation to this suspect, states that: "But being predominant activity aims to identify and arrest some criminals, I sat on the exposures that form in procedural forms character." Cooperation by way of letters rogatory is another form of international cooperation with procedural character, which is conducted at the request of the unit State concerned. The discovery and identification of perpetrators of crimes are only first steps in the international legal assistance. Often, during prosecution, and in that trial, examining the samples may also need international cooperation. " One can appreciate that assistance through this pathway could be achieved when the judicial body or court to prosecute a case for fair settlement stated that it required the administration and some other evidence or evidence, but which are abroad. In this situation, via letters rogatory may exercise the following activities: examination of witnesses, conducting research on-court communication of parts etc. Also, all within the means of cooperation may include the examination of witnesses by the state authorities of the requesting State or other persons in custody in the territory of the Requested State, etc. confrontation.

Concerning this form of judicial assistance, the doctrine was made a comprehensive review, insisting on two situations where it may be, namely that the facts and on documents.

In the literature, were analyzed and other forms of cooperation called "complementary forms." These special cases are listed refers to bringing a witness who is in a position to own or give relevant parts or extra-judicial evidentiary (objects, documents, etc.). Other forms of special immunities complementary aims, relating to immunity from prosecution and arrest of witnesses who come into the country for acts committed by them before being present in the country. Naturally, this immunity does not operate when the witness in question commits a criminal offense, after coming home or not leave

Romania within a certain period. Another relates to operations as additional derivatives. Thus, proof of service of summons or a finding of impossibility of handing over should be applied to the State. When submitting a prisoner is made pursuant to certain arrangements, it may be subject to certain conditions laid down in treaties or conventions. Effects of handing a prisoner for the purpose of the hearing or confrontation are limited to acting as a witness in the case which was resolved.

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