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"THE PRACTICAL APPLICATION OF THE EUROPEAN ARREST  
WARRANT AND CORRESPONDING SURRENDER  
PROCEDURES BETWEEN MEMBER STATES"

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REPORT ON ROMANIA

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# RESTREINT UE



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**EVALUATION REPORT ON THE**  
**FOURTH ROUND OF MUTUAL EVALUATIONS**  
**"THE PRACTICAL APPLICATION OF THE EUROPEAN ARREST WARRANT AND**  
**CORRESPONDING SURRENDER PROCEDURES BETWEEN MEMBER STATES"**

**REPORT ON ROMANIA**

# **RESTREINT UE**

## **TABLE OF CONTENTS**

1.	INTRODUCTION .....	3
2.	THE AUTHORITIES AND THE LEGAL BASIS .....	4
3.	ORGANISATION AND PRACTICES - ISSUING MEMBER STATE ROLE .....	6
4.	ORGANISATION AND PRACTICES - EXECUTING MEMBER STATE ROLE .....	14
5.	TRAINING PROVISION.....	27
6.	DEFENCE PERSPECTIVES .....	29
7.	CONCLUSIONS .....	29
8.	RECOMMENDATIONS .....	37

## **ANNEXES**

ANNEX A: Programme of visits .....	40
ANNEX B: List of persons met .....	42
ANNEX C: List of abbreviations.....	44

# RESTREINT UE

## 1. INTRODUCTION<sup>1</sup>

- 1.1. Following the adoption of the Joint Action of 5 December 1997, a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organised crime was established.
- 1.2. Following the discussion of a proposal introduced by the Luxembourg Presidency concerning the topic of the fourth round of mutual evaluations<sup>2</sup>, the MDG of 11 July 2005 adopted the topic as proposed, namely "the practical application of the European Arrest Warrant and corresponding surrender procedures between Member States". It was also agreed at the MDG of 11 July that the evaluation questionnaire was to be prepared by the UK Presidency.
- 1.3. Experts with substantial practical knowledge of the European Arrest Warrant were nominated by Member States pursuant to a written request to delegations made by the Chairman of the MDG on 9 September 2005<sup>3</sup>.
- 1.4. At its meeting on 28 October 2005 the MDG approved the evaluation questionnaire for the fourth round of mutual evaluations. The objectives of the evaluation exercise and the questionnaire itself are set out in 14272/05 CRIMORG 131 COPEN 175 EJM 57 EUROJUST 77.
- 1.5. At its meeting on 28 October 2005 the MDG also discussed and approved 13824/05, the revised sequence for the mutual evaluation visits. Romania is the twenty-seventh Member State to be evaluated during the fourth round of evaluation.

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<sup>1</sup> This evaluation report does not in any way prejudice the Commission's assessment of Romania's overall progress in the areas of judicial reform, the fight against corruption and organised crime under the Cooperation and Verification Mechanism (established by the Commission Decision of 13 December 2006 (C(2006) 6569 final)).

<sup>2</sup> 9602/05 - Orientation debate on a proposed Mutual Evaluation exercise.

<sup>3</sup> 6206/1/06 REV 1 - Timetable for 2006 and designation of experts.

# RESTREINT UE

- 1.6. The experts charged with undertaking this evaluation were: Ms Joana Gomes Ferreira (Prosecutor, Head of the Gabinete de Documentação e Direito Comparado, General Prosecutor's Office, Portugal), Mr Cezary Michalczuk (Prosecutor, Foreign Judicial Cooperation Department, Ministry of Justice, Poland) and Mr Fergus Healy (Superintendent, Superior Office, Extradition Unit, Crime Policy and Administration, An Garda Síochána, Ireland). Two observers were also present: Mr Alain Grellet (Eurojust) and Mr Peter Kortenhorst (Commission), together with the General Secretariat of the Council.
- 1.7. This report was prepared by the expert team with the assistance of the Council Secretariat, based upon their findings arising from the evaluation visit of 18 to 21 November 2008, and upon Romania's detailed and helpful responses to the evaluation questionnaire and a written request for further information.
- 1.8. The report makes reference to differing processes in respect of conviction and prosecution cases only insofar as there is a divergence of practice between the two procedures.
- 1.9. The expert team's overarching purpose was to evaluate the distinct practical processes operated and encountered by Romania both as issuing and as executing Member State, and to assess relevant training provisions and the views of the defence, before moving on to conclude and to make recommendations as they felt were appropriate to enhance the means by which the operation of the EAW may be further streamlined and improved.

## 2. THE AUTHORITIES AND THE LEGAL BASIS

### 2.1 THE AUTHORITIES

Romanian courts dealing with criminal matters are organised in a four-layer system that comprises:

- The High Court of Cassation and Justice,
- 15 Courts of Appeal,
- 42 Tribunals,
- 188 First Instance Courts.

## RESTREINT UE

There are also 1 Military Court of Appeal (it has the same rank as the Courts of Appeal), 1 Territorial Military Court (it has the same rank as the Tribunals) and 4 Military Courts (they have the same rank as the First Instance Courts).

The structure of the Public Ministry follows that of the courts, in the form of a prosecution office attached to the corresponding court. The Public Ministry is part of the judiciary and as such is independent of the executive in the exercise of its powers.

The Public Ministry has a hierarchical structure in which public prosecutors in each prosecution office are subordinated to the orders of the chief prosecutor, the latter reporting to the chief prosecutor of the higher prosecution office. The highest authority in the Public Ministry is the Prosecution Office attached to the High Court of Cassation and Justice's General Prosecutor, who is empowered to issue instructions of a general character. He is appointed by the President of Romania at the proposal of the Minister of Justice, after approval by the Superior Council of Magistracy.

The Ministry of Justice (hereinafter referred to as "the MOJ") is the Romanian central authority in the field of international judicial cooperation in criminal matters. It has been designated as central authority for the purposes of Article 7 of the Framework Decision<sup>1</sup>. Its powers as such are expressly described in the implementing law as amended by Law 222/2008. Within the Ministry, the Directorate of International Law and Treaties is the unit responsible for performing those tasks.

The International Police Cooperation Center (hereinafter referred to as "the IPCC"), within the Ministry of Interior and Administrative Reform, was set up in 2005 to serve as the single national body specialising in data processing and information exchange at international level in the field of cross-border crime. It includes the National Focal Point, which comprises the Europol National Unit, the Operational Unit and the Sirene Bureau (for the time being the latter only carries out preparatory work with a view to accessing the SIS), and Interpol Bucharest (hereinafter referred to as "the Interpol NCB"), the latter dealing with EAW matters.

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<sup>1</sup> 16907/06 and 16285/08.

## 2.2 THE LEGAL BASIS

The relevant provisions for the implementation of the EAW in Romania are contained in Title III of Law No. 302 of 28 June 2004 (hereinafter referred to as "the implementing law"), on international judicial cooperation in criminal matters, as amended by Law No. 224/2006 and by Law No. 222/2008<sup>1</sup> (hereinafter referred to as "Law 222/2008").

## 3. ORGANISATION AND PRACTICES - ISSUING MEMBER STATE ROLE

According to the information provided during the evaluation visit by the MoJ officials interviewed<sup>2</sup>, the Romanian authorities issued 908 EAWs in 2007 and 499 in 2008 (up to 31 October), of which 588 and 282 respectively resulted in the actual surrender of the requested person<sup>3</sup>.

### 3.1. THE DECISION TO ISSUE

The authority competent to issue an EAW in prosecution cases is "the judge delegated by the president of the court that would be competent to try the case in first instance", at the request of the prosecutor who is conducting or supervising the criminal prosecution, if the case is in the pre-trial stage, and at the request of the court which is trying the case, if the case is in the trial stage.

Conviction EAWs are issued by the judge delegated by the president of the enforcement court<sup>4</sup>, at the request of the latter<sup>5</sup>.

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<sup>1</sup> Official Gazette 758 of 10 November 2008. It came into force on 14 November 2008.

<sup>2</sup> It should be noted that, pursuant to Article 83(6) of the implementing law before being amended by Law 222/2008, the issuing courts had an obligation to transmit a copy of the EAW to the Ministry of Justice. This provision, after the amendments introduced by Law 222/2008 reads: *"(6) In the event of direct transmission, the issuing Romanian judicial authorities shall inform the Ministry of Justice in the last working day of each quarter year about all the European arrest warrants issued during the reference period and about the status of their execution"*.

<sup>3</sup> Concerning the calendar year 2007, this information does not match the figures provided in the replies to the questionnaire on quantitative information regarding the practical operation of the EAW (10330/08), according to which 856 EAWs were issued in that period and 235 of them resulted in the actual surrender of the requested person.

<sup>4</sup> According to Article 418 of the Romanian Code of Criminal Procedure (hereinafter referred to as "the CCP"), final decisions are enforced by the court of first instance. Decisions delivered in first instance by the High Court of Cassation and Justice are enforced by the Court of Bucharest.

<sup>5</sup> Article 81(2) of the implementing law as amended by Law 222/2008.

## RESTREINT UE

The individuation of the issuing authority has been the object of major reform by Law 222/2008, since the provisions previously in force vested the competence to issue EAWs in the court that had issued the warrant for "preventive arrest" during prosecution or in the trial stage (prosecution EAWs) and on the executing court (conviction EAWs).

Article 81(1) of the implementing law, as amended by Law 222/2008, lays down a number of conditions that have to be met for the EAW to be issued. The first two apply both to EAWs issued in prosecution and in conviction cases.

In principle<sup>1</sup>, an EAW is issued where there exists a domestic arrest warrant for preventive arrest or service of a sentence<sup>2</sup>, there are indications that the person concerned might be located in another Member State, and the service of the penalty which could be or has been set is not barred by statute of limitation, amnesty or pardon, provided that the penalty thresholds as laid down in the Framework Decision on the EAW are reached. It should be noted that, since the issuing of a prosecution EAW presupposes the existence of a domestic warrant for preventive arrest and this may be issued only if the prosecuted crime is punishable by life imprisonment or detention for more than 4 years<sup>3</sup>, the penalty threshold in such instances is *de facto* higher.

As confirmed by several of the authorities interviewed during the visit, a strict interpretation of the principle of legality which informs the Romanian criminal justice system leads to the conclusion that once the abovementioned conditions are met there is no possibility other than to request and issue an EAW (Article 81 (1)). Therefore, no proportionality test applies.

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<sup>1</sup> Article 81(1) of the implementing law as amended by Law 222/2008.

<sup>2</sup> According to the CCP, "preventive arrest" is a preventive measure aimed at ensuring the "correct unfolding of the criminal trial or to prevent the defendant from evading criminal investigation, trial or punishment enforcement", and may be made at both the pre-trial and the trial stages; a "detention order" is intended to ensure the enforcement of a judgement.

<sup>3</sup> Art. 148 (2) of the CCP.



According to Article 81(3) of the implementing law as amended by Law 222/2008, the competent judge, once he receives the request from the authority identified in Article 81(2), must check whether the abovementioned conditions are met; should this be the case, he must issue the EAW; should this not be the case, the judge must state in writing the reasons for refusal, with an order subject to appeal by the public prosecutor.

Article 84<sup>3</sup> of the implementing law (introduced by Law 222/2008) lays down the conditions and procedure for the withdrawal of EAWs issued by Romanian courts<sup>1</sup>.

### 3.2. VERIFYING THE POSSIBLE EXISTENCE OF MULTIPLE REQUESTS

During the evaluation visit it was noted that the existence of outstanding EAWs issued by other courts against the same person is not checked by Romanian courts when issuing an EAW. Actually, there is no (effective) means<sup>2</sup> for them to check whether there are any other EAWs issued for a given individual, and, in practice, the different issuing courts only learn about their existence when they are notified by the Interpol Bureau of the location of the requested person abroad.

It should be noted that, although no comprehensive information system on EAW proceedings exists in Romania, steps are taken in that direction in the new law. In that connection, Article 81(7) of the implementing law, introduced by Law 222/2008, envisages the creation of a register on EAWs, intended to record the courts activity in this field.

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<sup>1</sup> This provision reads: "Art. 84<sup>3</sup> (*Withdrawal of the European arrest warrant*).  
(1) *A European arrest warrant shall be withdrawn whenever the grounds that justified its issuing have ceased or in the event that the requested person has died.*  
(2) *In the event of Article 66<sup>1</sup> (5), the European arrest warrant shall be withdrawn if the internationally sought person has been extradited or surrendered in Romania.*  
(3) *Withdrawal shall be requested by the issuing court, which shall inform the executing judicial authority, the Ministry of Justice and, where appropriate, the prosecution office that is conducting or supervising criminal prosecution or the court that ordained the preventive arrest of the defendant or that issued the detention order."*

<sup>2</sup> Although, as stated before, pursuant to Article 83(6) of the implementing law before being amended by Law 222/2008, the issuing courts were under a statutory obligation to transmit a copy of the EAW to the MoJ, there is no indication that this information was to be recorded or processed for external consultation. There is no indication either that the issuing court should request in advance any information from IPCC concerning outstanding EAWs issued against a given individual.

# RESTREINT UE

## 3.3. COMPLETION OF THE FORMS/COURT PAPERS

An EAW must be issued using the form provided as Annex No. 1 to the implementing law<sup>1</sup>, which mirrors the one provided for by the Framework Decision. The completion of the EAW form is the sole responsibility of the issuing judge, although the expert team was informed that, in those cases where the EAW is issued at the request of the prosecutor, it is common practice that the latter draws up a note containing all information necessary for filling in the EAW, leaving the transcription to the issuing judge.

During the interviews, no recurrent issues were reported in relation to the EAW form in general or any section of it in particular.

According to the information provided, in the period 2006-2008 a number of seminars for judges, prosecutors and court clerks were organised with a view to ensuring unitary interpretation and practice regarding the issuing, completion and transmission of EAWs. To assist judicial authorities, the MoJ published a handbook in 2006 and in January-March 2007, disseminated among judges and prosecutors a number of informative notes with suggestions concerning the issue and transmission of EAWs<sup>2</sup>. Also, the European Handbook on the EAW is available on the MoJ and the National Institute of Magistracy websites.

## 3.4. TRANSLATION OF THE EAW

According to Article 81(3) and (6) of the implementing law as amended by Law 222/2008, it is for the issuing court to provide the translation of the EAW into the language required by the executing authority within 24 hours of the location of the requested person being known. The law requires the court to entrust the translation to a "licensed translator" or, should none be available in its jurisdiction, to notify the MoJ, which should provide translation.

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<sup>1</sup> Article 79(2).

<sup>2</sup> Following the official publication of Law 222/2008, a note of this kind was forwarded to all courts and prosecution offices informing of the main amendments introduced.

# RESTREINT UE

## 3.5. TRANSMISSION OF THE EAW

If the location of the requested person is known, Article 82(1) of the implementing law provides that the issuing court may transmit the EAW directly to the executing authority. In determining the means of transmission, the issuing authority has a high degree of discretion, since the EAW may be forwarded "*by any secure means of transmission that produces a written record*", provided that it allows the executing authority to establish its authenticity<sup>1</sup>.

EAWs may also be transmitted through the MoJ, whose competence in this regard is set out in Article 78(3)(b) of the implementing law as amended by Law 222/2008. This provision reflects an activity that, as explained during the evaluation visit, was common practice before the amendment of the law. Indeed, it seems, from the information gathered, that the rule for the Romanian judicial authorities is to rely on the assistance of the MoJ and the Interpol NCB for transmitting EAWs.

If the whereabouts of the sought person are unknown, the issuing court must send the EAW to the IPCC for further circulation through Interpol channels according to Article 83(2) of the implementing law.

Dissemination in the SIS and transmission via the secure telecommunications system of the EJN, when it becomes operational, are also envisaged.

## 3.6. ISSUES RAISED BY EXECUTING MEMBER STATES AND COMMUNICATION CHANNELS RELIED UPON

The Romanian authorities informed the experts about certain cases (UK, IE) in which the executing authorities questioned the drafting of the EAW (e.g. with regard to the description, the nature and the legal status of the act). In such cases, difficulties were usually solved by providing the executing authorities with additional information/clarification, or with the text of relevant provisions, as the case might be. Instances were reported in which the executing authorities requested that a new EAW be issued (IT, UK, IE), although, according to the information provided, not all issuing courts complied with such requests. Issues were also recorded in connection with the timely transmission of language-compliant EAWs (BG, SK, PL), which should be viewed in the light of the lack of translators in some jurisdictions.

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<sup>1</sup> Article 83(1) of the implementing law.

## RESTREINT UE

The expert team was informed that in several cases issues had arisen in connection with the retrial guarantee in *in absentia* cases. It was noted that whereas it is Romanian courts' common practice to offer such a guarantee by referring to the pertinent provision of the Romanian Criminal Procedure Code (Article 522), this is not considered sufficient by the executing authorities of certain Member States, which require an express statement by the offering authority.

Also, questions have been raised by certain Member States (BG, SE and IE) in relation to the substance of the guarantee itself as laid down in the national law. In these cases, the executing authorities' concerns are connected with the wide acceptance of trials *in absentia* in Romania, the fact that Romanian law deems sufficient that the defendant be present at one of the pertinent court session (therefore being informed of the accusation brought against him/her) for the trial to be considered as carried out in the defendant's presence, and that, even when the trial is considered to have been carried out in the absence of the defendant, Article 522 CCP allows for an "admissibility check" on the request for retrial ("may be re-tried"). The expert team was informed that these issues will be addressed in a future reform of the CCP.

### 3.7. REQUESTS FOR FURTHER INFORMATION MADE BY EXECUTING MEMBER STATES

According to the information provided in the replies to the EAW questionnaire, the most frequent requests for additional information concerned the description of the offences and the means for bringing evidence, general information on the applicable legal provisions or on the Romanian legal system, previous convictions of the requested person as mentioned in the EAW, and requests for copies of the criminal conviction decision underlying the EAW.

The Romanian authorities reported that in several cases the short deadline set by the executing authority for transmitting the information requested (e.g. the 2/3-day time limit established by Courts of Appeal in Italy), along with the fact that the required information had to be translated, resulted in non-compliance with the request and the consequent release of the requested person by the executing Member State.

It should be noted that, according to Article 83(5) of the implementing law, the issuing court may forward on its own account any additional information it deems necessary for the execution of the EAW.

## 3.8. LEGAL REGIME GOVERNING THE RETURN OF OWN NATIONALS FOR THE ENFORCEMENT OF A SENTENCE <sup>1</sup>

No specific regime exists on the return of nationals of executing Member States when Romania acts as issuing Member State. Officials interviewed noted that no such cases have occurred and were of the opinion that this matter is governed by the 1983 Council of Europe Convention on the Transfer of Sentenced Persons.

As is the case for the guarantee of retrial (Article 84<sup>1</sup>), Article 84<sup>2</sup> of the implementing law (introduced by Law 222/2008) states that it is for the issuing authority to provide the guarantee of transfer in case of sentencing. It appears that this was also the standard practice prior to the amendments introduced by Law 222/2008. Furthermore, according to the replies to the EAW questionnaire, in such cases the issuing court notified the prosecution office and the court dealing with the case, as well as the unit where the requested person was kept in detention, in order to ensure that the latter was transferred back.

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<sup>1</sup> The expert team notes that, according to Article 25 of the Council Framework Decision 2008/909/JHA of 27 November 2008, on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union (published during the preparation of this report), *"without prejudice to Framework Decision 2002/584/JHA, provisions of this Framework Decision shall apply, mutatis mutandis, to the extent that they are compatible with provisions under that Framework Decision, to enforcement of sentences in cases where ..., acting under Article 5(3) of that Framework Decision, it (a Member State) has imposed the condition that the person has to be returned to serve the sentence in the Member State concerned, so as to avoid impunity of the person concerned"*.  
Article 26 – Relationship with other agreements and arrangements, of the same Framework Decision, reads: *"1. Without prejudice to their application between Member States and third States and their transitional application according to Article 28, this Framework Decision shall, from 5 December 2011, replace the corresponding provisions of the following conventions applicable in relations between the Member States: - The European Convention on the transfer of sentenced persons of 21 March 1983 and the Additional Protocol thereto of 18 December 1997..."*.

# RESTREINT UE

## 3.9. YOUTH SURRENDERS AND CORRESPONDING GUARANTEES

The officials interviewed reported that in one case with Italy the surrender of a person who was a minor at the time of the commission of the offence was refused by the executing authority based on the alleged inadequacy of the procedure applicable in Romania to judge such offences, in spite of the supplementary information provided by the Romanian issuing authority showing that such a procedure includes all necessary safeguards.

## 3.10. GENERAL COMMUNICATIONS WITH THE EXECUTING MEMBER STATE

The Romanian authorities noted the deficits existing in the communication by the executing Member States of relevant information concerning the progress of EAW procedures, stressing that this can lead to problems, especially in the case of EAWs issued for prosecution.

According to the Romanian authorities, few Member States notify the issuing authority of the decision taken on the EAW, and not always directly but rather by way of Interpol or the MoJ. In that connection, it was noted that in most cases the information on the surrender decision is received by the Romanian issuing authority through the Police after the requested person has been already brought to Romania.

## 3.11. THE MECHANICS OF THE SURRENDER (INCLUDING TEMPORARY SURRENDER) OF REQUESTED PERSONS/TIMELIMITS/GUARANTEES

According to Article 84<sup>4</sup> of the implementing law, the taking over of the requested person must be carried out by the CPIC, which is also charged with the necessary practical arrangements in coordination with foreign counterparts. Until the amendments introduced by Law 222/2008, these tasks were fulfilled by the Criminal Investigation Department, within the Police General Inspectorate.

No issues were reported in connection with this matter other than difficulties in meeting the time limits in some cases due to the late transmission by the executing Member State of the surrender decision.

## 3.12. CONFLICT OF EAWS/EXTRADITION REQUESTS/ONWARD SURRENDER

The authorities interviewed reported only one case of conflicting EAWs, which had not been yet resolved at the time of the evaluation visit.

# RESTREINT UE

## EXPENSES

No issues were reported in respect to payment of expenses relating to EAW procedures.

### 3.13. MISCELLANEOUS COMMENTS

#### Accessory surrender

There is no provision in the implementing law concerning accessory offences.

#### Speciality rule

The experts were informed that, once the requested person has been surrendered, there is no mechanism enabling the Romanian courts to check whether the speciality rule applies.

## 4. ORGANISATION AND PRACTICES - EXECUTING MEMBER STATE ROLE

According to the information provided during the visit, in 2007 Romania received 284 EAWs of which 65 were refused, 8 were still pending and 211 were executed<sup>1</sup>. In 2008 (up to 31 October) Romania received 255 EAWs, of which 28 were refused, 39 were still pending and 188 were executed<sup>2</sup>.

### 4.1. RECEIPT PROCEDURES

Pursuant to Article 78(2<sup>1</sup>) of the implementing law (introduced by Article 26 of Law 222/2008), the authorities competent for the receipt of EAWs are the MoJ and the prosecution office attached to the court of appeal in whose jurisdiction the requested person is located, the latter being defined as the executing authority in Article 78(2). If the whereabouts of the sought person in Romania are unknown, competence to receive the EAW lies with the Prosecution Office of the Court of Appeal in Bucharest. Therefore, the courts are no longer entitled to act as receiving authorities, as was the case before the amendments introduced by Law 222/2008.

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<sup>1</sup> This information does not match the figures provided in the replies to the questionnaire on quantitative information on the practical operation of the EAW (10330/08), according to which 274 EAWs were received in 2007, 237 of them resulting in the effective surrender of the requested person.

<sup>2</sup> Detailed information on the grounds for refusal is provided in Chapter 4.6 below.

# RESTREINT UE

As to the transmission of EAWs and related documents through the MoJ, during the interviews it was noted that this is standard practice of some Member States (UK was explicitly mentioned), even in cases where the Romanian receiving judicial authority is known. In such instances, pursuant to Article 78(3) a) of the implementing law as amended by Law 222/2008, on receiving the EAW, the MoJ must forward it to the competent public prosecution office.

In view of the fact that the procedure for receipt of an EAW has been entirely redesigned by Law 222/2008, no specific details could be gathered by the evaluation team concerning the functioning of this system in practice. As to the situation existing before the amendment of the implementing law, the officials interviewed explained that EAWs were generally transmitted to the executing court of appeal by fax, and only in very few cases by e-mail. As a general practice, the original EAW was not required for deciding on the execution of the EAW.

It should be noted that, under prior Article 86 of the implementing law, there was an obligation for the receiving court to notify the MoJ of the receipt of an EAW; however, this provision has been repealed by Law 222/2008.

## 4.2. THE FORM OF THE WARRANT AND REVIEW PROCEDURES

Pursuant to the implementing law<sup>1</sup>, the public prosecutor designated by the general prosecutor of the receiving prosecution office to deal with the EAW must carry out a number of tasks, grouped under the label of "preliminary procedures", which include the following checks:

- Translation. Within 24 hours of the receipt, the prosecutor must check whether the EAW is accompanied by a translation into Romanian, English or French; should this not be the case, the prosecutor must request such a translation from the issuing authority. If the EAW is accompanied by a translation into English or French, the prosecutor must have it translated into Romanian within 2 days. According to the information provided in the answers to the EAW questionnaire, under the prior regime some Courts of appeal also accepted EAWs issued in the official language of the issuing Member State, without requiring a translation into Romanian, English or French.

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<sup>1</sup> Article 88<sup>1</sup> of the implementing law as amended by Law 222/2008.



# RESTREINT UE

Contents of the EAW. The public prosecutor must check whether the EAW contains all the necessary information, as required by Article 79(1) of the implementing law, which mirrors Article 8(1) of the Framework Decision; should this not be the case, the prosecutor must urgently request the issuing authority to supplement the information provided, setting a time limit. This does not affect the power, granted to the court of appeal as executing authority under Article 90 (12), to request additional information after the case is brought to its attention.

Before the amendments introduced in the implementing law by Law 222/2008, those checks were carried out by the panel of two judges designated within the executing court to process the EAW.

## 4.3. INVESTIGATIONS CONCERNING THE LOCATION OF THE REQUESTED PERSON/CIRCULATION PROCEDURES

Pursuant to Article 88<sup>1</sup>(3) of the implementing law as amended by Law 222/2008, only when the requirements concerning contents and translation of the EAW as described above are met is the public prosecutor under a statutory obligation *"to take the necessary steps with a view to identifying, searching, establishing the whereabouts of and apprehending the requested person"*. According to the answers to the EAW questionnaire, two situations can be differentiated here: (i) if the information provided by the issuing authority allows the location of the requested person to be determined, the public prosecutor calls on the locally competent police authorities for the location, verification of the identity and apprehension of the requested person, (ii) otherwise<sup>1</sup>, at the request of the public prosecutor, the Romanian Police General Inspectorate organises the appropriate checks and searches at a national level in order to locate the requested person.

If it appears from the activity aimed at identifying the whereabouts of the sought person that the latter is in the jurisdiction of a different court of appeal, the public prosecutor must immediately forward the file to the competent prosecution office, informing the issuing authority and the MoJ.

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<sup>1</sup> See chapter 4.1 above as to the competence of the Prosecution Office of the Court of Appeal of Bucharest when the whereabouts of the requested person in Romania are not ascertained.

# RESTREINT UE

If the checks made show “beyond doubt” that the requested person is not in Romania, Article 88<sup>1</sup>(5) (introduced by Law 222/2008) provides that the prosecutor must “close” the case. The expert team raised the question of how this provision should be interpreted, in particular whether a new EAW would be necessary if the requested person appeared on Romanian territory after the closure of the case. The authorities interviewed expressed different opinions; according to the information gathered during the visit to the High Court of Cassation and Justice, the dominant interpretation seems to be in the sense that the original EAW remains valid and enforceable.

Pursuant to the implementing law<sup>1</sup>, the public prosecutor must provide notification of the receipt of the EAW to those judicial authorities in Romania which are carrying out investigations or trials against the requested person for the same offence or an offence other than the one underlying the EAW.

During the visit to the Interpol NCB it was explained to the expert team that only those EAW-based Interpol red alerts specifically addressed to Interpol-Romania are checked. In such cases, the Interpol NCB initiates action to attempt to establish the location of the requested person in Romania. At the same time a notice is displayed in the national database of sought persons. Where the whereabouts of the requested person are established or where they are known from the red alert, the local police authorities are contacted to verify this information. Once the location of the requested person is ascertained, the Interpol NCB notifies the competent prosecution office and, in parallel, requests its counterpart abroad to send the EAW.

## 4.4. ARREST PROCEDURES/FIRST HEARING

According to the information provided in the replies to the EAW questionnaire, before the amendment brought into the implementing law by Law 222/2008, it was a minority practice to proceed to arrest the requested person on the basis of an Interpol red alert, and the transmission of the EAW was generally requested.

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<sup>1</sup> Article 88<sup>1</sup> (6) and (7).

# RESTREINT UE

After the amendments brought by Law 222/2008, the implementing law differentiates three situations:

- Apprehension of the requested person on the basis of an EAW (Article 88<sup>2</sup>(1)).
- Apprehension of the requested person on the basis of an Interpol red alert (Article 88<sup>3</sup>). This is conceived as an exception to the general rule (apprehension on the basis of an EAW), to be used in cases of emergency. In this case, the IPCC is under a statutory obligation to request through Interpol channels the transmission of the EAW to the competent Romanian prosecution office within 48 hours of the apprehension of the sought person. It should be noted that, given the novelty of this provision, the authorities interviewed were not able to provide the team with a clear answer as to how it should be implemented.
- Apprehension by the judicial police (Article 88<sup>3</sup> (3)).

In the first two cases the measure is taken by the competent prosecutor. In the last case, the person has to be presented to the prosecutor within the first 10 hours after apprehension.

Once the person is brought to the public prosecutor, he must be heard in the presence of his legal counsel<sup>1</sup> in order for the prosecutor to take a decision on the measure of "apprehension", which may last up to 24 hours<sup>2</sup>. The requested person must be informed by the public prosecutor about the reasons for the apprehension. He must also be handed a copy of the EAW and of its translation, if available. The wording of the law is unclear on whether "translation" refers to a translation into a language understood by the detained person. Also, the implementing law provides the possibility for the detained person to request that a person of his choice be informed, unless the public prosecutor refuses such a request on the grounds that it may affect the execution of the EAW or of any other EAWs issued against other participants in the underlying offence.

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<sup>1</sup> Article 88<sup>2</sup> (1) of the implementing law as amended by Law 222/2008.

<sup>2</sup> Pursuant to Article 88<sup>2</sup> (5), if the requested person is a minor the limit in para. (1) shall be reduced by half. In this case, the apprehension may be extended, if required, by a reasoned order, for up to 8 hours.

## RESTREINT UE

Pursuant to Article 89 of the implementing law as amended by Law 222/2008, after taking a decision on the apprehension of the requested person, the public prosecutor must submit to the competent executing authority (the court of appeal to which the prosecution office is attached) a "proposition for the taking of the measure of arrest against the requested person". Within the court<sup>1</sup> the case is assigned to a single judge (and no longer to a panel of two judges<sup>2</sup>, as was the case under previous Article 88<sup>1</sup>(1) of the implementing law), who decides both on detention of the requested person with a view to surrender and on the execution of the EAW, following the procedure established in Article 90 of the implementing law (see chapter 4.5 below). In principle, both issues are decided in one single hearing, unless the judge in charge of the case considers it necessary to hold a separate hearing for the issuing of the decision on surrender or to request additional information or guarantees from the issuing authority with a view to taking a decision on the execution of the EAW. Also, when the person has been apprehended under Article 88<sup>3</sup> of the implementing law, Article 90(2) lays down that the judge may order the arrest of the requested person or impose on him the obligation not to leave the locality for 5 days; in this case, the hearing for a decision on surrender is postponed and the prosecutor is given a 5-day term to provide the EAW together with its Romanian translation.

Detention may not be ordered for an initial period longer than 30 days, after which the conditions must be reviewed periodically every 30 days and, if necessary, a new order must be issued. In that connection, Article 90(11) as amended by Law 222/2008 lays down that "*if the requested person is released, the court shall institute an obligation for him not to leave the locality...*". The total duration of detention until the actual surrender to the issuing Member State may not exceed 180 days<sup>3</sup>. Means of judicial review against the decisions concerning detention pending the EAW proceedings are laid down in Article 94<sup>1</sup> of the implementing law, according to which an appeal may be lodged to the High Court of Cassation and Justice on points of law within 24 hours of the decision having been issued. Such an appeal must be heard within 3 days of its registration<sup>4</sup>.

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<sup>1</sup> Pursuant to Article 89(3) of the implementing law as amended by Law 222/2008, every court shall create and maintain a register of arrests and surrenders based on EAWs.

<sup>2</sup> A judge appointed at random from those assigned to the court together with the judge on duty on the standby list.

<sup>3</sup> This time limit, introduced by Law 222/2008, conforms with Article 23 of the Romanian Constitution, which imposes it with respect to pre-trial detention in domestic cases.

<sup>4</sup> Article 94<sup>2</sup> of the implementing law.

# RESTREINT UE

The implementing law does not specify the criteria for the judge to decide on the detention of the requested person (nor for the prosecutor to take the apprehension measure). In that connection, according to the replies to the EAW questionnaire, it was general practice, before the amendments brought by Law 222/2008, to keep the requested person in detention throughout the proceedings<sup>1</sup>.

## 4.5. THE SURRENDER DECISION/ GUARANTEES - REQUIREMENTS AND GUARANTEES PROVIDED

The procedure for the execution of an EAW is laid down in Article 90 of the implementing law, which has been entirely redrafted by Law 222/2008.

The case is tried in a public hearing; however the matter will be decided in a closed hearing if the public prosecutor or the requested person so requires, or if the judge designated to try the case considers it necessary. The judge must first check the identity of the requested person and inform him of his rights according to Article 91 of the implementing law (information on the contents of the EAW, assistance by legal counsel, interpreter), of the effects of the speciality rule, of the possibility to consent to surrender, of the consequences of such a consent and, in particular, of the fact that consent cannot be revoked. If the requested person is a Romanian national and the EAW was issued for conviction purposes, the judge must also ask the requested person whether he agrees on serving the sentence in the issuing MS. As from this point, the procedure leading to the surrender decision varies depending on whether the requested person consents to being surrendered or not.

### Consent to surrender

Pursuant to Article 90 (5), if the requested person agrees to surrender, his consent must be recorded in the hearing minutes with the signature of the judge, the court clerk, the requested person and his legal counsel. Renunciation of entitlement to the speciality rule, if given, is also recorded.

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<sup>1</sup> Despite the fact that, pursuant to Article 90 (9) of the implementing law, during the procedure for the execution of an EAW the court had to decide every 30 days on maintaining arrest of the requested person or on releasing him, taking, in the latter case, any necessary measure to prevent the requested person from absconding, “including the preventive measures provided in the law”.

# RESTREINT UE

Consent to surrender does not make the grounds for refusal envisaged in the implementing law avoidable, since, pursuant to Article 90(6), in trying the case, the judge must proceed to verify whether any of them, either mandatory or optional, applies.

A decision must be taken within 10 days of the hearing in which the consent was given<sup>1</sup>. This decision is final<sup>2</sup>.

## Non consent to surrender

If the requested person does not consent to surrender, the procedure continues with the hearing of the requested person, which shall be limited to “*recording his opinion regarding the applicability of any of the mandatory or optional grounds for non-execution and any objections regarding his identity*”<sup>3</sup>. In these cases, no time limit is set for the court to render a decision; however, the time limits provided in the implementing law<sup>4</sup> for the final decision on the execution of the EAW conforms with the Framework Decision. The Court of Appeal's decision may be appealed in the High Court of Cassation and Justice<sup>5</sup>.

As already mentioned, the procedure is intended to be concentrated in one single court session. The judge may, however, schedule a separate hearing for issuing his decision on surrender; the judge may also postpone the case (for no longer than 10 days) if he considers it necessary to receive additional information or guarantees from the issuing authority<sup>6</sup>.

Where a decision is taken to execute the EAW, the judge must, in parallel, issue a warrant ordering the arrest of the individual<sup>7</sup>.

Once the decision on surrender becomes final, the executing judge<sup>8</sup> is under a statutory obligation to communicate it within 24 hours to the issuing judicial authority, the MoJ and to the IPCC<sup>9</sup>.

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<sup>1</sup> Article 95 (1) of the implementing law.

<sup>2</sup> Article 94<sup>1</sup>(2) of the implementing law.

<sup>3</sup> Article 90(7) of the implementing law.

<sup>4</sup> Article 95(2).

<sup>5</sup> Article 94<sup>1</sup> of the implementing law

<sup>6</sup> Article 90(8) and (12) of the implementing law.

<sup>7</sup> Article 90(13) of the implementing law.

<sup>8</sup> See footnote in chapter 3.1 above.

<sup>9</sup> Article 94 (2) as amended by Law 222/2008.

# RESTREINT UE

## Guarantees

Under Romanian implementing law<sup>1</sup>, the request for the guarantees envisaged in Article 5 of the Framework Decision is mandatory. No particular issues were brought to the attention of the expert team in this regard. It should be noted, however, that no system exists to monitor the observance of these guarantees.

## 4.6. REFUSALS TO SURRENDER

The grounds for non execution of an EAW are listed in Article 88 of the implementing law as amended by Law 222/2008. No particular comments are considered necessary in this regard, since the grounds for refusal listed in the implementing law are in line with the Framework Decision. None of the grounds for non-execution envisaged as optional in the Framework Decision are taken as mandatory in the Romanian implementing law.

As already mentioned, Romania refused execution of an EAW in 65 and 28 cases in 2007 and 2008 (up to 31 October) respectively. The following table details the grounds for non-execution applied according to the information provided during the evaluation visit:

GROUNDS FOR REFUSAL	No. OF CASES	
	2007	2008 (to 31.10)
Impossibility of identifying the requested person	20	13
The requested person was not located in Romania	14	8
EAW withdrawn by the issuing authority	12	1
Breach of Article 6 ECHR	4	-
Statute of limitations	2	1
EAW issued before 01.01.2007	2	-
Death of the requested person	1	1
Romanian national	1	-
Insufficiency of the information provided by the issuing authority	1	-

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<sup>1</sup> Article 87.

## RESTREINT UE

Humanitarian considerations	1	-
Ne bis in idem	1	2
EAW issued for the execution of a sentence imposing a fine	1	-
Penalty thresholds not reached	1	-
Mistaken identity (fingerprints did not correspond to those of the arrested person)	2	-
Requested person already surrendered to another Member State	1	-
EAW withdrawn by the issuing authority following postponement of surrender	1	-

As to the cases in which the execution of the EAW was refused because of alleged breaches by the issuing Member States, of the principles of fair trial laid down in Article 6 ECHR, the expert team noted that, although this is not laid down in the implementing law as a ground for refusal, it was identified by some courts as such on the basis of the preamble to the Framework Decision (12th recital) and Article 6 TEU. The High Court of Cassation and Justice, in Decision No. 581 of 18 February 2008, ruled as follows: *"An analysis of the above legal provisions, and of the other provisions of the special law that regulate the execution of European arrest warrants, shows that the role of the Romanian court, in this procedure, is limited to checking whether the formal conditions of the warrant have been met - aspects relating to the existence of the imputed criminal acts, and whether or not the measure of provisional detention is justified, exceed the limits imposed by Law No. 302/2004- and to dealing with any objections regarding identity raised by the requested person and with the grounds for refusal of surrender that the requested person may invoke"*. The expert team notes that in 2008 no EAW was refused on this ground.

### 4.7. APPEAL PROCEDURES AND THEIR IMPACT ON TIME LIMITS

The Court of Appeal's decision on the execution of an EAW may be appealed against in the Criminal Section of the High Court of Cassation and Justice, exclusively on points of law, within 5 days of its announcement. Cases in which the requested person consented to surrender are excepted.

Pursuant to the implementing law<sup>1</sup>, the appeal must be adjudicated with priority, within 3 days of its registration.

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<sup>1</sup> Article 94<sup>2</sup>.



## RESTREINT UE

Whereas appeal procedures do not seem to have a significant impact on the duration of EAW proceedings in Romania, in the replies to the EAW questionnaire a number of cases were reported<sup>1</sup> in which the statutory time limits were exceeded because of the lodging of pleas of unconstitutionality<sup>2</sup>. This is the reason, according to the Romanian authorities, for the amendments introduced in Article 93 of the implementing law, which in its present drafting provides that any plea of unconstitutionality which could be raised in the course of the procedure for the execution of an EAW must be tried by the Constitutional Court within 45 days.

### 4.8. OWN NATIONALS AND YOUTH ARREST AND SURRENDER ISSUES

#### Own nationals<sup>3</sup>

Romania opted for regulations applying both Article 4(6) and Article 5(3) of the Framework Decision. The former has been transposed as a ground for optional non-execution; as a result of the amendments introduced by Law 222/2008, it may only apply where the requested person refuses to serve the sentence or detention order in the issuing Member State<sup>4</sup>. The provision of a return guarantee in prosecution cases is mandatory. This regime applies exclusively to Romanian nationals.

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<sup>1</sup> In the replies to the questionnaire on quantitative information regarding the practical operation of the EAW 3 cases were recorded in 2007 (10330/08).

<sup>2</sup> According to the information provided all the unconstitutionality exceptions were declined by the Constitutional court.

<sup>3</sup> The expert team notes that Article 25 of the Council Framework Decision 2008/909/JHA, on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purpose of their enforcement in the European Union, reads: "*Without prejudice to Framework Decision 2002/584/JHA, provisions of this Framework Decision shall apply, mutatis mutandis, to the extent they are compatible with provisions under that Framework Decision, to enforcement of sentences in cases where a Member State undertakes to enforce the sentence in cases pursuant to Article 4(6) of that Framework Decision, ..., so as to avoid impunity of the person concerned*".

<sup>4</sup> Article 88(2)c<sup>1</sup> of the implementing law, before being amended by Law 222/2008 read: "(2) *The executing Romanian judicial authority may refuse to execute a European arrest warrant in the following cases:... c<sup>1</sup>) where a European arrest warrant has been issued in view of executing a penalty, if the requested person is a Romanian citizen and the competent Romanian court ordains execution of the penalty in Romania, according to Romanian law*".

# RESTREINT UE

In those cases in which the ground for refusal laid down in Article 4(6) of the Framework Decision applies, pursuant to Article 88(3) of the implementing law (introduced by Law 222/2008), the Romanian executing judicial authority, before issuing a decision refusing to execute the EAW, must request the issuing authority to transmit a certified copy of the judgment for the purpose of its recognition "incidentally" in the same proceedings. If the issuing authority does not transmit the requested copy within 20 days of the request, the decision refusing to execute the EAW will be issued; in such a case, according to Article 88(4) of the implementing law, the issuing authority must be informed about the possibility to further request the recognition and enforcement of the sentence based on any applicable legal instruments or, subsidiarily, on reciprocity<sup>1</sup>.

## Youth surrenders

At the time of the evaluation visit no issues had been reported in connection with this subject.

It should be noted that, pursuant to Article 88<sup>2</sup> of the implementing law (introduced by Law 222/2008), if the requested person is a minor, the apprehension measure ordered by the public prosecutor may last no longer than 12 hours, although it is possible to extend it for up to 8 hours.

## 4.9. ONWARD SURRENDER/EXTRADITION

No issues were reported with respect to subsequent extradition/surrender requests.

## 4.10. POSTPONED/CONDITIONAL SURRENDER

According to the information provided in the replies to the EAW questionnaire, 6 (5 with FR, 1 with HU) and 3 (5 with FR, 1 with HU) cases of postponed surrender were recorded in 2007 and 2008 (up to 31 October) respectively.

No issues were reported in connection with this matter.

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## 4.11. THE MECHANICS OF SURRENDER (INCLUDING TEMPORARY AND CONDITIONAL SURRENDER) OF REQUESTED PERSONS

As already mentioned, the executing judge must communicate the surrender decision to the MoJ and to the IPCC within 24 hours after it becomes final. It is then for the IPCC to organize the surrender, in cooperation with counterparts abroad and with the support of the Police authorities of the place of detention.

The novelty of the provision (prior to Law 222/2008 the competence for execution laid with the Criminal Investigations Department, within the Police General Inspectorate) prevented the gathering of further elements on the functioning of this system.

## 4.12. CONFLICT OF EAWS/EXTRADITION REQUESTS

No such cases were reported.

## 4.13. EXPENSES

No issues were reported on this matter.

## 4.14. MISCELLANEOUS COMMENTS

### Transitional provisions

Although no limitations as to the enforcement of an EAW were established in the implementing law in relation to the date of the underlying offence, the transitional provisions laid down in Article 108 prevented Romanian authorities from enforcing EAWs issued before the date of its coming into force, which coincided with the accession of Romania to the EU (1 January 2007). Two cases (both with Hungary) were reported in which the execution of an EAW was refused on that ground.

While passing time decreases the possibility of further problems in this regard, those provisions have been amended by Article 57 of Law 222/2008, so that, pursuant to the new wording of Article 108(1), Romania will execute any EAW *received* after the entry into force of the implementing law, regardless of the date of the underlying offence, with no further reference to the date of issue.

## Ancillary surrender

There is no provision in the implementing law dealing with this matter. In the light of the replies to the EAW questionnaire, this would not necessarily prevent Romanian courts from granting the execution of an EAW also with regard to any accessory offences included in it, provided that double criminality is ascertained. During the interviews the team noted the cooperative approach of the authorities interviewed, who indicated a willingness to execute EAWs also in these cases.

## **5. TRAINING PROVISION**

### Training of judges and prosecutors

The National Institute of Magistracy (hereinafter referred to as "NIM") provides both initial and ongoing training for judges and prosecutors. Training activities are also organised by the Courts of Appeal, under the coordination of the NIM, for judges and prosecutors of the region concerned. The NIM is under the supervision of the Higher Magistrate's Council.

As regards training on the EAW, there is a module in the NIM's basic training curriculum for first year students of European Law, which includes topics related to the EAW. As to continuing training, since 2006 a number of activities relating to the EAW have been organised within the annual continuing training plan, some of them within the framework of a project for technical cooperation with the European Institute of Public Administration in Luxembourg and a twinning project with Austria, including a series of training courses for trainers. According to the information provided, 25 seminars were organised in 2007 in which EAW-related matters were discussed, with a total of 210 judges and 215 prosecutors participating in them; in the same period 26 seminars and 16 meetings and workshops touching upon these matters were organised within the decentralised training programme. In 2008, 10 seminars were programmed in which topics regarding the implementation of the EAW were discussed. In 2009, thirteen seminars on international cooperation in criminal matters are envisaged within the continuous annual training plan (for more than 1000 magistrates); this subject has been identified as a mandatory field for the 2009 decentralised continuous training programme.

Under the abovementioned twinning project with Austria, a manual was drafted on judicial cooperation in criminal matters for judges and prosecutors; it is available on the MoJ and the NIM websites.

# RESTREINT UE

The MoJ has organized working meetings on the EAW with the contribution of the courts of appeal and prosecutor offices of the courts of appeal.

As for language training, the NIM and the CEELI Institute Prague developed in 2005 the Language4Law project, which included an e-learning portal and the production of pedagogical materials. Within this framework, 2 training sessions on English legal language were organised each in 2006 and 2007, with a total of 46 participants (judges, prosecutors and NIM trainers); 2 more training sessions were planned for 2008 for a total of 34 participants. Under a Phare Project, one training session on French legal terminology was organised in 2008 (13 participants) and a seminar on English legal terminology was programmed to take place short after the evaluation visit. According to the information provided, a basic language course on either English or French is mandatory for new judges and prosecutors.

## Training of court clerks

The National Court Clerks' School provides training for court clerks. The initial training curriculum incorporates a training module on judicial cooperation in criminal matters, in which EAW matters are included (with particular attention to the completion of the EAW form). As to continuous training, 11 seminars (293 participants) were organised on these matters in 2007, with a 1-day session devoted to EAW matters. Under a Phare Programme, 4 seminars (97 participants) took place in different locations in 2007. In 2008 a total of 7 seminars were envisaged on these matters.

Under the abovementioned twinning project with Austria, a manual on judicial cooperation in criminal matters for court clerks was drafted.

## Training of lawyers

According to the information provided, no specific training on EAW matters for lawyers had been organised at the time of the evaluation visit. During the meeting with the representatives of the Bar, the experts were informed that the National Institute for Professional Training, in charge of organising training for lawyers, had adopted the European curriculum for professional training, which should be implemented as from 2009 and includes a training component on EAW.

## 6. DEFENCE PERSPECTIVES

The requested person is entitled to receive legal assistance from the moment he appears before the public prosecutor for a decision on the apprehension measure. The participation of a defence lawyer is mandatory throughout the procedure for the execution of an EAW. Therefore, if the requested person does not choose a defence counsel on his own, one will be appointed *ex officio*.

The basic rights of the person in EAW procedures are listed in Article 91 of the implementing law: to be informed about the contents of the EAW, to be assisted by a legal counsel, either of his choice or appointed *ex officio*, and to receive linguistic assistance free of charge. There are other provisions regulating this matter: Article 88<sup>2</sup>(3) (right to be handed a copy of the EAW and of its translation), Article 88<sup>2</sup>(4) (right to request that a person of the requested person's choice be informed about the apprehension measure adopted by the public prosecutor) and Article 88<sup>3</sup>(2) (right to be informed of the reasons for the apprehension, when the latter is ordered on the basis of an Interpol diffusion).

The expert team had the opportunity to meet representatives of the Bar, who gave details as to the legal assistance regime in EAW procedures. According to the information provided, *ex officio* lawyers are appointed from those who voluntarily join a list created in every Bar Association. There is no special list for EAW cases. The lawyers interviewed stressed that the pro-deo fees are very low (less than 100 € for the whole case).

When questioned about the functioning of the EAW in practice, the lawyers met mentioned no problems as regards communication with the defendant, access to the file documents or allegations or possibilities of defence within the limits of the EAW procedure, their main criticism being that there was no possibility in such a procedure to consider the material grounds of the case.

## 7. CONCLUSIONS

The expert team acknowledges the high level of preparation for the visit, as well as the frankness and professionalism of the practitioners and officials interviewed. The experts would also like to thank the Romanian authorities for their hospitality and assistance throughout the visit.

# RESTREINT UE

As regards the outcome of the evaluation, the expert team would like to stress that, owing to the fact that new legislation introducing major changes in the existing legal regime on the EAW had been enacted just a few days before the visit, a great part of the information available in advance lost relevance. As to the information gathered on the spot, it should be noted that, in addition to the lack of practical experience in implementing the newly devised procedures, during discussions most practitioners met by the experts referred to the previous regulations and many questions raised in relation to the new law were left without a conclusive answer.

This peculiar situation placed the expert team in a rather difficult position to assess fully the practical operation of the EAW in Romania. As a consequence, many of the findings of this report should be kept on a very general level, or be interpreted by the recipient Member State as an invitation to clarify some of the highlighted issues, in the course of the practical implementation of the new legal basis for the EAW. Furthermore, the experts are of the opinion that, in the framework of a foreseeable follow-up mechanism to the fourth round of mutual evaluations, it would be highly advisable to arrange another visit in the future to learn how the new statute is applied in practice.

## 7.1. GENERAL CONCLUSIONS

### 7.1.1. New implementing law

The team notes that, especially after the amendments introduced by Law 222/2008, the Romanian legislation is almost fully in line with the Framework Decision. In that connection, the new law not only eliminated several loopholes that existed under the previous regulations but also embraced several good practices which, in the view of the evaluators, will help to improve the system further. Furthermore, the new provisions address some issues that do not have any current application but which will provide added value in the years to come (e.g. the consideration of SIS-alerts as equivalent to EAWs).

### 7.1.2. Proactive approach of Romanian authorities

The expert team has ascertained that Romanian authorities at all levels have a proactive approach and are animated by a sincere and commendable desire to make the EAW work. This attitude can be easily identified from examples taken both from the law (e.g. the recent amendments introduced in the implementing legislation) and from practice (e.g. in not requiring the original EAW to take a decision on surrender).

## 7.1.3. Communications with foreign judicial authorities

One of the aspects that came to the attention of the expert team is how Romanian judicial authorities rely to a great extent on the MoJ and the Interpol NCB for establishing and maintaining contacts with their counterparts in other Member States. While commending the very active role played by the MoJ and the Interpol NCB in this field, the experts consider that the reliance of the courts on their systematic assistance distorts the principle of direct communication between judicial authorities that inspires the Framework Decision. The expert team recognizes several reasons for this situation, such as the insufficient language skills of the authorities involved in EAW proceedings, their hesitancy about directly contacting their correspondents abroad (to some extent linked with the lack of practical experience in EAW matters), the reliance upon the services of the MoJ on translation issues and exchange of correspondence with foreign authorities, and, in some cases, the unavailability of adequate communication equipment. However, in the view of the experts, the difficulties that underlies this state of affairs could and should be overcome by means other than maintaining a system that converts what under the Framework Decision is considered to be an exception (involvement of intermediaries in communications between judicial authorities) into common practice.

## 7.1.4. Non-specialisation of judges and prosecutors dealing with EAWs

The system followed in Romania to designate the judge(s) dealing with EAWs, based on the randomised attribution of cases, impedes the gathering of significant practical experience and the formation of a group of specialised judges. Following amendments brought by Law 222/2008, there seems to be room for instituting a certain degree of specialisation, since the competence to issue EAWs is awarded to a "*judge delegated by the president*" of the court<sup>1</sup>. At this stage it cannot be envisaged, however, whether this provision will be interpreted in the sense of allowing the identification of one or more "points of reference" within each court.

During the visit this question was discussed with the MoJ officials, who supported the creation of a pool of specialised judges in every Court of Appeal to deal with EAW cases, noting that such an option was also backed by judges in the course of internal meetings on the implementation of the EAW. According to the explanation provided, the decision to activate such a specialisation lies with the Superior Council of the Judiciary.

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<sup>1</sup> See chapter 3.1 above.



## 7.1.5. Monitoring of EAW procedures

Appropriate mechanisms for gathering, processing and circulating relevant information on the operation of the EAW and on EAW procedures contribute to a more efficient implementation of the EAW. At present no such mechanism, able to provide complete, up-to-date and easily accessible information, exists in Romania. In that connection, the creation, in every court, of a register of (issued) EAWs and of a register of arrests and surrenders based on an EAW envisaged in the last legal reform<sup>1</sup> should be commended. The expert team, however, urges the Romanian authorities to take further steps in that direction.

## 7.1.6. Training

During the visit the evaluators had conflicting feelings as to the effectiveness of the training system in place. The statistics concerning the training process of judges and prosecutors and the figures concerning the seminars relating to the EAW organised by both the MoJ and the NIM that the expert team was provided with were impressive. However, during the meetings, conflicting views were usually given even on relatively simple issues (e.g. accessory surrender, return of Romanian nationals, protection arising from the speciality rule, temporary surrender) that are expressly contained in the law (this did not concern only the new piece of legislation introduced in 2008). Moreover, a number of professionals stated that they had never been invited to participate in seminars or courses on these matters.

The experts noted that no "preparatory" training had been envisaged in view of the major changes brought by Law 222/2008. They also noted that no specific training on EAW matters had been organised for defence lawyers at the time of the evaluation visit.

As to language training, while acknowledging the efforts of the involved institutions in promoting the learning of foreign languages among judges and prosecutors, the expert team was left with the impression that there is a lot to do in this field.

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<sup>1</sup> Articles 81(7) and 89(3) as amended by Law 222/2008. See chapter 3.2 and footnote in chapter 4.4 above.

## 7.1.7. Dissemination of EAW information

Romanian authorities (in particular the Ministry of Justice) have done a lot to provide judges and prosecutors with adequate access to well-structured and up-to-date sources of information considering various aspects of the European arrest warrant. This access can be effected in particular via an easily accessible and well-prepared web page of the Ministry of Justice (with several useful links to other contents), as well as in the form of manuals published and disseminated by the Ministry to local courts and units of the prosecution service. Also, it was the view of the expert team that the Craiova Court of Appeal's and the High Court of Cassation and Justice's practice of publishing their case-law on line is to be commended.

## 7.2. CONCLUSIONS IN RESPECT OF ROMANIA'S ACTIVITIES AS AN ISSUING MEMBER STATE

### Issues

#### 7.2.1. Locating wanted persons in Romania

During the visit to the Interpol NCB, the expert team was informed that in the preceding 6 months there had been 30 arrests in Romania of people against whom an EAW had been issued. According to the officials interviewed, this was an indication that the system for the search on national territory for the execution of domestic arrest warrants is not functioning properly. They also noted that courts apply different standards in assessing the requisite that a wanted person is abroad as a condition to be met for an EAW to be issued.

In the view of the expert team, it is advisable that Romanian authorities establish a uniform practice to verify the presence of sought persons in Romania before issuing an EAW, in order to avoid using this instrument in cases where the individual may in fact be located on their territory, and also to prevent difficulties in coordinating EAWs with prosecution cases relating to the same person in other jurisdictions.

## 7.2.2. Multiple EAWs

The expert team noted that there is a lack of coordination in the area of issuing the EAW, especially in prosecution and “mixed” (prosecution/conviction) cases. In instances where there is more than one case for which an EAW should be issued in relation to the same wanted individual, the Romanian courts (or the prosecutors who submit the motion to the court for issuing the EAW) do not have the possibility to coordinate the issuing process to enable the transmission of the EAWs in an orchestrated manner (around the same time). In case the location of a wanted person is known and only one EAW is sent for execution, there might be a problem with the subsequent application of the specialty rule. In practice it is not rare, and this is also the case of other countries, that in the absence of appropriate coordination, only one EAW is sent and executed, the remaining cases having to undergo the time-consuming and uncertain procedure of obtaining the consent of the executing state to conduct further prosecutions. In Romania there seems to be no mechanism (with the exception of conviction cases), nor any plan to introduce one, that would provide for at least a minimum level of necessary coordination in this regard. The expert team is far from suggesting that a single EAW in either prosecution or conviction cases should be issued with the inclusion of all the cases in one document, but some system of routine, systematic cross-checking of all pending matters (e.g. by the Police or by searching available databases) should definitely be introduced.

## 7.2.3. Feedback from executing Member States

Romanian authorities pointed out that most executing Member States fail to keep the issuing authorities apprised of progress in EAW proceedings. They also noted that few Member States notify the issuing authority of the surrender decision or provide details of how long the requested person was kept in detention pending the surrender. The expert team shares the concerns expressed by the Romanian authorities in this regard.

## 7.2.4. Proportionality

According to the figures<sup>1</sup> provided during the visit, in around 75 % of the cases the offence underlying the EAW did not correspond to any of the categories listed in Article 2(2) of the Framework Decision<sup>2</sup>. The offence underlying the EAW was “aggravated robbery” in around 45% and 37% of the cases in 2007 and 2008, respectively. In view of such data, the issue of proportionality arose.

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<sup>1</sup> All the figures on 2008 in this chapter refer to the period 01.01.2008 - 31.10.2008.

<sup>2</sup> 2007: 714 out of 931; 2008: 363 out of 499.

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In that connection, the Romanian authorities noted that the 4-year threshold required to issue a domestic arrest warrant functions as a filter as regards prosecution EAWs<sup>1</sup>. They also noted that the Romanian system provides for the possibility of trial *in absentia* regardless of the length of the possible penalty to be imposed at the end of proceedings. This account for the extremely low number of prosecution EAWs compared with the number of conviction EAWs: actually, according to the information provided, prosecution EAWs represented less than 8% of the EAWs issued by the Romanian authorities<sup>2</sup>.

As to conviction EAWs, whereas no objections may be raised as to the compliance with the penalty thresholds imposed by the Framework Decision, the expert team notes that, according to the explanations given by the professionals met, in general Romanian law is very severe both in terms of actions elevated to the category of criminal offences and in terms of penalty levels. In that connection it should be noted that more than half of the conviction EAWs issued by the Romanian authorities in 2007 and 2008 respectively, the sentence passed was less than three years' imprisonment<sup>3</sup>.

## 7.3. CONCLUSIONS IN RESPECT OF ROMANIA'S ACTIVITIES AS AN EXECUTING MEMBER STATE

### 7.3.1. Issues

#### 7.3.1.1. Prosecutorial closure of the case

Article 88<sup>1</sup>(5) of the implementing law<sup>4</sup> provides that the public prosecutor must "close the case" when the checks made upon the receipt of an EAW show "beyond doubt" that the requested person is not on Romanian territory. However, the consequences of this action are not described in the law, in particular whether such a closure has a definitive effect in the sense that a new EAW is required where the person in question is subsequently located in Romania. The expert team was given various opinions on this issue. The IPCC officials and some prosecutors were of the view that to re-open the case the issuing authority has to submit a newly issued EAW, whilst other prosecutors and judges, including the judges of the High Court of Cassation and Justice interviewed, interpreted that the original EAW remains valid and executable. The expert team is of the opinion that this issue should be clarified, all the more so considering the consequences that it may have in relations with some Member States in which the re-issuing of an EAW raises problems.

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<sup>1</sup> See chapter 3.1 above.

<sup>2</sup> 50 and 37 prosecution EAWs were issued in 2007 and 2008, respectively.

<sup>3</sup> 2007: 483 out of 881; 2008: 265 out of 460.

<sup>4</sup> This provision was introduced by Law 222/2008.

## 7.3.1.2. Arrest based on Interpol red notice

One of the provisions introduced by Law 222/2008 is Article 88<sup>3</sup>, according to which a person may be arrested on the basis of an EAW-based Interpol red notice (only) in case of urgency. This provision is conceived as an exception to the general rules on arrest. During the interviews the expert team was not given a clear answer on the definition and scope of this "exceptionality clause". In that connection, at the Interpol NCB the experts were informed that divergent instructions had been issued by different prosecution offices on this matter. The expert team is of the view that a uniform approach should be adopted on this point.

## 7.3.1.3. Non custodial preventive measures

To the experts is not clear, from the implementing law, at what stage and under which conditions measures alternative to detention may apply in EAW procedures. As a matter of fact, it seems, according to the information provided, that Romanian judicial authorities somehow almost automatically opt for detention without considering any other options. This idea was underlined by the defence lawyers interviewed, who were of the view that rules on preventive arrest were applied more stringently in EAW matters than in domestic proceedings.

The evaluation team is of the opinion that in any event the application of preventive measures should be preceded by a very careful examination of the case, and that due consideration should be given to the application of measures other than detention in suitable cases, whenever the risk of absconding need not be feared.

## 7.3.2. Good practices

### 7.3.2.1. Flexibility in handling incoming EAWs

The Romanian authorities are flexible as regards the availability of original EAWs: fax (and e-mail) is accepted even for a decision on surrender. Also commendable is the option of the Romanian legislator to accept EAWs in English or French, by this means providing issuing authorities in other Member States with a practical option which may indeed contribute to speeding up the procedure.

### 7.3.2.2. Speediness of the procedure

The Romanian implementing law is to be appreciated for providing stringent time limits for trying EAW cases. Moreover, the expert team was left with the feeling that, in general, EAWs are processed by the Romanian authorities in a swift and effective manner, and in compliance with the time limits set by the law.

### 7.3.2.3. Recognition of foreign judgments

The practice reflected in the implementing law concerning the recognition of the sentence passed against a Romanian national incidentally in the procedure for the execution of the EAW, in those cases in which the ground for refusal laid down in Article 4(6) of the Framework Decision applies, is commended.

## 8. RECOMMENDATIONS

### 8.1. RECOMMENDATIONS TO ROMANIA

#### GENERAL

Recommendation 1.- Encourage direct contacts of the competent judicial authorities with their foreign counterparts and devise measures necessary to establish such contacts (including appropriate telecommunications equipment) (see 7.1.3).

Recommendation 2.- Promote specialisation of judicial authorities in EAW cases (see 7.1.4).

Recommendation 3.- Create appropriate mechanisms, able to provide complete, up-to-date and easily accessible information, for gathering and processing data on all incoming and outgoing EAWs (see 7.1.5).

# RESTREINT UE

Recommendation 4.- Continue efforts to provide systematic training programme on EAW matters as well as language training for practitioners (judges, prosecutors and court staff) (see 7.1.6).

Recommendation 5.- Take measures, as considered appropriate, to promote training of lawyers on EAW matters (see 7.1.6).

## AS ISSUING MEMBER STATE

Recommendation 6.- Develop a uniform practice to verify if a wanted person is located on Romanian territory prior to issuing an EAW (see 7.2.1).

Recommendation 7.- Create mechanisms to enable judicial authorities to check the existence of pending cases against given individuals prior to issuing an EAW (see 7.2.2).

## AS EXECUTING MEMBER STATE

Recommendation 8.- Promote the uniform understanding of the effects of the prosecutorial closure of the case under Article 88<sup>1</sup>(5) of the implementing law, e.g. by issuing guidelines for prosecutors (see 7.3.1.1).

Recommendation 9.- Develop uniform practice concerning the application of Article 88<sup>3</sup> of the implementing law on apprehension and arrest of the requested person based on an Interpol alert (see 7.3.1.2).

Recommendation 10.- Take the necessary steps to promote the use of preventive measures alternative to detention in EAW cases where appropriate, including– if necessary – amending Article 90 of the implementing law (see 7.3.1.3).

## 8.2. RECOMMENDATIONS TO CERTAIN OTHER MEMBER STATES

Recommendation 12.- Take appropriate measures to provide issuing authorities with the information envisaged in Articles 22 and 26(2) of the Framework Decision (see 7.1.7).

## RESTREINT UE

Recommendation 13.- Consider taking appropriate measures (including where necessary amending the legislation) in order to accept EAWs in languages other than the national language, including those most commonly spoken (see 7.3.2.1).

Recommendation 14.- Promote the creation, dissemination and systematic use of support and guidance tools, especially in electronic format, related to best practices and legislation on EAW (see 7.1.7).

Recommendation 15.- Encourage direct contacts between the judicial authorities involved in EAW cases (see 7.1.3).

Recommendation 16.- Reconsider tight time limits for the receipt of language-compliant EAWs (see 7.3.1.4).

Recommendation 17.- Consider accepting EAWs sent by fax or e-mail when their authenticity is not in question (see 7.3.2.1).

Recommendation 18.- Consider following Romanian example as to deciding on the execution of the foreign sentence incidentally in the EAW procedure in cases in which Article 4(6) of the Framework Decision applies (see 7.3.2.3).

### 8.3. RECOMMENDATIONS TO THE EUROPEAN UNION

Recommendation 19.- Consider amending the Framework Decision in order to make it possible to issue and execute the EAW with regard to ancillary offences (see 4.14).

Recommendation 20.- Consider the possibility of determining a limited number of vehicular languages in which EAWs may be issued (see 7.3.2.1).

Recommendation 21.- Consider amending the Framework Decision by introducing a standard reasonable time limit for the transmission of language-compliant EAWs (7.3.1.4).

Recommendation 22.- Establish a follow up mechanism as regards the outcome of the evaluations carried out within the fourth round of mutual evaluations (see 7).



## PROGRAMME FOR VISIT

### **Tuesday 18 November**

- 8<sup>30</sup> Pick up from the hotel and transfer to the Ministry of Justice
- 8<sup>55</sup> Arrival to the Ministry of Justice
- 9<sup>00</sup> Ministry of Justice (MoJ), Welcome Meeting
- 9<sup>15</sup> Plenary Working Meeting with the experts from the Directorate for International Law and Treaties (representatives of the Romanian Central authority): organization role and activity of the Ministry of Justice as the central authority in the application of the European Arrest Warrant (EAW), legislation and statistics on EAW
- 12<sup>00</sup> Transfer to the National Institute of Magistracy
- 12<sup>15</sup> NIM building, Lunch
- 13<sup>45</sup> National Institute of Magistrates (NIM) and National School of Clerks (NSC)  
Working Meeting with the representatives of the National Institute of Magistracy: role of NIM in the initial and continuing training of magistrates on the judicial cooperation in criminal matters (activity and results)  
Working Meeting with the representatives of the National School of Clerks: role of NSC in the initial and continuing training of clerks on the judicial cooperation in criminal matters (activity and results)
- 15<sup>30</sup> Transfer to the Prosecutor Office of the High Court of Cassation and Justice
- 15<sup>45</sup> Prosecutor Office of the High Court of Cassation and Justice  
Working Meeting with the representatives of the Prosecutor Office of the High Court of Cassation and Justice and with prosecutors from the Prosecutor Office of the Court of Appeal of Bucharest (involved in the execution of EAW) and from the Prosecutor Office of the Court of District Court of Bucharest and the Local Court of the Sixth Sector of Bucharest (involved in the issuing of EAW): role and activity of the prosecutors in the issuing and the execution of EAW (activity and results)
- 18<sup>00</sup> Transfer to hotel
- 19<sup>00</sup> Transfer to dinner
- 19<sup>30</sup> Restaurant, dinner hosted by the Ministry of Justice
- 21<sup>15</sup> Transfer to hotel

### **Wednesday 19 November**

- 8<sup>30</sup> Pick up from the hotel and transfer to the Palace of Justice
- 8<sup>55</sup> Arrival to the Palace of Justice
- 9<sup>00</sup> Court of Appeal of Bucharest  
Working Meeting with the judges from the Court of Appeal of Bucharest and from the District Court of Bucharest and Local Courts from Bucharest: role and activity of the judges in the issuing and the execution of EAW (activity and results)
- 11<sup>30</sup> Romanian Bars Association  
Working Meetings with the Lawyers from the Romanian Bars Association and from the Bucharest Bar Association: role and activity of the lawyers in the execution of EAW (activity and results)
- 12<sup>30</sup> Transfer to restaurant
- 13<sup>00</sup> Lunch offered by the Prosecutor Office of the High Court of Cassation and Justice

# RESTREINT UE

- 15<sup>00</sup> Transfer to the Parliament Palace
- 15<sup>10</sup> Visit of the Parliament Palace
- 16<sup>10</sup> Working Meetings with the representatives of the Interpol Office, Sirene Office, Europol and General Inspectorate of the Romanian Police: role and activity of the police in the proceedings of EAW (activity and results)
- 18<sup>10</sup> Transfer to the hotel
- 19<sup>30</sup> Transfer to dinner
- 19<sup>45</sup> Dinner hosted by the Ministry of Interior and Administrative Reform
- 21<sup>15</sup> Transfer to the hotel Parliament

## **Thursday 20 November**

- 7<sup>15</sup> Pick up from the hotel. Departure to Craiova (traveling by car)
- 9<sup>45</sup> Prosecutor Office Of the Court of Appeal of Craiova
- 10<sup>00</sup> Court of Appeal of Craiova and the Prosecutor Office of the Court of Appeal of Craiova. Working Meeting with the judges and prosecutors (issuing and executing authorities)
- 13<sup>15</sup> Transfer to Academic House
- 13<sup>20</sup> Lunch offered by the Court of Appeal of Craiova and the Prosecutor Office of the Court of Appeal of Craiova
- 14<sup>50</sup> Return to Bucharest via Curtea de Argeş
- 16<sup>00</sup> Visit of the Monastery Curtea de Argeş
- 16<sup>45</sup> Departure to Bucharest
- 19<sup>30</sup> Arrival to the hotel
- 20<sup>30</sup> Dinner hosted by the Ministry of Justice

## **Friday 21 November**

- 7<sup>45</sup> Pick up from the hotel. Transfer to the High Court of Cassation and Justice
- 8<sup>20</sup> Arrival to the High Court of Cassation and Justice
- 8<sup>30</sup> High Court of Cassation and Justice  
Working Meeting with the judges from the High Court of Cassation and Justice
- 10<sup>00</sup> Transfer to the Ministry of Justice
- 10<sup>20</sup> Ministry of Justice. Debriefing at the Ministry of Justice
- 11<sup>40</sup> Transfer to the airport (departures at 14:35 and 14:40)
- 13<sup>30</sup> Transfer to the airport

# RESTREINT UE

ANNEX B

## LIST OF PERSONS INTERVIEWED

### Ministry of Justice

**Welcome Meeting with Mr. Sorin Mihai STĂNESCU, Prosecutor, Secretary of State**

**Plenary meeting with the Directorate of International Law and Treaties**

Mr. Florin Răzvan RADU, director

Ms. Mariana ZAINEA, Head of Division

Ms. Cătălina MIRON, legal adviser

Ms. Raluca SIMION, legal adviser

Ms. Magdalena LEPĂDATU, legal counselor for european affairs

Ms. Dana Maria ROMAN, legal adviser

### National Institute of Magistracy (NIM)

Mr. Dragoș Nicolae DUMITRU, prosecutor, deputy director

Ms. Diana-Elena UNGREANU, judge, deputy director

Ms. Mihai UDROIU, trainer of NIM on judicial cooperation in criminal matters

Ms. Tudorel ȘTEFAN, trainer of NIM on community law

Ms. Diana MIHĂILĂ, Head of Department for Continuing Training

Ms. Gianina RADU, legal counselor for European affairs

### National Scholl of Clerks (NSC)

Ms. Ana Maria FILIP, judge, trainer

Ms. Miruna GHICA, judge, trainer

Ms. Camelia PANAITESCU ALEGRIA, judge, Department for International Relationships

### Prosecutor Office of the High Court of Cassation and Justice

Ms. Daniela Eugenia BADICA, chief prosecutor of the Office for International Judicial Cooperation

Ms. Laura CEH, chief prosecutor of the Office for International Mutual Legal Assistance from the Directorate for the Investigation of Organized Crime and Terrorism

Ms. Aura ȘCHIOPU, prosecutor, Office for International Judicial Cooperation

Mr. Cătălin POPESCU, chief prosecutor of the Section for Special Procedures from the Prosecutor Office of the Court of Appeal of Bucharest

Mr. Nicolae NEAGOE, chief prosecutor of the Section for Special Procedures from the Prosecutor Office of the Court of Appeal

Ms. Iulia PETRESCU, prosecutor of the Prosecutor Office of the Court of Appeal of Bucharest

Mr. Valerică DABU, Prosecutor Office of the District Court of Appeal of Bucharest

Mr. George MILITARU, Prosecutor Office of the Local Court of Bucharest the Sixth Sector of Bucharest

Ms. Ruxandra IONESCU, prosecutor of Local Court of Bucharest the Second Sector of Bucharest.

### Court Appeal of Bucharest

Mr. Lucian POPESCU, judge, Vice President

Mr. Stan MUSTAȚĂ, judge, President of the First Section

Ms. Elena URSULESCU, judge, President of the Second Section

Ms. Mihai OPRESCU, judge of the First Section

Ms. Nicoleta GRIGORESCU, judge of the Second Section

Mr. Florea DUȚĂ, judge of the Second Section

# RESTREINT UE

Ms. Grațiela CONSTANTIN, judge from the Second Section  
Ms. Cătălin PAVEL, Judge, President of the Criminal Section of the Local Court of the Second Sector of Bucharest  
Ms. Melania BEJENAR, Judge of the Criminal Section of the Local Court of the Third Sector of Bucharest  
Mr. Mihai COMA, judge of the Criminal Section of the Local Court of the Fourth Sector of Bucharest.

## **Romanian Bars Association**

Mr. Mircea STÂNCULESCU, lawyer, Vicepresident  
Mr. Ion ILIE-IORDĂCHESCU, lawyer, Decan  
Mr. Mihnea STOICA, lawyer  
Mr. Ion LAZĂR, lawyer

## **INTERPOL National Office**

Mr. Bogdan CONSTANTINESCU, specialist police officer  
Ms. Magdalena VLĂDUCĂ, specialist police officer  
Mr. Dragoș AGAPIE, specialist police officer  
Mr. Mihai FLUTUR, specialist police officer  
Mr. Alexandru RĂZVAN, specialist police officer

## **SIRENE**

Ms. Alexandra STOICA, Head

## **EUROPOL**

Ms. Florin DASCĂLU, specialist police officer

## **Court Appeal of Craiova**

Ms. Iriza CONSTANTIN, judge, vice-president of the Craiova Court of Appeal  
Mr. Aurel ILIE, judge, President of Criminal Section  
Mr. Mircea ȘELEA, judge  
Mr. Doru FILIMON, judge  
Ms. Valentina TRIFĂNESCU, judge  
Ms. Denis GHERVASE, judge, President of the Local Court of Local Court Craiova

## **District Court of Doli**

Ms. Claudia LĂUTARU, judge, President of the Criminal Section  
Ms. Laura UDREA, President of the Section for Minors

## **Prosecutor office of the Court of Appeal of Craiova**

Ms. Valerica MIREA, prosecutor  
Mr. Constantin CERGĂ, prosecutor  
Mr. Florin GRECU, Prosecutor from the Prosecutor Office of the District Court of Craiova

## **High Court of Cassation and Justice**

Mr. Anton PANDREA, judge, Vice-president  
Ms. Livia STANCIU, judge, President of the Criminal Section  
Ms. Rodica Aida POPA, judge of Criminal Section  
Ms. Rodica COSMA, judge of the Criminal Section



## LIST OF ABBREVIATIONS/GLOSSARY OF TERMS

ACRONYM ABBREVIATION TERM	ENGLISH EXPLANATION
CCP	Code of Criminal Procedure
EAW	European Arrest Warrant
ECHR	European Convention of Human Rights
EJN	European Judicial Network
IPCC	International Police Cooperation Centre
MOJ	Ministry of Justice
Interpol NCB	Interpol National Central Bureau
NIM	National Institute of Magistracy
SIS	Schengen Information System
TEU	Treaty of the European Union

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