

Some Considerations Regarding the Current State of Judicial Cooperation in Criminal Matters Between Different Countries at European and International Level

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Abstract

Starting from the consecrated meaning of the concepts of international law, international criminal law, judicial cooperation, respectively international judicial assistance in criminal matters, this study aims to highlight several current aspects regarding the judicial cooperation of states both at European and international level, in their fight against the criminal phenomenon. Applying, as main research methods, observation, documentation, scientific analysis and interpretation, this work addresses the issue of international legal assistance in the broader context of international judicial cooperation in criminal matters. The study brings to attention the possibility of using the so-called modern forms of judicial assistance in criminal matters between states, such as the spontaneous transmission of information, as well as the need to respect both the general principles of international judicial cooperation in criminal matters and the fundamental principles of international law. The work concludes by emphasizing that preventing and combating cross-border crime cannot legitimize a violation of international law.

Keywords: cross-border crime; international judicial cooperation; judicial assistance in criminal matters; international law.

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1. Introduction

In its current official meaning², international law is that set of binding

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² European e-Justice Portal, "International Law," accessed May 5, 2026, https://e-justice.europa.eu/topics/legislation-and-case-law/international-law_ro.

norms recognized by states or nations in terms of regulating their mutual relations, as well as their relations with international organizations.

Currently, it is generally accepted to divide international law into two subdivisions: public international law and private international law. While private international law refers to relationships that contain an element of foreignness between individuals (natural persons and legal entities) and aims to resolve conflicts of laws (when two or more national legal systems are involved in a dispute), public international law regulates relationships established mainly between states and international intergovernmental organizations³.

Moreover, the phrase “international law” is used to refer to public international law⁴.

In turn, public international law has several branches, in relation to the diversity of the areas it regulates, one of the most recent branches established in the development of international law⁵ being international criminal law. Broadly speaking, international criminal law represents the set of international norms that criminalize acts classified as international crimes (war crimes, crimes against humanity, genocide) and that seek to hold those who commit such acts criminally accountable⁶.

If we recognize the existence of a distinction between the notions of “international criminal law”, as a branch of international law, and “criminal international law” (in the sense of international judicial cooperation in criminal matters), we note a tendency to expand the understanding of the concept of international criminal law, by including some aspects of criminal international law⁷. Thus, in a broader sense, international criminal law is defined as that set of norms or customs of public international law “which govern cooperation between states in criminal matters or establish in the charge of state parties the obligation to criminalize certain criminal conduct contrary to universally accepted fundamental values or to hand over persons accused of crimes against humanity, war crimes or genocide to international criminal tribunals”⁸.

In this context, this study, structured in 5 sections, addresses several cur-

³ Carmen Moldovan, *Drept internațional public* [Public international law] (Bucharest: Hamangiu, 2015), 3.

⁴ Rudolf Bernhardt, ed., *Encyclopedia of Public International Law*, vol. 2 (Amsterdam: Elsevier Science, 1995), 1161.

⁵ Florian Coman et al., *Dicționar de drept internațional public* [Dictionary of public international law] (Timișoara: MediaTM, 2002), 100.

⁶ Antonio Cassese, *International Criminal Law*, 2nd ed. (Oxford: Oxford University Press, 2008), 3.

⁷ Anca-Lelia Lorincz and Adriana Iuliana Stancu, “Legal Nature of the Deprivation Measure Ordered During the Procedure for the Execution of the European Arrest Warrant,” *Perspectives of Law and Public Administration* 11, no. 3 (2022): 405, <https://adjuris.ro/revista/articole/An11nr3/6.%20Lorincz%20Stancu%20EN.pdf>.

⁸ Florin-Răzvan Radu, *Drept european și internațional penal* [European and international criminal law] (Bucharest: C.H. Beck, 2013), 169–70.

rent issues regarding judicial cooperation in criminal matters both between European states and at international level.

In the preparation of this work, observation, documentation, scientific analysis and legal interpretation of the provisions on judicial cooperation between states for the prevention and combating of the criminal phenomenon are used as research methods.

Thus, in the section that follows these introductory considerations, a conceptual delimitation is first made between the notions of international legal assistance in criminal matters, international judicial assistance in criminal matters, international judicial cooperation in criminal matters and judicial cooperation in criminal matters. This section also addresses several aspects regarding the application of the general principles of international judicial cooperation in criminal matters in the broader context of the fundamental principles of international law. The research then focuses on the mechanisms of judicial cooperation in criminal matters within the European Union.

The 3rd section is devoted to the notion of international judicial assistance in criminal matters, as a distinct form of cooperation. The main forms of judicial assistance in criminal matters are analyzed, as they are provided for in the Romanian special law (Law no. 302/2004 republished⁹). Also, this section highlights the existence of mechanisms for judicial cooperation in criminal matters between the European Union and the United States of America (under the Mutual Assistance Agreement¹⁰ between the EU and the USA concluded in 2003), as well as provisions on mutual assistance between Romania and the USA (according to the Treaty on Mutual Assistance in Criminal Matters¹¹ between Romania and the USA concluded in 1999 and the 2007 Protocol¹² accompanying this treaty).

Section 4 analyses, among other forms of international judicial assistance in criminal matters, the so-called modern investigative means, with particular reference to the spontaneous transmission of information.

The conclusions section emphasizes the need to apply legal and conventional mechanisms of judicial cooperation at the international level, without the imperative of combating cross-border crime being able to justify the violation of principles and norms of international law.

⁹ Romania, Law No. 302/2004 on International Judicial Cooperation in Criminal Matters, republished in *Monitorul Oficial al României*, Part I, No. 411 (May 27, 2019), as subsequently amended.

¹⁰ European Union and United States of America, *Agreement on Mutual Legal Assistance between the European Union and the United States of America*, signed June 25, 2003, *Official Journal of the European Union* L 181 (July 19, 2003): 34–42, [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22003A0719\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22003A0719(02)).

¹¹ Romania and United States of America, *Treaty on Mutual Assistance in Criminal Matters*, May 26, 1999, *Monitorul Oficial al României*, No. 425 (August 31, 1999).

¹² Romania and United States of America, *Protocol to the Treaty on Mutual Assistance in Criminal Matters*, September 10, 2007, *Monitorul Oficial al României*, No. 389 (May 22, 2008).

2. Judicial Cooperation within the European Union

Regarding the concept of **international judicial cooperation in criminal matters**, it was introduced into Romanian legislation by Law no. 302/2004. In the absence of a legal definition of this concept, to clarify it, one can start from another notion established in legal literature – that of **international legal assistance in criminal matters**.

The notion of international legal assistance in criminal matters has received, in doctrine, two meanings. Thus, in a broad sense, international legal assistance in criminal matters means the support (the aid) that states generally offer each other in the fight against crime¹³, through activities such as cooperation between judicial police bodies, international rogatory commissions in criminal matters, recognition of criminal judgments, extradition, etc.

International legal assistance in criminal matters, in its narrow sense, refers to legal assistance of a judicial (or procedural) nature, which means the assistance that the judicial bodies of a state grant, during the criminal process, to the judicial bodies of the state in which the judicial activity takes place and which consists in the execution, delivery or communication of procedural documents necessary for the resolution of that case¹⁴. In other words, the notion of international judicial assistance actually represents the narrow meaning of the notion of international legal assistance in criminal matters, which means that the notion of international legal assistance includes that of international judicial assistance.

Moreover, the concept of **international judicial assistance in criminal matters** was also used in Romanian legislation prior to 2004, and a special law was also adopted in this field¹⁵.

Until the entry into force of the special law on international judicial assistance in criminal matters, the Romanian criminal procedure codes contained provisions regarding some forms of collaboration between states in the fight against the criminal phenomenon.

Thus, if in the Criminal Procedure Code of 1864 (the first Romanian Criminal Procedure Code)¹⁶ there were no provisions regarding any form of international judicial assistance or cooperation, in the first Criminal Procedure Code of Romania (the 1936 Code), applicable throughout the unified territory of the Romanian state¹⁷, there were provisions regarding the procedure of rogatory

¹³ Rodica Mihaela Stănoiu, *Asistența juridică internațională în materie penală* [International legal assistance in criminal matters] (Bucharest: Editura Academiei, 1975), 16.

¹⁴ Vintilă Dongoroz et al., *Explicațiile teoretice ale Codului de procedură penală român. Partea specială* [Theoretical explanations of the Romanian Criminal Procedure Code. Special part], vol. 2 (Bucharest: Editura Academiei, 1976), 405.

¹⁵ Romania, Law No. 704/2001 on International Judicial Assistance in Criminal Matters, *Monitorul Oficial al României*, No. 807 (December 17, 2001).

¹⁶ Romania, Code of Criminal Procedure of 1864, *Monitorul Oficial*, December 2, 1864.

¹⁷ Romania, Code of Criminal Procedure of 1936 (Carol II Code of Criminal Procedure), *Monitorul*

commissions abroad¹⁸, the recognition of foreign criminal judgments and the extradition procedure, but the notion of “international judicial assistance” was not used.

Later, in the 1968 Code of Criminal Procedure¹⁹ two special procedures were regulated²⁰ that referred to the granting of international judicial assistance: the rogatory commission and the recognition of criminal judgments or other foreign judicial acts.

Following the repeal²¹ of the provisions of the Code of Criminal Procedure that regulated the rogatory commission²², the modalities for carrying out international judicial assistance remained those provided for in the special law, the procedure for recognizing criminal judgments or other foreign judicial acts being further regulated by the provisions of the code²³.

Subsequently, both the provisions of the special law on international legal assistance in criminal matters and most of the provisions of the Code of Criminal Procedure regulating the recognition of criminal judgments and other foreign judicial acts²⁴ were repealed by Law no. 302/2004 on international judicial cooperation in criminal matters²⁵.

The special law of 2004 introduced a new concept - that of “international judicial cooperation in criminal matters”, while still using the notion of international judicial assistance in criminal matters, which means that it was not intended to replace the notion of “judicial assistance” with that of “judicial cooperation”. Moreover, according to the initial text of Law no. 302/2004 (before its amendment and completion)²⁶, the forms of international judicial cooperation in criminal matters were: a) extradition; b) surrender based on a European arrest warrant; c) transfer of proceedings in criminal matters; d) recognition and enforcement of decisions in criminal matters; e) transfer of convicted persons; f) rogatory commissions; g) appearance of witnesses, experts and persons prosecuted; h) notification of procedural documents drawn up or filed in a criminal trial; i) criminal record.

Moreover, from the initial content of the special law²⁷ it emerged that the request for international judicial assistance in criminal matters was the request

Official, No. 66 (March 19, 1936).

¹⁸ Romania, Code of Criminal Procedure of 1936, art. 128.

¹⁹ Romania, Code of Criminal Procedure of 1968, *Buletinul Oficial*, No. 145 (November 12, 1968).

²⁰ Romania, Code of Criminal Procedure of 1968, arts. 513–522.

²¹ Romania, Law No. 704/2001 on International Judicial Assistance in Criminal Matters.

²² Romania, Code of Criminal Procedure of 1968, arts. 514–518.

²³ Romania, Code of Criminal Procedure of 1968, arts. 519–522.

²⁴ Romania, Code of Criminal Procedure of 1968, arts. 519–521.

²⁵ Romania, Law No. 302/2004 on International Judicial Cooperation in Criminal Matters, final provisions concerning repeal and entry into force; Title III entered into force on Romania’s accession to the European Union on January 1, 2007.

²⁶ Romania, Law No. 302/2004, original art. 1, *Monitorul Oficial al României*, No. 594 (July 1, 2004).

²⁷ Romania, Law No. 302/2004, original art. 2(a).

soliciting cooperation in a criminal case, in one of the forms expressly provided for.

Therefore, in the legislative conception since the adoption of Law no. 302/2004, the notion of international judicial assistance was given a broader meaning, including other forms of cooperation that do not exclusively aim at the support that the judicial bodies of a state grant, during the conduct of a criminal trial, to the judicial bodies of the state in which the judicial activity takes place (such as the transfer of convicted persons abroad or extradition for the purpose of executing a sentence).

Law no. 302/2004 was, however, substantially amended and supplemented in 2006²⁸, among the amendments made at that time being the regulation of judicial assistance in criminal matters, as a distinct form of international judicial cooperation.

And in the current Romanian Code of Criminal Procedure²⁹, the institution of international judicial cooperation in criminal matters has a general regulation (framework regulation) in the title dedicated to special procedures (Title IV of the Special Part – “Procedure on international judicial cooperation and the implementation of international treaties in criminal matters”): Section I – general provisions on international judicial assistance and Section II – provisions on the recognition of foreign judicial acts. It is thus observed that, in the current Code of Criminal Procedure, unlike previous codes, express reference is made to the concept of “international judicial cooperation in criminal matters”, without however providing a legal definition of this notion.

According to the current legislative framework in Romania³⁰, the forms of international judicial cooperation in criminal matters are: a) extradition; b) surrender based on a European arrest warrant; c) transfer of proceedings in criminal matters; d) recognition and enforcement of judgments in criminal matters; e) transfer of convicted persons; f) judicial assistance in criminal matters; g) other forms of cooperation.

Therefore, the current concept of international judicial cooperation in criminal matters “is approximated to the broad sense of the notion of international legal assistance in criminal matters, and the international judicial assistance is considered to be just one of the forms of international judicial cooperation”³¹.

On the other hand, the concept of **judicial cooperation in criminal matters** is currently also used, which means cooperation in criminal matters between

²⁸ Romania, Law No. 224/2006 amending and supplementing Law No. 302/2004, *Monitorul Oficial al României*, No. 534 (June 21, 2006).

²⁹ Romania, Law No. 135/2010 on the Code of Criminal Procedure, *Monitorul Oficial al României*, No. 486 (July 15, 2010), effective February 1, 2014, as subsequently amended.

³⁰ Romania, Law No. 302/2004, republished, art. 1.

³¹ Anca-Lelia Lorincz, “The European Arrest Warrant as a Form of International Judicial Cooperation in Criminal Matters in Terms of Amendments to the Romanian Legislation,” *European Police Science and Research Bulletin*, no. 8 (Summer 2013): 34, https://www.cepol.europa.eu/sites/default/files/08_EPSR_BULLETIN.pdf.

EU member states.

In order to outline the general framework of international judicial cooperation in criminal matters, the Romanian legislator has expressly established³² certain rules with the value of **general principles of cooperation**, namely:

- limiting international cooperation to the need to protect national interests defined by the Constitution (such as interests of sovereignty, security and internal public order);

- recognition of the preeminence of international law;
- respecting international courtesy and reciprocity, including by ensuring reciprocity;

- *non bis in idem*;

- maintaining confidentiality.

Among these general principles, it is necessary to highlight **reciprocity**, the principles of recognition and mutual trust being the basis for the collaboration of the EU member states in response to the challenge represented by the increase in the phenomenon of cross-border crime favored by the progressive elimination of border controls within the Union³³. In arguing this statement (regarding the substantiation of **judicial cooperation at the EU level** based on mutual recognition), some clarifications are required in relation to some temporal landmarks.

Thus, since 1999, the Conclusions of the European Council Meeting in Tampere (Finland)³⁴ recorded that the principle of mutual recognition “should become the cornerstone of judicial cooperation, both in civil and criminal matters, within the Union” and that this principle “should apply both to judgments and to other decisions of judicial authorities”.

Mutual recognition was conceived as the mechanism by which a decision of a judicial authority in a Member State is recognized and, where appropriate, implemented by the other EU Member States, thus avoiding the difficulties that could arise as a result of the diversity of the judicial systems of these states³⁵.

Later, in 2004, during the Dutch Presidency of the Council of the EU, the Hague Programme³⁶ was adopted, which had as its objective to accelerate measures aimed at ensuring a *common judicial area*. It was considered then that, within the common judicial area of the European Union, “the further realisation

³² Romania, Law No. 302/2004, republished, arts. 3–9.

³³ Cristinel Ghigheci, Vlad Neagoe, Roxana Matefi, and Diana Geanina Ionaș, “Fundamental Rights Within the European Arrest Warrant,” *Juridical Tribune – Review of Comparative and International Law* 14, no. 4 (December 2024): 600, <https://doi.org/10.62768/TBJ/2024/14/4/04>.

³⁴ European Council, *Tampere European Council, 15–16 October 1999: Presidency Conclusions*, para. 33, https://www.europarl.europa.eu/summits/tam_en.htm.

³⁵ Judith Hester, Michael Klackl, and Mariana Zainea, *Recunoașterea reciprocă în domeniul cooperării judiciare în materie penală: Instrumente juridice și implementarea lor – Manual* [Mutual recognition in the field of judicial cooperation in criminal matters: Legal instruments and their implementation – Handbook] (Bucharest: Euro Standard, 2010), 13.

³⁶ European Council, *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union*, *Official Journal of the European Union* C 53 (March 3, 2005): 1–14.

of mutual recognition as the cornerstone of judicial cooperation implies the development of equivalent standards for procedural rights in criminal proceedings, based on studies of the existing level of safeguards in Member States and with due respect for their legal traditions”.

In 2007, through the Treaty of Lisbon³⁷, which aimed to make the functioning of the EU more efficient, the need to extend the scope of application of the principle of mutual recognition in the field of judicial cooperation with a cross-border dimension in criminal matters was also outlined, in order to strengthen this cooperation. It was then established that, in order to facilitate the mutual recognition of judgments and judicial decisions, the European Parliament and the Council may establish, by means of directives, minimum rules relating, inter alia, to the mutual admissibility of evidence between Member States.

This was followed by the adoption, in 2009, of the Stockholm Programme³⁸ through which the European Council established the priorities for the development of the European area of freedom, security and justice in the period 2010-2014. One of the instruments for implementing the Stockholm Programme, with consequences also in terms of judicial cooperation in criminal matters, was the further strengthening of mutual recognition, through concrete measures, for example by extending mutual recognition to all types of judicial decisions (which could be, depending on the national legal system, criminal or administrative). These measures to extend the scope of the principle of mutual recognition continued with the adoption of the European Investigation Order Directive³⁹. In order to transpose this directive, provisions regarding the European Investigation Order were also introduced into Romanian legislation⁴⁰, as a form of judicial assistance in criminal matters in the relationship between EU member states.

Starting with 2017, the concept of “mutual recognition” was doubled by that of “*enhanced cooperation*”, a concept under which the European Public Prosecutor's Office was established⁴¹, which became operational on 1 June 2021. Therefore, it can be said that we have moved from the level of mutual recognition to the level of materialized consolidation of cooperation between EU member states. Moreover, the European Public Prosecutor's Office was conceived as a

³⁷ Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community signed December 13, 2007, *Official Journal of the European Union* C 306 (December 17, 2007): 1–271.

³⁸ European Council, *The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens*, *Official Journal of the European Union* C 115 (May 4, 2010): 1–38.

³⁹ Directive 2014/41/EU of the European Parliament and of the Council of April 3, 2014 regarding the European Investigation Order in Criminal Matters, *Official Journal of the European Union* L 130 (May 1, 2014): 1–36.

⁴⁰ Romania, Law No. 236/2017 amending and supplementing Law No. 302/2004, *Monitorul Oficial al României*, No. 993 (December 14, 2017).

⁴¹ Council Regulation (EU) 2017/1939 of October 12, 2017 Implementing Enhanced Cooperation on the Establishment of the European Public Prosecutor's Office (EPPO), *Official Journal of the European Union* L 283 (October 31, 2017): 1–71, arts. 3–4.

consolidated instrument of cooperation, an indivisible body of the Union with legal personality that investigates, prosecutes and brings to judgment offences affecting the financial interests of the Union before the competent courts of the participating Member States⁴². Romania also implemented⁴³, in 2021, the EPPO (European Public Prosecutor's Office) Regulation, by adopting internal provisions that ensure the exercise by European prosecutors of the powers vested in them in accordance with this regulation⁴⁴.

A reflection of the application of the concept of “enhanced cooperation” at European level can also be seen in the continued operation of a cooperation mechanism between the EU and the United Kingdom of Great Britain and Northern Ireland. After the end of the transition period, this mechanism is no longer the European Arrest Warrant as such; it is a surrender mechanism based on arrest warrants under Part Three, Title VII of the EU-UK Trade and Cooperation Agreement, although it is structurally similar to the EAW system.

Thus, after Brexit, according to the Trade and Cooperation Agreement concluded between the EU and the United Kingdom⁴⁵, judicial cooperation in criminal matters includes a surrender regime pursuant to an arrest warrant that is comparable in several respects to the Framework Decision on the European Arrest Warrant⁴⁶. Therefore, although it is no longer a member state of the EU, a request from the United Kingdom authorities addressed to one of the 27 member states, with a view to handing over a person located on the territory of that state, is admissible even after January 1, 2021, with continuity of procedures in the matter of judicial cooperation.

Returning to the subject of the general principles of international judicial cooperation in criminal matters, it is necessary to approach them also from the perspective of their framing in the broader context of **the fundamental principles of international law**. Thus, the principle of international cooperation (or cooperation between states) is just one of the fundamental principles of contemporary international law, defined as “legal rules of maximum generality, universal and imperative of relations between states”⁴⁷.

Enshrined and developed through a series of international documents

⁴² Directive (EU) 2017/1371 of the European Parliament and of the Council of July 5, 2017 on the Fight against Fraud to the Union's Financial Interests by Means of Criminal Law, *Official Journal of the European Union* L 198 (July 28, 2017): 29–41.

⁴³ Romania, Law No. 6/2021 Establishing Measures for the Implementation of Council Regulation (EU) 2017/1939, *Monitorul Oficial al României*, No. 167 (February 18, 2021).

⁴⁴ Romania, Law No. 6/2021, art. 14.

⁴⁵ European Union and United Kingdom, *Trade and Cooperation Agreement*, Part Three, Title VII (“Surrender”), *Official Journal of the European Union* L 149 (April 30, 2021): 10–2539.

⁴⁶ Council Framework Decision 2002/584/JHA of June 13, 2002 on the European Arrest Warrant and the Surrender Procedures between Member States, *Official Journal of the European Communities* L 190 (July 18, 2002): 1–20.

⁴⁷ Coman et al., *Dicționar de drept internațional public*, 195.

(beginning with the Charter of the United Nations⁴⁸ and continuing with the 1970 Declaration of the UN General Assembly⁴⁹, the 1974 Charter of Economic Rights and Duties of States⁵⁰ and the 1975 Final Act of the Helsinki Conference⁵¹), the framework of these fundamental principles includes⁵²:

- the principle of non-recourse to force or the threat of force in international relations (the principle of non-aggression);
- the principle of peaceful settlement of international disputes;
- the principle of non-interference in the internal affairs of another state (the principle of non-interference or non-intervention);
- the principle of cooperation between states;
- the principle of equal rights and self-determination of peoples;
- the principle of sovereign equality of states;
- the principle of fulfilling obligations in good faith (*pacta sunt servanda*);
- the principle of territorial integrity of states;
- the principle of the inviolability of borders;
- the principle of respect for fundamental rights and freedoms.

3. International Judicial Assistance in Criminal Matters. Cooperation Between the European Union and the United States of America. Cooperation Between Romania and the United States of America

As previously shown, the notion of international legal assistance in criminal matters, as a distinct form of cooperation, refers to procedural assistance, i.e. the support that the judicial authorities of a state grant during a criminal trial to the judicial authorities of the state in which the procedural activity takes place; this support consists, essentially, in the execution and communication of procedural documents necessary to resolve the respective case.

The normative framework of international legal assistance in criminal matters is represented, in order of their priority, by: multilateral conventions with international (global) applicability, bilateral treaties between different states and the domestic legislation of each state.

⁴⁸ United Nations, *Charter of the United Nations*, signed June 26, 1945, entered into force October 24, 1945, 1 UNTS XVI.

⁴⁹ United Nations General Assembly, *Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations*, Resolution 2625 (XXV), October 24, 1970, UN Doc. A/RES/2625(XXV).

⁵⁰ United Nations General Assembly, *Charter of Economic Rights and Duties of States*, Resolution 3281 (XXIX), December 12, 1974, UN Doc. A/RES/3281(XXIX), [https://docs.un.org/en/A/RES/3281\(XXIX\)](https://docs.un.org/en/A/RES/3281(XXIX)).

⁵¹ Conference on Security and Co-operation in Europe, *Helsinki Final Act*, August 1, 1975.

⁵² Moldovan, *Drept internațional public*, xvii–xviii; Cristina-Elena Popa Tache, *Drept internațional public* [Public international law] (Bucharest: C.H. Beck, 2022), 68–71.

The best-known multilateral convention in this field is the European Convention on Mutual Assistance in Criminal Matters, adopted in Strasbourg in 1959⁵³ and then supplemented by three additional protocols (in 1978, 2001 and 2025); this multilateral convention was also supplemented by the 2000 Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union⁵⁴.

In the relationship between EU Member States, under the 2000 Convention on Mutual Legal Assistance in Criminal Matters, the communication of judicial documents can be made directly by mail to the recipient, and other categories of requests for judicial assistance can be sent directly to the requested judicial authorities, for the identification of which the European Judicial Atlas can be used, published on the website of the European Judicial Network created in 1998 with a view to facilitating judicial cooperation between Member States.

Romanian domestic legislation transposes and details international and European provisions in the field, regulating⁵⁵ as the main forms of international judicial assistance in criminal matters: “international rogatory commissions; hearings by videoconference; appearance in the requesting state of witnesses, experts and persons prosecuted; notification of procedural documents drawn up or filed in a criminal case; criminal record”.

The international rogatory commission in criminal matters represents the form of judicial assistance which consists of the empowerment that a judicial body in one state grants to an authority in another state, to carry out, in its place and on its behalf, certain judicial activities relating to a specific criminal trial.

The activities that may be the subject of a rogatory commission request are in particular: locating and identifying persons and objects; questioning the suspect, the injured party, the parties, witnesses and experts, as well as confrontation; search, taking over objects and documents, seizure and special or extended confiscation; on-site investigation and reconstruction; expert opinions; transmission of information necessary in a given process, interceptions of conversations, examination of archive documents and specialized files; transmission of material evidence; communication of files or documents.

Videoconference hearings represent that form of assistance that allows, in the situation where the hearing as a witness or expert of a person located on

⁵³ Council of Europe, *European Convention on Mutual Assistance in Criminal Matters*, ETS No. 030 (Strasbourg, April 20, 1959), entered into force June 12, 1962. Romania deposited its instrument of ratification on March 17, 1999, and the Convention entered into force for Romania on June 15, 1999, https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty_num=030.

⁵⁴ Council of the European Union, *Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union*, May 29, 2000, *Official Journal of the European Communities* C 197 (July 12, 2000): 3–23, entered into force August 23, 2005. For Romania, the Convention entered into force on December 1, 2007 pursuant to Council Decision 2007/763/EC of November 8, 2007.

⁵⁵ Romania, Law No. 302/2004, republished, art. 228.

the territory of Romania is required by the judicial authorities of a foreign state and it is inconvenient or impossible for that person to appear in person on the territory of that state, the respective state can request that the hearing take place through audio-video technical means.

The judicial authorities competent to resolve requests for hearings made by the authorities of other states are the prosecutor's offices during the criminal investigation, or the courts during the trial, competent materially and according to the capacity of the person, according to Romanian law; as regards territorial jurisdiction, this is determined by the place where the person to be heard by videoconference domiciles or resides.

Among the rules according to which the hearing is conducted via videoconference, the following are noteworthy:

- the hearing takes place in the presence of the competent Romanian judge or prosecutor, assisted by an interpreter; the judge or prosecutor is obliged to ensure compliance with the fundamental principles of domestic law regarding the evidentiary procedure of the hearing;
- if applicable, the competent Romanian judicial authorities and those of the requesting state agree on the measures to protect the witness or expert;
- the hearing shall be carried out directly by the competent judicial body of the requesting state or under its coordination, according to its internal legislation; if necessary, the witness or expert shall be assisted by an interpreter, according to Romanian law.

The appearance of witnesses or experts in the requesting state is that form of assistance which involves the possibility of the requesting state bearing the legal expenses incurred by the travel of persons summoned as witnesses or experts, when the respective persons are on the territory of another state and their physical presence is necessary for the purpose of resolving a criminal case.

In the event that the Romanian judicial authorities consider it necessary for a witness or expert to appear in person, the request for the service of the summons must include a mention to this effect and indicate the approximate amount of the reimbursable expenses incurred by summoning the person in question (transportation, maintenance, accommodation expenses). Also, the Romanian judicial body that ordered the in-person appearance will be able to request the foreign state to grant an advance to the witness or expert, with reimbursement to be made from the specially allocated judicial expenses fund.

The same provisions apply if the personal appearance of a witness or expert is requested from the Romanian authorities by a foreign state.

The communication of procedural documents, as a form of international judicial assistance, consists of ensuring, by the judicial authorities of the requested state, the transmission to persons on its territory of documents such as: summonses for parties or witnesses, the indictment or other criminal prosecution documents, court decisions, requests for the exercise of appeals or documents regarding the execution of a sentence, the payment of a fine or the payment of

procedural legal costs.

Requests for judicial assistance that have as their object the communication of procedural documents and are addressed to Romanian judicial bodies are resolved in the trial phase by the court in whose jurisdiction the person to whom the documents are to be transmitted resides or is detained, and in the criminal prosecution phase, by the prosecutor's office attached to it.

The communication of procedural documents can be carried out by simply sending them to the recipient, the proof of notification being made by a document dated and signed by the recipient or by a declaration of the Romanian judicial body recording the form and date of the communication.

The exchange of information regarding the data existing in *the criminal record* of certain persons represents that form of international judicial assistance through which the judicial authorities of the requested state make available to another state certain data relating to the criminal records of the persons concerned; through this form of assistance, the Romanian state can communicate, at the request of a foreign state, extracts from the criminal record and any data relating to it, in order to resolve a criminal case by the judicial authorities of the requesting state.

It is also worth noting that, following the line of strengthening judicial cooperation, not only at European level, but also at international level⁵⁶, the Romanian legislator has made some recent amendments⁵⁷ to the special national legislation in the field. Thus, with regard to international legal assistance, as a separate form of cooperation, distinct provisions have been introduced⁵⁸ regarding the granting of this assistance in special cases in which the provisions of the Convention on Combating Bribery of Foreign Public Officials in International Economic Transactions⁵⁹ apply. For example, it is expressly provided that evidence obtained by another State Party to this Convention is admissible, in principle, also in criminal proceedings conducted in Romania; the exception is situations in which it is considered that the use of the respective evidence violates fundamental human rights established by the domestic legislation of Romania.

In the broader context of judicial cooperation in criminal matters at a

⁵⁶ Anca-Lelia Lorincz, "Recent Case Law at Union Level on the Execution of the European Arrest Warrant," in *New Perspectives on Multiculturalism: Intersecting Discourses and Dialogues*, ed. Iulian Boldea and Cornel Sigmirean (Tîrgu-Mureş: Arhipelag XXI Press, 2025), 35, <https://asociatia-alpha.ro/gidni/12-2025/GIDNI-12-Socs-f.pdf>.

⁵⁷ Romania, Law No. 156/2025 amending and supplementing Law No. 319/2024 and supplementing Law No. 302/2004, *Monitorul Oficial al României*, No. 959 (October 16, 2025).

⁵⁸ Romania, Law No. 302/2004, republished, art. 243¹, introduced by Law No. 156/2025.

⁵⁹ OECD, *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*, adopted November 21, 1997, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0293>.

global level⁶⁰, it is worth highlighting the existence of intercontinental cooperation mechanisms, in the form of judicial assistance, between the EU and the USA, under the Agreement⁶¹ concluded in 2003 (and entered into force on 1 February 2010). The purpose of concluding this agreement was to intensify and facilitate cooperation between the EU member states, on the one hand, and the USA, on the other hand, in complementing the bilateral treaties between them. Among the new aspects⁶² brought by the aforementioned agreement are:

- facilitating the identification and communication of banking information necessary to resolve criminal cases;
- transmission of requests for mutual judicial assistance by means of rapid communication (fax, e-mail);
- the creation and operation of joint investigation teams to conduct complex investigations involving judicial bodies from one or more EU countries and the USA;
- allowing the hearing of witnesses or experts by videoconference;
- extending the scope of mutual judicial assistance also to national administrative authorities, in situations where investigations could lead to referral to criminal prosecution bodies (i.e. when it is anticipated that a criminal prosecution will be carried out).

For the implementation of the Agreement between the EU and the USA, a protocol⁶³ was signed in 2007 in Bucharest between Romania (as a member state of the EU) and the USA for the amendment and completion of the bilateral Treaty on Mutual Assistance in Criminal Matters existing between them⁶⁴. This protocol, which was ratified by Romania in 2008⁶⁵ and entered into force on 1 February 2010, “regulates modern forms of legal assistance in criminal matters”⁶⁶, such as: identification of banking information regarding money laundering and terrorism activities punishable by the laws of both states, joint investigation teams, use of video transmission technology for videoconference hearings, etc. The amendment of the Treaty on Mutual Assistance in Criminal Matters between Romania and the USA was necessary at that time (in 2007) “and in order

⁶⁰ Alberto Oddenino and Diego Bonetto, “The Issue of Immunity of Private Actors Exercising Public Authority and the New Paradigm of International Law,” *Global Jurist* 20, no. 3 (2020): 2, <https://doi.org/10.1515/gj-2019-0064>.

⁶¹ European Union and United States of America, *Agreement on Mutual Legal Assistance*.

⁶² EUR-Lex, “Agreement with the United States on Mutual Legal Assistance,” accessed May 21, 2026, [https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:22003A0719\(02\)](https://eur-lex.europa.eu/legal-content/EN/LSU/?uri=CELEX:22003A0719(02)).

⁶³ Romania and United States of America, *Protocol to the Treaty on Mutual Assistance in Criminal Matters*, September 10, 2007.

⁶⁴ Romania and United States of America, *Treaty on Mutual Assistance in Criminal Matters*, May 26, 1999.

⁶⁵ Romania, Law No. 112/2008 ratifying the 2007 Protocol to the Romania–United States Mutual Legal Assistance Treaty, *Monitorul Oficial al României*, No. 389 (May 22, 2008).

⁶⁶ Romanian Ministry of Justice, press release on Romania–United States mutual legal assistance, reproduced by Juridice.ro, accessed May 22, 2026, <https://www.juridice.ro/97501/noutati-ref-asis-tenta-judiciara-in-materie-penala-sua-romania.html>.

to better respond to the new challenges of transnational crime, especially its most serious forms, such as terrorism, human trafficking, drug trafficking, arms trafficking”, being “necessary to supplement the treaty in force by introducing modern forms of judicial assistance, regulated by both Romanian and American legislation”⁶⁷.

4. Spontaneous Transmission of Information, as a Form of International Judicial Assistance in Criminal Matters

The enumeration in the Romanian special law⁶⁸, of activities that may be subject to international judicial assistance is not exhaustive, the legislator leaving the possibility of using other forms of assistance, in addition to the main ones expressly provided for. Thus, as is evident from the interpretation of the domestic provisions regulating judicial assistance in criminal matters as a distinct form of cooperation⁶⁹, the category of other forms of assistance may include: spontaneous transmission of information; controlled deliveries; use of undercover investigators; joint investigation teams; cross-border surveillance.

Moreover, these domestic provisions⁷⁰ represent a full transposition of the 2001 Additional Protocol⁷¹ to the European Convention on Mutual Assistance in Criminal Matters, adopted in Strasbourg in 1959 (this is the second additional protocol to this convention, a protocol that regulated the forms of assistance considered modern).

In a brief presentation, *controlled deliveries*, as activities that may be the subject of a request for international judicial assistance, imply, according to domestic regulation, the possibility of authorization by the competent Romanian judicial authorities, under the conditions provided for by Romanian law, of operations such as the entry, exit or transit of goods about which there are suspicions regarding the illicit nature of the possession, within the framework of criminal proceedings regarding crimes that may give rise to extradition.

The use of undercover investigators may be agreed upon by the Romanian state together with a foreign state in order to provide mutual assistance for conducting investigations, the legal status of the agents and the concrete modalities for conducting the investigation being established under the conditions provided for by domestic law (Romanian).

Joint investigation teams represent that form of assistance that involves

⁶⁷ Romanian Chamber of Deputies, Explanatory Memorandum to the Draft Law Ratifying the 2007 Protocol to the 1999 Romania–United States Treaty on Mutual Assistance in Criminal Matters, <https://www.cdep.ro/proiecte/2008/000/50/5/em55.pdf>.

⁶⁸ Romania, Law No. 302/2004, republished, art. 228.

⁶⁹ Romania, Law No. 302/2004, republished, arts. 236–240.

⁷⁰ Romania, Law No. 302/2004, republished, Title VIII.

⁷¹ Council of Europe, *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, ETS No. 182 (Strasbourg, November 8, 2001). Romania ratified the Protocol by Law No. 368/2004, *Monitorul Oficial al României*, No. 913 (October 7, 2004).

the establishment of mixed commissions on the territories of Romania and other states in order to facilitate the conduct of criminal investigations with a clearly determined objective, especially in situations where:

- within the framework of an ongoing procedure in the requesting state, it is necessary to conduct complex investigations, considered difficult and involving significant human and material resources, which concern both states;
- several states carry out investigations that require coordinated and concerted action.

At the European level, the institution of Joint Investigation Teams (JIT) represents one of the most advanced instruments of judicial cooperation in criminal matters, which allows collaboration and direct communication between the authorities of different states, being considered the most efficient method of investigating organized crime activities with a transnational dimension⁷².

Joint teams are made up of law enforcement authorities, prosecutors and judges, the period for which they are set up being determined, usually between 12 and 24 months; their effectiveness lies in the fact that they offer national judicial authorities a flexible, relatively quick and easy-to-establish framework, which allows them to participate in the investigation in a mutually beneficial way. Thus, members of joint investigation teams have the opportunity to directly exchange information and evidence, as well as to carry out operations together. Moreover, as partners, participants from one state can be present during investigative activities on the territories of other states, sharing their experience and building personal relationships of trust that can lead to more effective cooperation⁷³.

For example, the efficiency of cooperation within the joint investigation team consisting of judicial authorities of the Kingdom of the Netherlands (Low Countries) and judicial authorities from Romania⁷⁴ was proven by the recovery of heritage objects from the Dacian treasure that were stolen in January 2025 from the exhibition organized by the Drents Museum⁷⁵.

It is worth highlighting the role of Eurojust (the European Union Agency for Criminal Justice Cooperation), in the implementation of this form of cooperation, as an agency that also ensures financial support for the cross-border activities of joint investigation teams⁷⁶.

⁷² Eurojust, "Joint Investigation Teams," accessed June 2, 2026, <https://www.eurojust.europa.eu/judicial-cooperation/instruments/joint-investigation-teams>.

⁷³ Eurojust, "Joint Investigation Teams."

⁷⁴ Eurojust, "Romania and Netherlands Set Up Joint Investigation Team for Theft of Precious Historic Art from Dutch Museum," accessed June 3, 2026, <https://www.eurojust.europa.eu/news/romania-and-netherlands-set-joint-investigation-team-theft-precious-historic-art-dutch-museum>.

⁷⁵ Eurojust, "Precious Historic Art Recovered by Dutch and Romanian Authorities," April 2, 2026, <https://www.eurojust.europa.eu/news/precious-historic-art-recovered-dutch-and-romanian-authorities>.

⁷⁶ Eurojust, "JITs Funding," accessed June 4, 2026, <https://www.eurojust.europa.eu/judicial-cooperation/instruments/joint-investigation-teams/jits-funding>.

Another recent example of the successful application of the institution of joint investigation teams is the legal assistance activity between Romania and the United Kingdom⁷⁷, through which, also with the support and funding of Eurojust, in June 2025 several people suspected of organizing a criminal group, involvement in continuous human trafficking, pimping and money laundering were identified.

Last but not least, it is necessary to highlight the role of Eurojust in the establishment and operation of the joint investigation team for the investigation of alleged serious international crimes committed as a result of the Russian Federation's aggression against Ukraine⁷⁸. We note that the formation of such a joint investigation team took place in consideration of the broader understanding of the concept of international criminal law, which also includes cooperation between states in order to hold accountable those guilty of crimes against humanity, war crimes or genocide. It is worth mentioning the results of the investigations of this joint team⁷⁹, which currently includes authorities from 7 countries (Estonia, Latvia, Lithuania, Poland, Romania⁸⁰, Slovakia, Ukraine) and which continues its activity, its period of operation being extended, in March 2026, by another two years.

Cross-border surveillance, as a form of judicial assistance, consists of the possibility of authorizing agents of a foreign state who, within the framework of a judicial investigation, are supervising on the territory of that state a person who is presumed to have participated in the commission of a crime that may lead to extradition, to continue this surveillance on the territory of the Romanian state, based on a request for assistance submitted in advance.

For operational reasons, when, for reasons of urgency, prior authorization from the Romanian state cannot be requested, foreign agents acting within the framework of a judicial investigation in the criminal prosecution phase may continue on Romanian territory the surveillance of a person suspected of having committed one of the acts listed in the law (highly serious crimes⁸¹), under the following conditions:

⁷⁷ Eurojust, "Action to Tackle Human Traffickers Forcing Female Victims into Prostitution in Romania and the UK," accessed June 4, 2026, <https://www.eurojust.europa.eu/news/action-tack-le-human-traffickers-forcing-female-victims-prostitution-romania-and-uk>.

⁷⁸ Eurojust, "ICC Participates in Joint Investigation Team Supported by Eurojust on Alleged Core International Crimes," accessed June 4, 2026, <https://www.eurojust.europa.eu/news/icc-participa-tes-joint-investigation-team-supported-eurojust-alleged-core-international-crimes>.

⁷⁹ Eurojust, "Joint Investigation Team Continues Work with Added Focus on Illegal Transfer of Ukrainian Children," March 20, 2026, <https://www.eurojust.europa.eu/news/joint-investigation-team-continues-work-added-focus-illegal-transfer-ukrainian-children>.

⁸⁰ Eurojust, "Romania Becomes Seventh Member of Joint Investigation Team on Alleged Core International Crimes," October 13, 2022, <https://www.eurojust.europa.eu/news/romania-becomes-seventh-member-joint-investigation-team-alleged-core-international-crimes>.

⁸¹ Romania, Law No. 302/2004, republished, art. 240.

- the border crossing must be immediately communicated to the Prosecutor's Office attached to the High Court of Cassation and Justice, as well as to the Border Police;

- a request for legal assistance, having as its object cross-border surveillance, and setting out the reasons justifying the border crossing without prior authorization, must be transmitted without delay.

Surveillance without prior authorization must, however, cease if authorization has not been obtained within 5 hours of crossing the state border.

A special place in the category of other forms of international judicial assistance in criminal matters is occupied by *the spontaneous transmission of information*; this form of assistance consists in the possibility for Romanian judicial authorities to transmit, without a prior request, to the competent authorities of a foreign state the information obtained in the course of an investigation, when they consider that this information could help the recipient state to initiate criminal proceedings or when the information in question could lead to the formulation of a request for judicial assistance.

The manner of using the transmitted information may be conditioned by the Romanian state (based on the principle of specialty), the recipient state being obliged to comply with the conditions imposed.

As we have shown previously, these internal provisions on the spontaneous transmission of information are a transposition of the Second Additional Protocol (from 2001) to the European Convention on Mutual Assistance in Criminal Matters, a protocol which, in turn, was an almost identical takeover of the text of the Convention on Mutual Assistance in Criminal Matters between the Member States of the EU⁸². The new element brought by this additional protocol, regarding the spontaneous transmission of information, was the expansion⁸³ of this form of assistance which, until that moment, was only provided for in the field of money laundering⁸⁴. In other words, the Second Additional Protocol of 2001 introduced the possibility (without giving rise to any obligation on the part of the States Parties to the European Convention) for States, on their own initiative, without a prior request in this regard, to transmit to each other information in relation to the investigation and resolution of criminal cases, in order to prevent and combat the criminal phenomenon, regardless of the nature and seriousness of the crime.

More recently, in 2025, the Third Additional Protocol⁸⁵ to the European

⁸² Council of the European Union, *Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union* (2000).

⁸³ Council of Europe, *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, ETS No. 182, art. 11.

⁸⁴ Radu, *Drept european și internațional penal*, 110.

⁸⁵ Council of Europe, *Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, CETS No. 227, opened for signature at Valletta on September 19, 2025. Romania signed the Protocol on September 19, 2025; as of September 12, 2026, the Protocol had not yet entered into force. <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&>

Convention on Mutual Assistance in Criminal Matters was adopted, a protocol justified by “the need to update a number of provisions of the Convention [...], as well as the Second Additional Protocol thereto, to take into account the rapid evolution of practices and support systems relating to mutual assistance in recent years, including an increased use of videoconferencing and other technological tools, in particular in the context of the Covid-19 pandemic”⁸⁶. Also, the addition of the Convention, through this protocol, was justified by the need to eliminate certain deficiencies identified by practitioners.

Thus, with regard to the spontaneous transmission of information, the additions made by this protocol consist of “identifying as the preferred method secure means of electronic communication”⁸⁷, in the context of reference to the communication channels that must be used both for requests for mutual assistance and for the concrete application of some of the forms of assistance (spontaneous exchange of information, provision of information related to procedures or data from criminal records or transmission of copies of convictions or dispositions of procedural measures)⁸⁸.

The applicability of this form of assistance is not limited to the relationship between European states. Bilateral treaties on judicial assistance in criminal matters regulate the possibility of spontaneous transmission of information between other states, as is the case, for example, of the Treaty between Romania and Kazakhstan⁸⁹.

The efficiency of cross-border information sharing was illustrated in February 2026 by the Mexican operation that located and fatally wounded Nemesio Oseguera Cervantes ("El Mencho"), leader of the Jalisco New Generation Cartel (CJNG), an operation supported by intelligence provided by the United States⁹⁰. If that form of intelligence cooperation was aimed at dismantling a powerful transnational drug-trafficking organization, the legal situation was markedly different in the case of the operation in Venezuela.

In January 2026, United States forces conducted a military operation on Venezuelan territory in which Nicolás Maduro and his wife, Cilia Flores, were

treatynum=227.

⁸⁶ Council of Europe, *Explanatory Report to the Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, Valletta, September 19, 2025, para. 2, <https://rm.coe.int/1680b62883>.

⁸⁷ European Commission, *Proposal for a Council Decision Authorising the Member States to Sign, in the Interest of the Union, the Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, COM(2025) 510 final.

⁸⁸ Council of Europe, *Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*, CETS No. 227, art. 1, <https://rm.coe.int/48801f9d31>.

⁸⁹ Romania and Republic of Kazakhstan, *Treaty on Judicial Assistance in Criminal Matters*, signed in Bucharest November 14, 2014, ratified by Romanian Law No. 350/2015, *Monitorul Oficial al României*, No. 987 (December 31, 2015).

⁹⁰ Reuters, “Romantic Tryst Led to Mexican Cartel Leader’s Capture, Death,” February 23, 2026, <https://www.reuters.com/world/americas/least-25-soldiers-died-after-raid-mexicos-most-wanted-cartel-leader-2026-02-23/>.

captured and brought to the United States. The prosecution against Maduro built on charges first unsealed in 2020, while the superseding indictment unsealed in January 2026 also named Cilia Flores among the defendants. The United States intervention was carried out through military action⁹¹ on Venezuelan territory to bring the defendants before the United States justice system; the UN Secretary-General stated that the developments constituted a “dangerous precedent”⁹².

It is true that we can ask ourselves the question: as long as judicial cooperation between the authorities of two states cannot be resorted to (as was the case here), can an action of force contrary to the norms of international law be legitimized? It would be extremely worrying if an affirmative answer were given to such a question.

5. Conclusions

For more than 15 years, the “permanent phenomenon of contesting the international legal system”⁹³ has been discussed, a phenomenon that is still being confirmed⁹⁴ at the present moment.

We believe that preventing and combating cross-border crime cannot justify a violation of the fundamental principles of international law, such as: the principle of non-use of force or threat of force in international relations (the principle of non-aggression), the principle of non-interference or non-intervention, and the principle of the inviolability of borders.

Cooperation between states, including through the component of judicial cooperation at a global level, must be achieved through the application of legal forms of assistance (i.e. those regulated in treaties, conventions and domestic laws), without the imperative of combating the criminal phenomenon being able to legitimize the failure to comply with principles and norms of international law.

⁹¹ U.S. Department of Justice, *United States v. Nicolás Maduro Moros et al.*, sealed superseding indictment, S4 11 Cr. 205 (AKH), unsealed January 3, 2026, <https://www.justice.gov/opa/media/1422326/dl?embed=true>; Reuters, “Mock House, CIA Source and Special Forces: The US Operation to Capture Maduro,” January 3, 2026, <https://www.reuters.com/business/aerospace-defense/mock-house-cia-source-special-forces-us-operation-capture-maduro-2026-01-03/>.

⁹² United Nations, Secretary-General, “Statement Attributable to the Spokesperson for the Secretary-General – on Venezuela,” January 3, 2026, <https://www.un.org/sg/en/content/sg/state-ments/2026-01-03/statement-attributable-the-spokesperson-for-the-secretary-general-venezuela>.

⁹³ Valentin Constantin, *Drept internațional* [International law] (Bucharest: Universul Juridic, 2010), 46.

⁹⁴ Paulo De Brito, “International Law: The Lost Metaphor? Reflections on the Current Wars,” in *Adapting to Change: Business Law Insights from Today’s International Legal Landscape*, ed. Cristina Elena Popa Tache, Renata Treneska Deskoska, and Nathaniel Boyd (Bucharest, Paris, and Calgarry: ADJURIS – International Academic Publisher, 2024), 296–97, <https://www.adjuris.ro/books/acbl/Adapting%20to%20Change%20Business%20Law%20Insights.pdf>.

Bibliography

I. Books and Articles

1. Bernhardt, Rudolf, ed. *Encyclopedia of Public International Law*. Vol. 2. Amsterdam: Elsevier Science, 1995.
2. Cassese, Antonio. *International Criminal Law*. 2nd ed. Oxford: Oxford University Press, 2008.
3. Coman, Florian, Florin Sandu, Nicolae Purdă, Eliza Florea, and Ioana Dărbângă. *Dicționar de drept internațional public* [Dictionary of public international law]. Timișoara: MediaTM, 2002.
4. Constantin, Valentin. *Drept internațional* [International law]. Bucharest: Universul Juridic, 2010.
5. De Brito, Paulo. "International Law: The Lost Metaphor? Reflections on the Current Wars." In *Adapting to Change: Business Law Insights from Today's International Legal Landscape*, edited by Cristina Elena Popa Tache, Renata Treneska Deskoska, and Nathaniel Boyd, 296–297. Bucharest, Paris, and Calgary: ADJURIS – International Academic Publisher, 2024. <https://www.adjuris.ro/books/acbl/Adapting%20to%20Change%20Business%20Law%20Insights.pdf>.
6. Dongoroz, Vintilă, Siegfried Kahane, George Antoniu, Constantin Bulai, Nicoleta Iliescu, and Rodica Stănoiu. *Explicațiile teoretice ale Codului de procedură penală român. Partea specială* [Theoretical explanations of the Romanian Criminal Procedure Code. Special part]. Vol. 2. Bucharest: Editura Academiei, 1976.
7. Ghigheci, Cristinel, Vlad Neagoe, Roxana Matefi, and Diana Geanina Ionaș. "Fundamental Rights Within the European Arrest Warrant." *Juridical Tribune – Review of Comparative and International Law* 14, no. 4 (December 2024): 584–603. <https://doi.org/10.62768/TBJ/2024/14/4/04>.
8. Hester, Judith, Michael Klackl, and Mariana Zainea. *Recunoașterea reciprocă în domeniul cooperării judiciare în materie penală: Instrumente juridice și implementarea lor – Manual* [Mutual recognition in the field of judicial cooperation in criminal matters: Legal instruments and their implementation – Handbook]. Bucharest: Euro Standard, 2010.
9. Lorincz, Anca-Lelia. "Recent Case Law at Union Level on the Execution of the European Arrest Warrant." In *New Perspectives on Multiculturality: Intersecting Discourses and Dialogues*, edited by Iulian Boldea and Cornel Sigmirean. Tîrgu-Mureș: Arhipelag XXI Press, 2025. <https://asociatia-alpha.ro/gidni/12-2025/GIDNI-12-Socs-f.pdf>.
10. Lorincz, Anca-Lelia. "The European Arrest Warrant as a Form of International Judicial Cooperation in Criminal Matters in Terms of Amendments to the Romanian Legislation." *European Police Science and Research Bulletin*, no. 8 (Summer 2013): 33–36. https://www.cepol.europa.eu/sites/default/files/08_EP_SR_BULLETIN.pdf.
11. Lorincz, Anca-Lelia, and Adriana Iuliana Stancu. "Legal Nature of the Deprivation Measure Ordered During the Procedure for the Execution of the European

- Arrest Warrant.” *Perspectives of Law and Public Administration* 11, no. 3 (2022): 405–415. <https://adjuris.ro/revista/articole/An11nr3/6.%20Lorincz%20Stancu%20EN.pdf>.
12. Moldovan, Carmen. *Drept internațional public* [Public international law]. Bucharest: Hamangiu, 2015.
 13. Oddenino, Alberto, and Diego Bonetto. “The Issue of Immunity of Private Actors Exercising Public Authority and the New Paradigm of International Law.” *Global Jurist* 20, no. 3 (2020): 1–14. <https://doi.org/10.1515/gj-2019-0064>.
 14. Popa Tache, Cristina-Elena. *Drept internațional public* [Public international law]. Bucharest: C.H. Beck, 2022.
 15. Radu, Florin-Răzvan. *Drept european și internațional penal* [European and international criminal law]. Bucharest: C.H. Beck, 2013.
 16. Stănoiu, Rodica Mihaela. *Asistența juridică internațională în materie penală* [International legal assistance in criminal matters]. Bucharest: Editura Academiei, 1975.

II. Legal and Official Sources

1. Council of Europe. *European Convention on Mutual Assistance in Criminal Matters*. ETS No. 030. Strasbourg, April 20, 1959. <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=030>.
2. Council of Europe. *Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*. ETS No. 182. Strasbourg, November 8, 2001. <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=182>.
3. Council of Europe. *Third Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters*. CETS No. 227. Valletta, September 19, 2025. <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=227>.
4. Council of the European Union. *Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union*. May 29, 2000. *Official Journal of the European Communities* C 197 (July 12, 2000): 3–23. [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:42000A0712\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:42000A0712(01)).
5. Council of the European Union. Council Framework Decision 2002/584/JHA of June 13, 2002 on the European Arrest Warrant and the Surrender Procedures between Member States. *Official Journal of the European Communities* L 190 (July 18, 2002): 1–20.
6. Council of the European Union. Council Regulation (EU) 2017/1939 of October 12, 2017 Implementing Enhanced Cooperation on the Establishment of the European Public Prosecutor’s Office (EPPO). *Official Journal of the European Union* L 283 (October 31, 2017): 1–71. <https://eur-lex.europa.eu/eli/reg/2017/1939/oj>.
7. European Council. *Tampere European Council, 15–16 October 1999: Presidency Conclusions*. https://www.europarl.europa.eu/summits/tam_en.htm
8. European Union. *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union*. *Official Journal of the European Union* C 53

- (March 3, 2005): 1–14.
9. European Union. *The Stockholm Programme – An Open and Secure Europe Serving and Protecting Citizens*. *Official Journal of the European Union* C 115 (May 4, 2010): 1–38.
 10. European Union and United States of America. *Agreement on Mutual Legal Assistance between the European Union and the United States of America*. Washington, DC, June 25, 2003. *Official Journal of the European Union* L 181 (July 19, 2003): 34–42. [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22003A0719\(02\)](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:22003A0719(02)).
 11. European Union and United Kingdom. *Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the One Part, and the United Kingdom of Great Britain and Northern Ireland, of the Other Part*. *Official Journal of the European Union* L 149 (April 30, 2021): 10–2539.
 12. European Parliament and Council of the European Union. Directive 2014/41/EU of April 3, 2014 regarding the European Investigation Order in Criminal Matters. *Official Journal of the European Union* L 130 (May 1, 2014): 1–36.
 13. European Parliament and Council of the European Union. Directive (EU) 2017/1371 of July 5, 2017 on the Fight against Fraud to the Union's Financial Interests by Means of Criminal Law. *Official Journal of the European Union* L 198 (July 28, 2017): 29–41.
 14. OECD. *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions*. Paris, November 21, 1997. <https://legal.instruments.oecd.org/en/instruments/OECD-LEGAL-0293>.
 15. Romania. Law No. 302/2004 on International Judicial Cooperation in Criminal Matters, republished in *Monitorul Oficial al României*, Part I, No. 411 (May 27, 2019), as subsequently amended.
 16. Romania. Law No. 236/2017 Amending and Supplementing Law No. 302/2004 on International Judicial Cooperation in Criminal Matters. *Monitorul Oficial al României*, Part I, No. 993 (December 14, 2017).
 17. Romania. Law No. 6/2021 Establishing Measures for the Implementation of Council Regulation (EU) 2017/1939. *Monitorul Oficial al României*, Part I, No. 167 (February 18, 2021).
 18. Romania. Law No. 156/2025 Amending and Supplementing Law No. 319/2024 and Supplementing Law No. 302/2004. *Monitorul Oficial al României*, Part I, No. 959 (October 16, 2025).
 19. Romania and Kazakhstan. *Treaty on Judicial Assistance in Criminal Matters*. Bucharest, November 14, 2014. Ratified by Romanian Law No. 350/2015.
 20. Romania and United States of America. *Treaty on Mutual Assistance in Criminal Matters*. May 26, 1999. *Monitorul Oficial al României*, No. 425 (August 31, 1999).
 21. Romania and United States of America. *Protocol to the Treaty on Mutual Assistance in Criminal Matters*. Bucharest, September 10, 2007. Ratified by Romanian Law No. 112/2008, *Monitorul Oficial al României*, No. 389 (May 22, 2008).
 22. United Nations. *Charter of the United Nations*. San Francisco, June 26, 1945. 1 UNTS XVI.
 23. United Nations General Assembly. *Declaration on Principles of International*

- Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations.* Resolution 2625 (XXV), October 24, 1970.
24. United Nations General Assembly. *Charter of Economic Rights and Duties of States.* Resolution 3281 (XXIX), December 12, 1974. [https://docs.un.org/en/A/RES/3281\(XXIX\)](https://docs.un.org/en/A/RES/3281(XXIX)).

III. Institutional and Current Sources

1. Eurojust. "Joint Investigation Teams." Accessed September 12, 2026. <https://www.eurojust.europa.eu/judicial-cooperation/instruments/joint-investigation-teams>.
2. Eurojust. "Joint Investigation Team Continues Work with Added Focus on Illegal Transfer of Ukrainian Children." March 20, 2026. <https://www.eurojust.europa.eu/news/joint-investigation-team-continues-work-added-focus-illegal-transfer-ukrainian-children>.
3. Eurojust. "Precious Historic Art Recovered by Dutch and Romanian Authorities." April 2, 2026. <https://www.eurojust.europa.eu/news/precious-historic-art-recovered-dutch-and-romanian-authorities>.
4. United Nations, Secretary-General. "Statement Attributable to the Spokesperson for the Secretary-General – on Venezuela." January 3, 2026. <https://www.un.org/sg/en/content/sg/statements/2026-01-03/statement-attributable-the-spokesperson-for-the-secretary-general-venezuela>.
5. Reuters. "Romantic Tryst Led to Mexican Cartel Leader's Capture, Death." February 23, 2026. <https://www.reuters.com/world/americas/least-25-soldiers-died-after-raid-mexicos-most-wanted-cartel-leader-2026-02-23/>.