

THEORETICAL AND PRACTICAL ASPECTS ON APPLICATION OF LAW BY THE INTERNATIONAL ROGATORY COMMISSION

Florin NACU*
Alexandra OANȚĂ (NACU)**

Abstract: Application of legal norms, as a form of law realization by the State organs, involves also the administration of evidence in criminal trial by the judicial organs. The international rogatory commission is one of the forms provided by the law to achieve international judicial assistance in criminal matters. When the prosecuting authority or the court is not able to hear a witness, to make an on-site investigation, to conduct lifting of objects or to perform any other procedure act, may appeal to another prosecution body or other court abroad, which is able to perform these activities. In this way, the achievement of the procedural act is done through rogatory commission whose role is to accomplish the application of law.

Keywords: judicial assistance, criminal trial, court, judicial authorities, Code of Criminal Procedure.

PRELIMINARY CONSIDERATIONS ON INTERNATIONAL JUDICIAL ASSISTANCE

In literature it is estimated that “in its broad sense, international judicial assistance in criminal matters includes judicial police cooperation, the conditions for recognition and enforcement of criminal judgments, extradition legislation, international rogatory commissions in criminal matters, etc.”¹.

The criminal legal assistance with judicial character (narrow sense of the concept of international legal assistance in criminal matters) means assistance that the judiciary bodies in a state attaches in the course a criminal trial to judicial bodies in the state where the process takes place and which consists in particular,

* 3rd Degree Scientific Researcher, PhD, “C. S. Nicolăescu-Plopșor” Institute for Research in Social Studies and Humanities of the Romanian Academy, Craiova; Email: florin_nacu@yahoo.com

** PhD candidate, Faculty of Law and Social Sciences, University of Craiova; Email: oanta.alexandra@yahoo.com

¹ Florin Răzvan Radu, *Cooperarea judiciară internațională și europeană în materie penală, Îndrumar pentru practicieni*, Bucharest, Wolters Kluwer Publishing, 2008, p. 67.

from making, delivery or communication of procedural documents necessary for solving that process².

The doctrine stated that: “in the code are covered conditions of the international judicial assistance in criminal matters concerning two institutions: international rogatory commissions and recognition of criminal judgments or other foreign judicial acts”³. Until the entry into force of Law no. 302/2004 it was alleged the existence of two forms of international legal assistance in criminal matters, the informational forms - the ones that help prevent crime – and the procedural forms – aimed at carrying out procedural acts, as well as delivery or communication of procedural acts necessary for settling the criminal case. Analyzing the two forms, it was appreciated that the “informative forms of assistance help mainly the prevention of crime”⁴. Exchange of information on legal assistance in criminal matters takes place between states, based on conventions or treaties signed. The states, through legal assistance treaties, agree to provide each other copies or extracts from the judgments of conviction, which are applicable to the citizens of the states between the treaty was concluded. Thus, the states do not accomplish their justice work hermetically isolated from each other, but giving help and mutual assistance⁵.

Regarding legal forms with procedural character, Romanian Criminal Procedure Code covers two institutions, namely: international rogatory commission procedure and the procedure for recognition of criminal judgments or other foreign judicial acts.

DEFINING INTERNATIONAL JUDICIAL ASSISTANCE IN CRIMINAL MATTERS

In speciality literature it was assessed that “the notion of international judicial assistance is actually the restricted sense of the notion of international legal assistance in criminal matters, which means that the concept of an international legal assistance include the international judicial assistance”⁶. In fact, “in the legislative conception of when adopting Law no. 302/2004, the concept of international legal assistance received a wider meaning, including other forms of cooperation which do not exclusively the support that judicial organs of a state offer, in the course of criminal proceedings, to the judicial organs of the state in

² Silviu Văcaru, *Aspecte de ordin teoretic privind cooperarea judiciară internațională în materie penală*, in “Transformări legislative la nivel intern și european ale anului 2011”, Craiova, Sitech Publishing, 2011, p. 123.

³ Alexandru Boroi, Ion Rusu, *Cooperarea judiciară internațională în materie penală*, Bucharest, C.H. Beck Publishing, 2008, p. 12.

⁴ Florin Răzvan Radu, *op. cit.*, p. 68.

⁵ Ferenc Miklos, *Cooperarea internațională penală*, Cluj-Napoca, Alma Publishing, 1966, p. 678.

⁶ Rodica Stănoiu, *Asistența juridică internațională în materie penală*, Bucharest, Romanian Academy Publishing, 1975, p. 10.

which the judicial activity happens (such as transfer of sentenced persons abroad or extradition for enforcement of a sentence)”.

In specialized literature, the concept of international legal assistance has two meanings:

– in a narrow sense, legal assistance includes the notification (communication) of judicial acts, rogatory commissions and modern means of investigation (hearings by videoconference, joined investigation teams, controlled deliveries, spontaneous transmission of information, border surveillance, etc.);

– in a broad sense, legal assistance includes the transfer of proceedings, recognition and enforcement of judgments⁷.

One author stated: “Unlike cooperation or collaboration, international legal assistance in criminal matters is to help each state to fight crime on their territory, to achieve proper administration of justice as an attribute of their sovereignty. Legal support is a form of international cooperation which, unlike international cooperation in combating certain categories of transnational criminal offences committed by criminal associations or groups, is realized through the support given to a state to fulfill its function of achieving justice as an expression of its sovereignty”⁸.

With regard to international judicial assistance in terms of committing criminal offenses in a state by persons belonging to another state or by international criminal organizations involving committing offenses in several states, actions and regulations of international cooperation on judicial plan are necessary. This cooperation is achieved through the conclusion of international treaties of legal and judicial assistance among states, based on recommendations of international conventions in this field. If the question for judicial assistance between Romania and other state, rules for judicial assistance agreed in the treaty of judicial assistance have full effect. However, being possible a collaboration between Romanian state and a state with which we have no legal assistance treaty, in practice established rules based on reciprocity can be used. Finally, where no such rules are set, the Romanian Code of Criminal Procedure adopted rules which lead international legal assistance. Such rules may be defined also by special laws, as they were, for example, Law no. 296/2001 on extradition, Law no. 704/2001 on international judicial assistance, Law no. 756/2001 on the transfer of sentenced persons abroad.

The international legal framework is represented by:

– the Convention implementing the Schengen Agreement of 14 June 1985;

– the Convention of 29 May 2000 on mutual assistance in criminal matters between member states of the European Union and its additional protocol of 16 October 2001;

⁷ Silviu Văcaru, *op. cit.*, p. 122-123; Mrejeru Theodor, Mrejeru Bogdan, *Cooperarea judiciară internațională în materie penală. Asistența judiciară – Extradarea. Doctrină și jurisprudență*, Bucharest, Universitaria Publishing, 2008, p. 10.

⁸ Florin Răzvan Radu, *op. cit.*, p. 53.

– European Convention on legal assistance in criminal matters, signed at Strasbourg on 20 April 1959 and the additional protocol to the European Convention on judicial assistance in criminal matters, adopted in Strasbourg on 17 March 1978;

– Convention on mutual judicial assistance in criminal matters between member states of the European Union, adopted on 29 May 2000;

– Additional protocol to the Convention on mutual judicial assistance in criminal matters between member states of the European Union, adopted on 16 October 2001.

It should also be pointed out that the Lisbon Treaty encourages close cooperation between states and also between Eurojust and the European Judicial Network for the enforcement of rogatory commissions and the settlement of extradition requests⁹.

THE OBJECT OF JUDICIAL ASSISTANCE, THE GENERAL CONTENT OF THE REQUEST

The stipulations of Convention on mutual judicial assistance in criminal matters between member states of the European Union were taken and translated into Romanian law, the provisions of Title VII of Law no. 302/2004 on international judicial cooperation.

The concept of international judicial cooperation is approaching the broad sense of the international legal assistance term in criminal matters and international legal assistance is considered to be only one of the international judicial cooperation forms¹⁰.

In the current design of Law no. 302/2004, international judicial assistance includes mainly of the following activities:

- a) international rogatory commissions;
- b) judicial hearings through videoconferencing;
- c) appearance of the witnesses, experts and persons pursued in the requester state;
- d) communication of judicial acts which are prepared and filed in a criminal trial;

⁹ See Bîndar Valerică, *Aspecte privind cooperarea judiciară în materie penală în lumina Tratatului de la Lisabona*, in “Analele Universității Constantin Brâncuși Târgu-Jiu, Seria Științe Juridice”, nr. 4/2010, pp. 202-203; Silviu Văcaru, *op. cit.*, p. 125; Cezar Avram, Roxana Radu, *Tratatul de la Lisabona și delimitarea competențelor unionale*, in “Evoluția sistemului legislativ românesc și european în contextul Tratatului de la Lisabona”, Craiova, Sitech Publishing, 2008, pp. 44-51; Cezar Avram, Mihaela Bărbieru, *Răspunderea statelor membre ale Uniunii Europene pentru încălcarea dreptului comunitar*, in “Influența sistemului juridic comunitar asupra dreptului intern”, Craiova, Sitech Publishing, 2009, pp. 57-64.

¹⁰ Alexandru Boroi, Ion Rusu, *op. cit.*, p. 15.

- e) criminal record;
- f) other forms of judicial assistance.

The request for international judicial assistance must indicate:

- name of the requesting judicial authority and name of the requested judicial authority;
- subject and purpose of the request;
- legal qualification of the facts;
- identification data of the accused, defendant or of the convicted or witness or expert, where appropriate;
- legal classification and summary presentation of the facts.

To the application are attached the documents in support thereof, as appropriate, depending on the nature and scope of application.

Documents attached to the application for judicial assistance must be certified by requesting judicial authority, and are exempt from any legalization formalities.

THE INTERNATIONAL ROGATORY COMMISSION

The international rogatory commission is one of the forms provided by the law to achieve international judicial assistance in criminal matters.

The international rogatory commission was used in relations between states, in the international judicial assistance plan since the late nineteenth century, being provided in the bilateral extradition agreements¹¹, but not in national legislation.

The rogatory commission is mentioned in the European Convention on judicial assistance in criminal matters signed at Strasbourg on 20 April 1959, which stipulates that “the requested party shall monitor the implementation of the rogatory commission application relating to a criminal case under observance of its national legislation, which will be addressed by the judicial authorities of the requesting party and whose object is the performance of tracking acts or the communication of evidence, records or documents”.

During the communist dictatorship and a long time after, the rogatory commission was mentioned in Title IV, Chapter VI, Section I of the Criminal Procedure Code.

External rogatory commission, as well as the internal rogatory one, is a procedural activity involving a shift of territorial competence from one judicial body to another, but the shift is extraterritorial, being made by judicial bodies of a foreign state who can perform the procedural act.

Until 1989, the procedure was conducted as follows: rogatory commission application made by the prosecuting authority or the court was sent to the General

¹¹ For example, *The Extradition Convention between Romania and the Netherlands*, *The Extradition Convention between Romania and Italy* etc.

Attorney or to the Ministry of Justice, depending on the phase of criminal case, e.g. the prosecution or trial phase. After receiving the request, this was sent to the Foreign Ministry, which in turn sent through diplomatic channels to a body competent to solve or retransmit it to the requested country. At the same time, when receiving a request for a rogatory commission by the Foreign Ministry, this was sent to the General Attorney or to the Ministry of Justice, which in turn sent it to a prosecutor or competent court to solve it.

According to Article 514 of the former Code of Criminal Procedure, “the prosecuting authority or the court, when it deems necessary to carry out a procedural act abroad, send a rogatory commission application to the criminal investigative body or to foreign court that is able to perform the act”.

The above-mentioned legal provisions which refer to the commission remained in force until 2001, when there was amended and supplemented by Law no. 704/2001 on international judicial assistance in criminal matters as: “international rogatory commission in criminal matters is a form of international mutual assistance consisting in delegation of power made by a judicial authority of a state in favor of a similar authority of another state mandated to perform, in its place and on its behalf, certain judicial activities regarding a certain criminal trial”.

According to Article 160 of Law no. 302/2004, “international rogatory commission in criminal matters is a form of judicial assistance consisting in empowering given by a judicial authority of a state to a similar authority of another state, mandated to perform, in its place and on its behalf, certain judicial activities regarding a certain criminal trial”.

SEARCHES, SEIZURE OF OBJECTS AND DOCUMENTS AND SEQUESTRATION

Rogatory commissions covering searches, seizure of objects and documents and sequestration are subject, according to law, to the following conditions which must be cumulatively met:

- a) the offense motivating the rogatory commission must be capable of giving rise to extradition in Romania as the requesting state;
- b) compliance of rogatory commission must be compatible with the Romanian law.

The conditions referred to above may entail the application of the rule of reciprocity¹².

Besides the two conditions to be met, we must mention that prescribed by article 3 of the Law no. 302/2004, which states that “the application of this law is subject to the protection of interests of sovereignty, security, public order and other interests of Romania, defined by the Constitution”.

¹² Article 163 of *Law nr. 302/2004*.

So the first observation is that, in order to execute a rogatory commission concerning a search warrant in the country's territory, it is necessary to fulfill the three cumulative conditions mentioned above.

Fulfilling the rogatory commission must be compatible with the Romanian law – art. 163 para. 1 let. b) of Law no. 302/2004, with the Constitution (domicile and residence are inviolable, one can not enter or remain in these places without the permission of the person they belong to) and the Criminal Code (there are two situations in which a person's home can be penetrated – with her consent or without her consent, but only in a situation, i.e. for the execution of an arrest warrant or a court order; removing a risk to life, physical integrity or assets of a person; defending national security or public order; preventing the spread of an epidemic). Fulfilling the rogatory commission is ordered by a judge, and carried out under the conditions and forms provided by law. Searches at night time shall be forbidden, except for crimes in flagrante. In the current regulation of Article 157 of the New Code of Civil Procedure, conducting house searches is conditional on solid grounds that in this way evidence could be discovered and collected or on refusal of a person to voluntarily deliver objects and documents relating to a criminal offense.

DEFENDANT'S HEARING

According to Law no. 302/2004, through a rogatory commission it may be requested the hearing of the defendant, to be conducted in strict compliance with the provisions of Romanian criminal procedural rules, provided that the special law do not provide otherwise. The probative value of this evidence is secured, as a general rule, in article 103 para.1 of the new Code of Criminal Procedure, which provides that evidence does not have a value predetermined by law and are subject to free assessment of judicial bodies after assessing all the evidence in the case. It should be stressed that as long as the current law in force does not contain a provision similar to Article 69 and Article 75 of the former Code of Criminal Procedure (the condition of corroborating statements of the defendant and the injured party with the facts and circumstances resulting from all the evidence, to serve the truth), the court may base its solution, whatever it may be, even of conviction, of waiving the penalty, postponing the penalty, of plea bargaining agreement, overwhelmingly on the statements of the defendant.

Execution of the request for rogatory commission that aims at hearing the defendant create direct responsibilities for Romanian judicial authorities involved in the procedure itself, as regards the application of the Romanian Constitution, Code of Criminal Procedure and other laws guaranteeing the right to defense. For example, "by application registered at the Court of Appeal Timișoara no. (...) Prosecutor's Office of Sectors VI and VII of Budapest requested that the accused

U.K. (...) and B. T. (...) residing in Carei, (...) should be heard through rogatory commission. In the application's motivation, it was stated that the Prosecutor's Office of Sectors VI and VII of Budapest carried out a preliminary judicial investigation against the two accused - Romanian citizens who are suspected of committing the crime of forgery of official documents in Hungary, provided by the Article 274, para. 1 let. c) of Law no. 4 in 1978 on the Criminal Code of Hungary"¹³.

During the criminal trial, judicial bodies are required to ensure full exercise of procedural rights of the parties under the conditions provided by law and to manage the evidence necessary for their defense.

If in the case of defendant's hearing in certain circumstances, legal assistance is optional (meaning that hearing can take place without the assistance of a legal counsel if the defendant agrees), there are special cases enshrined in the Code of Criminal Procedure in which legal assisted hearing is mandatory, and in these particular circumstances, we consider that legal assistance is compulsory for rogatory commissions executed by the Romanian judicial authorities. Hearing can be done by video conference. Such cases are met often in judicial practice, for example: "Pending the resolution of the request made by S. tribunal concerning hearings by video of the defendant E.D., in a state of detention in Focșani Penitentiary. At roll call, answered E.D. defendant in custody, assisted by counsel appointed ex officio – attorney B.E. on the basis of delegation no. (...) It was made the report of the case, meaning that International Law and Treaties Department – Service of international judicial cooperation in criminal matters submitted for information the letter no. (...) from 07.01.2010 through which Italian authorities confirmed that the compatibility test dated 29.12.2009 was positive and enabled the videoconference on 11.01.2010 between S. Tribunal and the Court of Appeal Galați. The Court shall identify the defendant E.D. who shows he is the son of O. and B., born on 26/07/1974, has 7 classes, is a carpenter, married, at this time being in a state of detention in Focșani Penitentiary for the execution of a sentence of 4 years and 6 months for theft under warrant of imprisonment no. (...) and he admits that he had problems with the judicial authorities in S. However, the Court shall notify the defendant that, to ensure the exercise of rights of defense, proceeded to the appointment of a public defender by Romanian authorities – B.E. attorney, but also by the Italian judicial authorities, respectively T.M. attorney of S. Bar. Being asked, the defendant personally stated that he understood that legal assistance should be provided by ex officio appointed defense counsel, not having a defender chosen by himself, and knows that the Italian authorities have appointed an ex officio attorney. In accordance with article 165 of Law no. 302/2004 on international judicial cooperation in criminal matters, the Court calls into question the request for international judicial assistance formulated by the

¹³ Court of Appeal Timișoara, Criminal Section, *Closing decision 0.224/PI rendered in the public meeting on September 25, 2008*, available at <http://www.avocatura.com/speta-163800-penal--comisie-rogoratorie-internationala.html#ixzz1u6oc1OEH>, accessed at: 12 April 2015.

authorities of the Italian Republic - S. Tribunal, which called for conducting a rogatory commission concerning the hearings of E.D. by videoconference. The Court also informs the defendant that the Italian authorities stated acts of criminal association to commit crimes at the expense of property (especially countless facts of aggravated theft and illicit possession), even violently at the expense of many Italians, committed in S., from September 2006 until February 2007. For the purposes of good conducting of criminal trial, the Italian judicial authorities have assured the presence in the courtroom at the Criminal Tribunal in S. of a Romanian language translator. The representative of the Public Prosecution's Ministry, defendant and defendant counsel have not submitted applications. Considering the request of the judicial authorities in Italy - S. Criminal Tribunal concerning the hearings of E.D. by videoconference, the Court finds the rogatory commission S. on hearings of E.D. conducted by videoconference as being performed, drew up the minutes and submit it to the Criminal Court in S., on the basis of art. 192 para. 2 of the Criminal Procedure Code, legal costs being supported by the state¹⁴.

HEARING OF WITNESSES OR EXPERTS

If the personal appearance of a witness or expert is requested to the Romanian authorities by a foreign state¹⁵, if the witness or expert says it will be present, he may apply for an advance in the amount of travel and subsistence expenses. The court will indicate the amount of money requested by a witness or expert, the banking unit where is expected to record the amount of money, the registering being made on behalf of witness or expert, at the disposal of competent Romanian judicial authority. The closing decision of the court and the written statement of the witness or expert shall be communicated to the requesting state, through one of the means mentioned above. We can exemplify from the jurisprudence: "The Court of Appeal Timișoara registered the request of Hungarian judicial authorities, Prosecutor's Office of the capital, Section of priority and economic causes in Budapest for performing a rogatory commission to listening to witnesses. In order to solve case no. (...), legal assistance was requested by the hearings of Free Customs Zone manager from D., to verify the reality of storage of goods shipped by company B. – UL to company L. International M., in this area. In pursuit of conducting rogatory commission, the general director of the Free Zone D. Administration R.A., Court A. and the head of Free Zone D. Customs Office

¹⁴ Court of Appeal Galați, Criminal Section, *Closing decision rendered in the public meeting on January 11, 2010*, file nr. 81/7.01.2010, available at <http://www.avocatura.com/speta-19505-penal-comisie-rogororie-internationala.html#ixzz1u7526MCz>, accessed at: 07 May 2015.

¹⁵ Court of Appeal Timișoara, Criminal Section, *Closing decision nr. 232/PI rendered in the public meeting on October 6, 2008*, available at <http://www.avocatura.com/speta-160716-penal-comisie-rogororie-internationala.html>, accessed at: 10 May 2015.

were heard by the Court of Appeal Timișoara. It was also filed at the request of the court, by the Customs Bureau of Free Zone D., a document with data requested by the Hungarian judicial authorities. Being carried out these acts, the Court will find the rogatory commission as being concluded, following that documents will be submitted to the Hungarian judicial authorities¹⁶.

If the witness or expert failed to appear after receiving a summons, it will not be subjected to any sanctions or coercive measures, even if the summons contained a categorical order, apart from where he will return on its own initiative on the Romanian territory and if the applicant will again quote him here legally¹⁷.

If a witness who summons and appears before the Romanian judicial authority, refuses to testify in whole or in part, may not be subject to any measure restricting freedom or otherwise prevented from leaving Romania, even though according to Romanian law, such a refusal would constitute an offense or could entail coercive measures¹⁸.

Hearing can be done by video conference, and at the request of the requesting party, this may receive audio-video recordings.

THE CONFRONTATION OF THE PERSONS HEARD IN A CRIMINAL TRIAL

Like other activities, the confrontation can be made by the Romanian judicial authorities too, at the request of the competent authorities of another state.

Confrontation will be made when the judicial organs of another state notes that there are contradictions between the statements of persons heard in the same case. The work itself will be recorded in the minutes, which will be the official document to be submitted to the requesting party. We believe that, at the request of the applicant, he may also receive audio-video recordings made during the confrontation.

ON-SITE INVESTIGATION AND RECONSTITUTION

These extremely important activities in criminal trial will be executed by the Romanian judicial authorities following the application of the requesting state, in accordance with Romanian law. Also, the applicant can receive audio-video recordings made during the execution of the rogatory commission on crime scene investigation and reconstruction.

¹⁶ Court of Appeal Timișoara, Criminal Section, *Closing decision nr. 106/PI rendered in the public meeting on May 5, 2008*, available at <http://www.avocatura.com/speta-195245-penal--comisie-rogoratorie-internationala.html#ixzz1u6U0MAdd>, accessed at: 03 April 2015.

¹⁷ Article 177 of *Law nr. 302/2004*.

¹⁸ Article 178 of *Law nr. 302/2004*.

EXPERTISE, TECHNICAL-SCIENTIFIC AND FORENSIC FINDINGS

These activities are done in approved institutions recognized in the field, in accordance with Romanian law. As an example of judicial practice: “At the term judgment of 06.09.2005, the Court of Appeal ordered an international rogatory commission based on Law no. 175/2003 for Romania’s accession to the Convention on obtaining evidence abroad in civil and commercial matters adopted by the Hague on 18.03.2005, involving the collection of biological samples from the defendant in order to determine the DNA”¹⁹.

TRANSMISSION OF INFORMATION REQUIRED IN A PARTICULAR PROCESS

Transmission of information required in a particular process is carried out at the request of the judicial authorities of the requesting state. Request can be sent directly to the authorized body (depository of information), which in turn will deliver the response to the requesting judicial body.

AUDIO AND VIDEO INTERCEPTIONS AND RECORDINGS

Audio and video interceptions and recordings are also done in accordance with the law of the requested state.

THE EXAMINATION OF ARCHIVAL DOCUMENTS AND SPECIALIZED FILES AND OTHER SUCH PROCEDURAL ACTS

These activities are other ways that can become the object of a rogatory commission, which are achieved also according with the stipulations of the Romanian law.

TRANSMISSION OF EVIDENCE PRODUCED AND TRANSMISSION OF DOCUMENTS OR FILES

Transmission of produced evidence and transmission of documents or folders are activities that can constitute object of rogatory commission and are accomplished in accordance with Romanian law.

¹⁹ Court of Appeal Timișoara, Civil Section, *Decision nr. 1184 from November 24, 2009*, available at <http://jurisprudentacedo.com/Admiterea-recursului-casarea-deciziei-civile-recurate-cu-consecinta-trimiterii-cauzei-la-Tribunalul-Timis-in-vederea-rejudecarii-apelului-fara-cheltuieli.html>, accessed at: 03 May 2015.

CONCLUSIONS

The administration of evidence in criminal trial is governed by the principle of freedom so that the judicial organs have the possibility to choose from means of proof provided for by law, those that can manage the most secure samples. Samples are taken by the judicial bodies that analyze the cause. There are also situations where the administration of evidence can be done by another judicial body, even from abroad. Thus, when an investigating authority or the court is not able to hear a witness, to make an on-site investigation, to conduct lifting of objects or to perform any other procedural act, may appeal to another prosecution body or other court abroad, which is able to perform these activities. In this way, the achievement of the procedural act is done through rogatory commission whose role is to accomplish the application of law. External rogatory commission, as well as internal rogatory commission (governed by article 200 of the New Romanian Code of Criminal Procedure), is a procedural activity involving a shift of territorial jurisdiction from a judicial organ to another, but the shift movement is extraterritorial, to judicial bodies of a foreign state who can carry out the procedural act.