

UNIVERSITATEA TITU MAIORESCU
ȘCOALA DOCTORALĂ DE DREPT



EUROPEAN ARREST WARRANT
SUMMARY

PhD supervisor

Prof.univ.dr. Alexandru BOROI

PhD student

Mădălina Elena Feraru (căs. MASCARELL)

BUCUREȘTI 2025

I. TOPICALITY, IMPORTANCE AND JUSTIFICATION OF THE RESEARCH

In an increasingly interconnected Europe, fighting cross-border crime and ensuring effective justice have become key priorities. The European Arrest Warrant, introduced by Framework Decision 2002/584/JHA, as amended by Framework Decision 2009/299/JHA, is a major innovation in the field of judicial cooperation, eliminating the lengthy procedures of traditional extradition and facilitating the swift surrender of wanted persons for prosecution or the execution of custodial sentences. This mechanism, based on the principle of mutual recognition of judicial decisions, reflects the EU's efforts to strengthen an area of freedom, security and justice, in which internal borders do not constitute an obstacle to law enforcement.

Topicality of the theme

The European Arrest Warrant continues to be a topical topic and intense debate, both among legal specialists and at political and institutional level. In recent years, the application of EAW has been affected by several factors, including:

Crisis of confidence between Member States. National courts in some countries are increasingly refusing to execute warrants, citing systemic problems related to the rule of law, the independence of the judiciary or prison conditions. Examples revealed are the cases regarding the refusal to execute the warrants in Poland and Hungary, the reasons for risks regarding fundamental rights. These difficulties raise questions about the functioning of the principle of mutual recognition, which underpins judicial cooperation in the European Union. In addition, such refusals generate tensions between Member States, affecting trust in cooperation mechanisms and calling into question the effectiveness of the EAW as a whole.

CJEU case law. Recent CJEU decisions have nuanced the application of the European Arrest Warrant, setting out criteria for refusal to execute in cases where there is a real risk of a violation of fundamental rights. These judgments raise practical challenges for national courts, which must assess such risks before ordering the surrender of requested persons. In this context, there is a tendency to take a closer look at detention conditions, access to a fair trial and guarantees for the protection of fundamental rights. On the other hand, these criteria can lead to a slowdown in procedures, which runs counter to the main objective of the European Arrest Warrant – speed.

The impact of Brexit. The UK's exit from the EU has led to the replacement of the European arrest warrant with a new surrender mechanism, established by the Trade and

Cooperation Agreement. The differences between the two systems raise questions about the efficiency and speed of post-Brexit judicial cooperation. While previously the surrender of persons between the UK and the Member States was carried out through a unified procedure, similar to that within the EU, the new mechanism involves a wider analysis by national courts, which can lead to delays. In addition, the UK's ability to refuse to surrender its own citizens further complicates the application of the principles governing the EAW.

Challenges in the fight against organised crime and terrorism. The European Arrest Warrant plays a crucial role in investigating and punishing serious crime, but it is sometimes overused for minor crimes, which raises questions about the proportionality of its use. Although this tool was designed to combat cross-border crime, there are many situations where warrants are issued for low-level crimes, such as petty theft or petty fraud. This practice puts pressure on judicial authorities, who must examine each request and determine whether the execution of a warrant is justified in the light of the principles of proportionality and necessity. At the same time, organised crime and terrorism remain major threats, and the EAW needs to be adapted to ensure a swift and effective intervention in these areas.

Romania's accession to the Schengen Area (January 1, 2025). A particularly important moment for Romania is the complete integration into the Schengen Area, which eliminates internal border controls and facilitates the movement of people. This step has major implications for judicial cooperation, as the effectiveness of the European arrest warrant becomes even more crucial in the fight against cross-border crime. By eliminating border controls, Romania must ensure a swift and efficient system for the implementation of the European Arrest Warrant in order to prevent the use of freedom of movement as a means of evading justice. In this context, the importance of good cooperation between national and European judicial authorities is increasing, so that any shortcomings can be remedied quickly. At the same time, Romania must pay special attention to improving the judicial infrastructure and increasing efficiency in the application of the European arrest warrant, given its new status within the Schengen framework.

In this dynamic landscape, the European Arrest Warrant remains an essential instrument of European justice, but its effectiveness depends on how Member States manage to balance the principles of mutual recognition and protection of fundamental rights. The current debates on its application underline the need for adjustments to keep this mechanism functional in the face of new legal and geopolitical challenges.

Importance and justification of research

The importance of this study derives from the need to analyze in depth the efficiency and limits of the European arrest warrant, an essential tool in the legal architecture of the European Union. Although it was designed to facilitate and speed up judicial cooperation between Member States, its application raises a number of issues relating to the balance between speed and respect for fundamental rights. Against the backdrop of recent developments at European and national level, such as the increase in refusals to execute warrants, the consolidation of CJEU jurisprudence and Romania's accession to the Schengen Area, it is essential to assess the extent to which this mechanism remains an effective instrument of cross-border criminal justice.

A crucial dimension of the research is the analysis of the principle of mutual recognition, which forms the basis of the European arrest warrant. While this principle should ensure a swift transfer of wanted persons between Member States, the legal reality shows that its application is increasingly conditional on criteria for the protection of fundamental rights. Some courts refuse surrender on grounds related to weaknesses in the judicial system in the issuing state or conditions of detention, underlining the need for a more uniform approach across the European Union. This research will look at the extent to which such refusals are justified and what could be the solutions to avoid bottlenecks in the application of the European Arrest Warrant. Romania's accession to the Schengen Area introduces a new context of analysis, as the elimination of internal border controls determines an increased need for efficiency in the application of the European arrest warrant. In the context of border checks, judicial cooperation and the exchange of information between authorities are becoming essential to fight cross-border crime.

Therefore, the research aims to provide an overview of the challenges and prospects for the evolution of the European Arrest Warrant, identifying possible solutions to improve it. Through a comparative and interdisciplinary approach, the state of play will contribute to understanding how this mechanism can be adapted to better respond to the current realities of the EU, while strengthening the principles of the rule of law and the protection of fundamental rights.

II. RESEARCH OBJECTIVES

This paper aims to analyze in depth the institution of the European arrest warrant, both from a theoretical and practical perspective, aiming to highlight the impact of this legal

instrument on judicial cooperation in criminal matters at the level of the European Union and on the Romanian legal system. In this respect, the main objective of the research is to clarify the concept of the European arrest warrant, through a detailed analysis of its legal basis, the principles underlying its operation and its importance in the context of a European area of justice based on the mutual recognition of judicial decisions. In particular, the way in which the EAW has evolved since the adoption of Framework Decision 2002/584/JHA will be taken into account, with a focus on legislative changes and transformations brought about by the CJEU's case-law.

Another fundamental objective of the research is to examine the regulatory framework governing EAW, both at the level of EU law and in the national legal system. Thus, the analysis will include a detailed study of the provisions of the Framework Decision and of the national legislation by which this European act was transposed into Romanian law, highlighting the possible compliance problems, the difficulties encountered in applying the provisions and the way in which the Romanian courts interpreted and applied these rules. It also sought to identify possible discrepancies between European and national regulations, as well as the impact that these possible inconsistencies may have on judicial cooperation between Member States.

At the same time, the research aims to carry out a broad evaluation of the relevant jurisprudence in the field of the European arrest warrant, both at the level of European and national courts. In this context, the CJEU judgments were analysed, which contributed to the clarification of key aspects of EAW, but also of the decisions of national courts, in order to highlight the practical challenges they faced. This analysis aims to paint a clear picture of how the EAW is interpreted and applied in different Member States, as well as to identify possible solutions to harmonise and streamline the use of this legal instrument.

Finally, an important objective of the research is to formulate proposals to improve the mechanism of the European arrest warrant, in order to ensure its uniform and efficient application, in accordance with the principles of European Union law and the requirements for the protection of fundamental rights. In this context, the research aims to contribute to the development of legal doctrine in the field of international judicial cooperation and to provide theoretical and practical support for the improvement of legal instruments used in combating cross-border crime.

III. METHODOLOGY USED

The present study is based on a complex methodological approach, which combines the theoretical analysis of legal norms with the applicative study of jurisprudence and judicial practice. In order to achieve the set objectives, several research methods were used, each having an essential role in structuring and deepening the theme.

First of all, the **descriptive method** was used, through which the main concepts, principles and legal norms governing EAW were exposed and explained. This allowed a clear understanding of the relevant regulatory framework, both at the level of EU law and in the Romanian legal system. The fundamental legal acts in this area, starting with Framework Decision 2002/584/JHA, as well as the national transposition legislation, were analysed, with a focus on their compliance and the way in which they have been interpreted by the national courts.

Secondly, the **comparative method** was used, with the aim of highlighting the differences and similarities between the various ways of applying the EAW in the EU Member States. Through this method, the aim was to identify any inconsistencies or difficulties in the implementation of EAW in different legal systems, so as to draw conclusions on the efficiency and coherence of this legal instrument. At the same time, the comparative analysis highlighted best practices applied in certain Member States, which could be the methods for improving national legislation and procedures in Romania.

In addition, the **interdisciplinary method** was used, which made a connection between the legal, political and social aspects of the application of the EAW. In this regard, the study included an analysis of the impact of the EAW on the protection of fundamental rights, taking into account the recommendations of international organizations, such as the Council of Europe or the European Union Agency for Fundamental Rights. It also examined how this legal instrument has contributed to strengthening judicial cooperation in criminal matters and combating cross-border crime.

Prin utilizarea acestor metode complementare, studiul asigură o abordare amplă și echilibrată a problematicii mandatului european de arestare, oferind o analiză solidă din punct de vedere teoretic și practic, cu implicații relevante pentru doctrina juridică, legislația națională și cooperarea judiciară în materie penală la nivel european.

IV. STRUCTURE OF THE WORK

This paper is organized into seven chapters, each of which has the role of contributing to an in-depth analysis of the European Arrest Warrant, both from a theoretical and practical perspective. Each chapter addresses fundamental aspects for the understanding, application and efficiency of this legal instrument, providing an overview of the regulatory framework, the relevant jurisprudence and the challenges encountered in practice.

The first chapter, *the scope and general principles of judicial cooperation in criminal matters*, is devoted to the analysis of the scope and general principles of international judicial cooperation in criminal matters, representing an essential theoretical basis for understanding the European arrest warrant. This chapter aims to highlight the historical evolution of international judicial cooperation, to delimit its scope and to analyze the fundamental principles that govern this mechanism.

The first part of this chapter, entitled *The History of International Judicial Cooperation in Criminal Matters*, examines the evolution of this concept from the perspective of classical international law, but also in the context of the new forms of judicial integration at European level. It analyzes the origins of international judicial cooperation, which initially manifested themselves in bilateral extradition treaties and other conventional forms of legal assistance between states. This section highlights the key moments that marked the transition from a system based on the absolute sovereignty of states to one characterized by mutual recognition and trust between judicial systems. Particular attention is paid to the evolution of this concept within the European Union, where there has been a shift from classic extradition mechanisms to a modern system based on mutual recognition, culminating in the adoption of the European Arrest Warrant.

The second part of the chapter, entitled *the scope and general principles of international judicial cooperation*, analyzes the purpose and limits of this mechanism. The scope of international judicial cooperation in criminal matters is defined, in relation to the categories of offences for which it can be used and the entities involved in this process. It also highlights the relationship between judicial cooperation and other forms of international collaboration in criminal matters, such as police cooperation and the exchange of information between states. This section looks at the modern legal instruments governing this cooperation, including bilateral treaties, multilateral conventions and specific EU regulations.

The last part of this chapter, *the principles of international judicial cooperation in criminal matters*, details the main principles underlying this mechanism. The principle of

mutual recognition, which is the foundation of judicial cooperation within the EU and which was the basis for the creation of the European Arrest Warrant, is analysed in depth. It explains how this principle works in practice and how it has managed to gradually replace the traditional principle of extradition, allowing for faster and more efficient enforcement of judicial decisions between Member States. It also examines the principles of subsidiarity and proportionality, which play a key role in the application of judicial cooperation instruments, preventing abuses and ensuring respect for the fundamental rights of requested persons. Another fundamental principle analysed is that of the protection of fundamental rights, which requires that all judicial cooperation measures comply with European human rights standards, including those established by the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights.

There is also discussion of the principle of specialty, I confirm that the person surrendered on the basis of a European warrant can be prosecuted only for the crimes for which he or she has been requested, as well as the *ne bis in idem principle*, which guarantees that a person cannot be tried or punished twice for the same act in different Member States.

This chapter thus sets out the theoretical framework and concept necessary for understanding the European arrest warrant and how it fits into the wider system of international judicial cooperation. In the following chapters, this theoretical basis will be deepened through a detailed analysis of the regulatory framework, relevant case law and practical challenges related to the application of the European Arrest Warrant, with the aim of identifying the optimal solutions to improve this mechanism.

The second chapter, entitled *The European Arrest Warrant – the first major concretisation of the European criminal area*, analyses the evolution of this legal instrument, its definition, its essential characteristics, as well as the competent authorities involved in the issuance and execution of the European Arrest Warrant.

In the first part of this chapter, *the historical evolution of the European arrest warrant in the European context*, the circumstances that led to the adoption of this instrument are analyzed, starting from the need to create a more efficient mechanism than the traditional extradition between EU member states. It examines the key events that led to the strengthening of judicial cooperation in criminal matters, with a focus on the 1999 Tampere European Council, which established mutual recognition as the cornerstone of European criminal justice. This section also presents the main legislative changes and adaptations that have taken place between Member States for the implementation of the European Arrest Warrant, as well as the difficulties encountered in this process.

Next, in the section entitled *Definition and characteristics of the European arrest warrant*, a legal definition of that instrument is given, based on the provisions of Framework Decision 2002/584/JHA and the interpretations provided by judicial doctrine. The EAW is analysed as a mechanism based on the principle of mutual recognition, intended to replace traditional extradition procedures and facilitate the swift surrender of wanted persons for prosecution or execution of a custodial sentence. This part is subdivided into three sections:

Definition of the European Arrest Warrant, which provides a clear and accurate description of this legal instrument, in relation to European regulations and relevant case law. The purpose and function of the warrant are explained, as well as the essential differences between them and traditional extradition mechanisms.

Within the sub-point dedicated *to the content and form of the European arrest warrant*, an essential aspect is the clarification of the minimum requirements that this act must meet in order to be valid and enforceable in all Member States of the European Union. In this context, a significant decision of the CJEU is the judgment in the *Bob-Dogi case (C-241-15)*, which brought important clarifications on the content of the European arrest warrant and the competent authority issuing it. This case was initiated following the refusal of the German judicial authorities to execute a European arrest warrant issued by the Hungarian authorities against Balázs Bob-Dogi, a Hungarian national suspected of committing a crime of theft. The main reason for the refusal was that the European arrest warrant had been issued exclusively by a Hungarian police authority, without a prior or concurrent decision of a court. This raised the question of whether the mandate complied with the requirements of Framework Decision 2002/584/JHA, in particular as regards the safeguards necessary to protect the fundamental rights of the requested person. The CJEU was asked to clarify whether a European arrest warrant issued by a non-judicial authority, without the control of a court, complies with the requirements of the Framework Decision. This ruling has had a significant impact on judicial practice in the Member States, reinforcing the idea that the European Arrest Warrant cannot be issued arbitrarily by any authority, but must be the result of a judicial decision or be validated by a competent court. With this interpretation, the CJEU strengthened the procedural safeguards related to the use of EAW and stressed the need to respect fundamental rights in the process of international judicial cooperation.

In conclusion, *the Bob-Dogi case* has helped to clarify the standards on the content and form of the European arrest warrant, highlighting the fact that it must be issued or approved by a judicial authority, contain clear information about the crime committed and respect the fundamental principles of the right to a fair trial. This decision had a considerable impact on

the application of the EAW, prompting Member States to review their practices to ensure compliance with the standards set by the CJEU.

The last part of the chapter is dedicated to the analysis of the competent authorities involved in the European arrest warrant procedure. The sub-point , *the concept of competent authorities under Framework Decision 2002/584/JHA and national law*, examines the entities responsible for issuing and executing a European arrest warrant in the Member States. It analyses the differences between national legal systems and the way in which each state has designated the competent authorities in accordance with its own legislation.

In the sub-point, *the notion of competent authorities according to the ECHR*, this concept is evaluated in the light of the standards imposed by the European Convention on Human Rights, with emphasis on the right to a fair trial and the principle of legality. Finally, the sub-point , *the notion of competent authority according to CJEU case-law*, provides a detailed insight into how the CJEU interpreted this concept.

Relevant judgments that clarified the criteria that an authority must meet in order to be considered competent to issue or execute an EAW have been analysed. Among the issues addressed are the need for authorities to be judicial and to act independently of political influences, as well as interpretations of court review of administrative decisions on EAWs.

In conclusion, this chapter has an essential role in substantiating the analyzed topic, providing a detailed picture of the EAW from a normative and jurisprudential perspective.

The third chapter, the ***implementation of the European arrest warrant in the laws of the EU Member States and Romania***, aims to highlight the way in which Framework Decision 2002/584/JHA has been transposed into the national law of the Member States, the difficulties encountered in this process and the particularities of its application in Romania.

In the first part of this chapter , *the application of the Framework Decision on the European Arrest Warrant*, the obligations that the Member States had in the process of implementing this instrument are analyzed. It should be noted that, unlike EU regulations, framework decisions are not directly applicable, so that each state had to adopt internal rules to ensure the proper transposition of EAW provisions. This section sets out the main legislative approaches adopted by the Member States and the degree of uniformity of national rules in relation to the requirements imposed by the Framework Decision. It also analyses the differences between national legal systems in terms of the powers of judicial authorities, the time limit for surrendering requested persons and the protection of their fundamental rights.

The main *constitutional difficulties encountered by Member States in the process of implementing the Framework Decision on the European Arrest Warrant* addresses the legal

challenges that have arisen in several Member States during the process of implementing the European Arrest Warrant. Specific cases are being analysed in which the transposition of this instrument has been challenged on the grounds that it would violate fundamental principles enshrined in national constitutions, such as the protection of citizens' rights or the prohibition of the extradition of its own nationals. Relevant examples are presented, such as the decisions of the constitutional courts of Germany, Poland and Italy that imposed restrictions on the application of the European arrest warrant, invoking the need to protect the fundamental rights of the requested persons. The last part of this sub-point analyzes the process of transposing this legal instrument into Romania's domestic law. The normative framework by which the EAW was introduced into the Romanian legislation is presented, namely the amendments brought to Law 302/2004 on international judicial cooperation in criminal matters, as well as the harmonization of national provisions with European standards. In this sub-point, we highlighted the main difficulties encountered by Romania in applying the EAW, both from a legislative and practical point of view.

Problematic issues such as the length of judicial proceedings, obstacles related to the protection of fundamental rights and the relationship between the Romanian authorities and those of other Member States in the management of concrete surrender cases are analysed. At the same time, the relevant jurisprudence of the Romanian courts in the field of EAW is discussed, highlighting the interpretations given by the High Court of Cassation and Justice regarding the application of this instrument.

This third chapter is a key point of the work, as it provides a clear picture of how the EAW works in practice, highlighting both the progress made and the difficulties encountered in its uniform application at European level.

The fourth chapter, *the issuance of the European arrest warrant*, deals with the essential aspects of its issuance, with emphasis on the effective procedure, the necessary conditions, the rules of transmission and the procedural safeguards designed to protect the fundamental rights of the person concerned. At the same time, essential issues such as the withdrawal of the European arrest warrant and the effects of surrender on ongoing criminal proceedings are addressed.

The issuance of the EAW represents a key moment in the mechanism of judicial cooperation in criminal matters between the Member States of the European Union. This legal instrument, governed by amended Framework Decision 2002/584/JHA, was created to replace traditional extradition procedures, ensuring a faster and more efficient process for the surrender of persons suspected of or convicted of serious crimes. By adopting this mechanism, the EU

has sought to strengthen the area of freedom, security and justice, removing bureaucratic obstacles and ensuring an increased level of mutual trust between Member States' judicial authorities. In order for an EAW to be issued legally and efficiently, certain strict conditions set out in both European and national legislation must be met. These include the existence of an ongoing criminal trial or a final conviction, the determination that the person concerned is necessary for the conduct of judicial proceedings or for the execution of a sentence, and compliance with the principle of proportionality, which requires that the use of this instrument be justified by the seriousness of the offence and the applicable penalty.

A fundamental aspect of the issuance of the warrant is the establishment of the competent authorities. According to the Framework Decision, only a judicial authority can issue a European arrest warrant, but the interpretation of this concept has varied from one state to another, generating multiple debates and interventions by the CJEU. In some jurisdictions, the issuance of such a warrant is exclusively the responsibility of the courts, while in others prosecutors are also considered competent judicial authorities. This diversity of approaches has generated uncertainty, and the CJEU's case-law has played a key role in standardising the interpretation and application of this instrument. At the same time, EAWs must comply with certain formal and procedural requirements in order to be recognised and enforced in other Member States. It must contain clear and precise information on the identity of the requested person, the offence for which it is issued, the applicable legal rules and the evidence justifying the measure of deprivation of liberty. Also, the transmission of the warrant must be carried out through official channels, such as the Schengen Information System or the direct contact between the judicial authorities, so that the procedure is as fast and efficient as possible.

Another essential aspect of this process is the protection of the fundamental rights of the requested person. Although the EAW was designed to facilitate judicial cooperation and combat impunity for criminals, its application must not lead to a violation of the principles enshrined in the Charter of Fundamental Rights of the European Union and the European Convention on Human Rights. As a result, numerous situations have arisen in judicial practice where executing States have refused to surrender requested persons, citing risks related to detention conditions, lack of fair trial guarantees or humanitarian reasons preventing the execution of the warrant.

In addition to issuing and transmitting the mandate, it is also important to mention the possibility of withdrawing it, if the legal circumstances of the case change. The issuance of EAWs is therefore a crucial step in the process of judicial cooperation, being an indispensable tool for combating cross-border crime. However, its application raises multiple challenges, both procedurally and in terms of the protection of fundamental rights. Developments in legislation

and case-law in this area reflect the EU's continued efforts to balance efficiency in the application of justice with respect for the fundamental principles of the rule of law. However, its application raises multiple challenges, both procedurally and in terms of the protection of fundamental rights. The evolution of legislation and case-law in this area reflects the European Union's continued efforts to balance efficiency in the application of justice with respect for the fundamental principles of the rule of law.

In Chapter V we dealt with *the execution of the European arrest warrant*, where we highlighted which Romanian judicial authorities are competent for the execution of EAWs, the conditions of surrender, the reasons for refusal to execute EAWs, the procedure for enforcing EAWs as well as the legal means in the legal relationship with Framework Decision 2002/584/JHA, as amended.

The execution of EAWs is a fundamental step in the process of judicial cooperation between EU Member States, with the ultimate aim of handing over the requested person to the issuing State. This cross-border judicial cooperation mechanism is based on the principle of recognition of judgments, an essential principle of the EU's area of freedom, security and justice. In Romania, the execution of the European arrest warrant is carried out by the competent judicial authorities, which must analyse each request individually, taking into account both the provisions of national legislation and the obligations arising from Framework Decision 2002/584/JHA. The courts of law and the Public Prosecutor's Office play an essential role in this procedure, having the responsibility of verifying the fulfillment of all the legal conditions for the surrender of the requested person. In the analysis of such a mandate, the Romanian judicial authorities must take into account both the fundamental principles of criminal law and the jurisprudence of the CJEU and the European Court of Human Rights, which have established clear criteria regarding the application of this judicial cooperation mechanism.

An essential aspect in the process of executing the European arrest warrant is the verification of the fulfilment of the surrender conditions. This requires compliance with strict legal requirements, which must strike a balance between the need to implement the measure and the protection of the fundamental rights of the requested person. In this context, there are certain situations in which the execution of the warrant can be refused, this being provided for by European and national legislation.

The refusal to execute a European arrest warrant may be justified on mandatory or optional grounds. The mandatory grounds for refusal require the court to refuse to surrender the requested person in certain situations, such as the existence of a final judgment in another Member State for the same offence, the amnesty applicable in the executing State or the absence

of criminal liability under national law. On the other hand, optional grounds for refusal allow the court to analyse the particular circumstances of the case and decide whether surrender should take place. These may include the risk of breaches of fundamental rights, the existence of ongoing criminal proceedings in the executing State for the same acts, or the absence of double criminality for certain offences.

The procedure for executing the European arrest warrant follows several stages, each of which has a well-defined role in the process. Initially, the competent prosecutor has the task of carrying out a preliminary check of the warrant and notifying the court. Subsequently, the court examines the application and the reasons that could justify the refusal of enforcement, taking into account both the applicable law and any guarantees offered by the Member State. The final decision on the execution of the warrant is taken by the court, which may approve the surrender of the requested person or refuse execution if it finds that there are legal impediments. In certain situations, the issuing judicial authority may decide to revoke the mandate, either as a result of negotiations between States or due to the lack of a sufficient legal basis for maintaining it. The actual surrender of the requested person is carried out after a favourable decision has been made, but this process may include several specific modalities. In certain cases, surrender may be temporary, in situations where the person is needed, and in other legal proceedings conducted in another Member State. There is also the possibility that surrender may be postponed, for example, when the person has to serve a sentence in another state before the transfer. At the same time, surrender may be accompanied by additional measures, such as transit or subsequent surrender to another Member State.

As for the practice of the Romanian courts, in the matter of executing European arrest warrants, statistical data show an increasing trend in the total number of refusals in the period 2021-2023. Analyzing the data presented extensively in this chapter, it can be seen that in 2021 the number of active and passive refusals was relatively balanced, with 67 active refusals and 65 passive refusals. In 2022, the number of passive refusals increased significantly, reaching 112, while active refusals were 73. In 2023, there was a slight decrease in passive refusals, which reached 89, but they continued to exceed the number of active refusals, which amounted to 87. This development can be explained by a stricter application of the grounds for refusal, but also by the influence of European case-law on the practice of national courts.

A relevant example in the interpretation and application of the European arrest warrant is the case of *Stefano Melloni v. Ministerio Fiscal*, decided by the CJEU. This case has had a significant impact on the way in which Member States have to respect the principle of mutual trust and apply the provisions of Framework Decision 2002/584/JHA. The Court has

established that a Member State may not refuse to enforce an EAW on the ground that the requested person has been convicted in absentia, if the issuing State has provided sufficient guarantees as to the possibility of appealing the judgment. This decision clarified the importance of complying with the rules on the recognition of judgments between Member States and required a strict interpretation of the obligations laid down in European law.

The execution of EAWs is a constantly evolving area and its application must ensure an optimal balance between the efficiency of judicial cooperation and the protection of fundamental rights. The increase in the number of refusals to execute indicates a more rigorous application of European standards, and the CJEU's case law helps to clarify controversial issues in this area.

Chapter VI of this study, entitled ***national and European jurisprudence on the European arrest warrant***, is dedicated to the national and European jurisprudential analysis on the application of the European arrest warrant, having an essential role in clarifying and standardizing judicial practices. In this context, relevant judgments of the CJEU were examined, as well as decisions of national courts including the Courts of Appeal and the HCCJ.

A particularly important aspect is the impact of case law on the application of EAW in Romania, demonstrating how the judgments of the European courts influence the interpretation and implementation of this legal instrument. A reference example in this regard is the famous CJEU judgment in the joined cases of *Aranyosi and Căldăraru*, in which it brought essential clarifications regarding the respect of fundamental rights in the procedure for the surrender of requested persons. This decision established that the judicial authorities of a Member State may refuse to execute an EAW if there is concrete evidence that the requested person risks being subjected to inhuman or degrading treatment due to the conditions of detention in the issuing State. National courts are therefore obliged to analyse in detail the situation in the prisons of the requesting country and to assess whether there are sufficient safeguards for the fundamental rights of the person concerned.

This judgment as well as *the Rezmiveş and Others case*¹ have had a significant impact on judicial practice in Romania, causing the courts to be much more attentive to the conditions of detention and compliance with the standards imposed by the European Convention on Human Rights. Thus, the analysis of European and national case law highlights a trend towards strengthening mechanisms for the protection of fundamental rights, without compromising the

¹ Case of *Rezmiveş and Others v. Romania* (Applications Nos. 61467/12; 39516/13; 48231/13; 68191/13).

main objective of the EAW, namely the fight against cross-border crime through effective judicial cooperation.

The last chapter of the paper is dedicated to analyzing *the problems and challenges encountered in the application of the European Arrest Warrant*, an essential mechanism of European judicial cooperation, but which raises numerous practical and legal difficulties. While this tool was designed to facilitate the swift surrender of wanted persons between EU Member States, its application in practice has shown that there are gaps and uncertainties that can affect the efficiency and uniformity of this process. A central aspect of this chapter is the rules guaranteeing the rights of persons subject to an EAW. Although Framework Decision 2002/584/JHA introduced mechanisms to speed up surrender procedures, it must be applied with respect for the fundamental rights of the requested person. In this regard, the issue of access to adequate legal aid, the conditions of detention in the Member States and the possibility of effectively challenging the warrant were raised. The right to a fair trial, protected by Article 6 of the European Convention on Human Rights, must be guaranteed at all stages of the procedure, and some decisions of the CJEU and the European Court of Human Rights have stressed the importance of ensuring effective judicial review in this regard.

An important aspect analysed in this chapter is the need to improve cooperation between Member States. Judicial practice has highlighted difficulties in the uniform interpretation and application of the Framework Decision, which has led to situations in which certain States refuse to execute a warrant on grounds that are not clearly provided for in European law. In this context, the exchange of information between Member States' judicial authorities needs to be strengthened and the standardisation of administrative and judicial practices could help to avoid bottlenecks in the application of EAWs.

A key point of the analysis in this chapter is the proposals for *lege ferenda*, aimed at improving the functioning of the European arrest warrant and eliminating the uncertainties affecting its application. In this direction, special attention was paid to the specialty rule, provided for in Article 27 of Framework Decision 2002/584/JHA. This rule requires that the person surrendered under the EAW must not be prosecuted, tried or deprived of liberty for offences other than those for which the surrender was granted, unless the executing State gives its consent.

Although this provision aims to protect the rights of the requested person, in practice it may create difficulties in cases where the surrendered person is also suspected of other crimes related to those for which the warrant was issued. The lack of clear provisions on related offences leads to divergent interpretations between Member States, which can lead to uneven

application of the EAW and affect the efficiency of judicial cooperation. This aspect has also been highlighted in the CJEU case-law, in cases such as *the Leymann and Pustovarov case*, C-388/08 PPU, and *the Melvin West case*, C-192/12. In these cases, the importance of clarifying the specialty rule was emphasized so as to avoid blockages in the conduct of criminal proceedings.

In order to respond to these challenges, it is proposed to supplement Article 2 of Framework Decision 2002/584/JHA by introducing an additional paragraph expressly providing that *"the European arrest warrant may also include offences ancillary to or related to the main offence for which surrender is requested, provided that they are related to the main offence and do not exceed the maximum penalty threshold established by the legislation of the issuing State"*.

This amendment would clarify that an EAW can cover not only the main offence but also related offences, thus avoiding the need to issue separate warrants for each criminal offence. This would reduce the risk that the judicial authorities of the executing State would reject surrender on the grounds of lack of double criminality or the impossibility of including additional facts within the same warrant.

It is also proposed to supplement Article 27 of the Framework Decision with a new alienated person, which would establish a clear procedure for extending the surrender in the case of related crimes. This paragraph could provide:

'The issuing Member State may request the extension of surrender for related or ancillary offences by means of a formal request submitted to the judicial authority of the executing State. The competent authority of the executing State may approve such extension within 30 days, unless grounds for refusal are identified in accordance with Article 3 or Article 4 of this Framework Decision.'

For this amendment, a clear and predictable procedure would be introduced, which would allow issuing States to request the extension of surrender for related offences, thus reducing legal uncertainty and avoiding the need for further steps. This proposal would ensure a more flexible and efficient application of the specialty rule, without affecting the fundamental rights of the requested person.

In conclusion, the analysis of the problems and challenges in the application of the EAW highlights the need for legislative and practical improvements to ensure a uniform and efficient application of this instrument of judicial cooperation. Strengthening the guarantees on the rights of the requested person, improving the mechanism of collaboration between Member States

and clarifying the rule of speciality through legislative amendments would significantly contribute to streamlining the surrender process and increasing mutual trust between European judicial authorities.

BIBLIOGRAPHY

1. Normative act

1. Acord Comercial și de Cooperare între Uniunea Europeană și Comunitatea Europeană a Energiei Atomice, pe de o parte, și Regatul Unit al Marii Britanii și Irlandei de Nord, pe de altă parte, Bruxelles. 20 decembrie 2020, COM (2020) 855 final, publicat în JO L UE 444 din 31 decembrie 2020;
2. Acordul comercial și de coordonare între UE și EURATOM și Regatul Unit al Marii Britanii și Irlandei de Nord;
3. Acordurile de la Helsinki (Actul Final de la Helsinki sau Declarația de la Helsinki) au fost semnate la 1 august 1975 la Helsinki (Finlanda) de 35 de state, între care cele două mari puteri (Uniunea Sovietică și Statele Unite ale Americii), Canada și toate celelalte state europene cu excepția Albaniei și Andorrei.
<https://web.archive.org/web/20121226085801/http://www.tlfq.ulaval.ca/axl/europe/Helsinki-agreement.htm> ;
4. Al Doilea Protocol adițional din 17 martie 1978 la Convenția europeană de extrădare, art.3;
5. Convenția privind simplificarea procedurii de extrădare între statele membre ale Uniunii Europene;
6. Comisia Comunităților Europene, Raportul privind punerea în aplicare, după 2005, a Deciziei-cadru a Consiliului din 13 iunie 2002 privind mandatul european de arestare și procedurile de predare între statele membre, COM (2007), 407;
7. Concluziile președinției Consiliului European de la Cardiff din 15-16 iunie 1998, SN150/1/98 REV Concluziile președinției, Consiliul European de la Tampere, 15-16 octombrie 1999;
8. Comunicarea Comisiei, *Manual pentru emiterea și executarea unui mandat european de arestare*, publicat în J.O.U.E 2017/C 335/01;
9. Concluziile Consiliului European de la Tampere, 15 și 16.10.1999 și programul de măsuri a Consiliului publicat în JO C12, 15.01.2001;
10. Convenția de punere în aplicare a acordului Schengen din 14 iunie 1985;
11. Convenția Europeană de extrădare, întocmită la Paris la 13 decembrie 1957, ratificată prin Protocolul Adițional la Convenția europeană de extrădare, întocmită la Strasbourg

- la 15 octombrie 1975, ratificată prin Al Doilea Protocol Adicional la Convenția europeană de extrădare, întocmit la Strasbourg la 17 martie 1978;
12. Convenția privind extrădarea între statele membre ale Uniunii Europene;
 13. Codul penal;
 14. Codul de procedură penală;
 15. Decizia-cadru 2002/584/JAI;
 16. Decizia-cadru 2003/577/JAI a Consiliului din 22 iulie 2003 privind executarea în Uniunea Europeană a ordinelor de înghețare a bunurilor și probelor, publicată în JO L 196 din 2 august 2003;
 17. Decizia-cadru 2008/976/JAI din 16 decembrie 2008 a Consiliului privind Rețeaua Judiciară Europeană, publicată în JO L 348 din 24 decembrie 2008;
 18. Decizia-cadru 2009/299/JAI a Consiliului din 23 octombrie 2009;
 19. Decizia-cadru 2009/299/JAI a Consiliului din 26 februarie 2009 de modificare a Deciziilor-cadru 2002/584/JAI, 2005/214/JAI, 2006/783/JAI, 2008/909/JAI și 2008/947/JAI, de consolidare a drepturilor procedurale ale persoanelor și de încurajare a aplicării principiului recunoașterii reciproce cu privire la deciziile pronunțate în absența persoanei în cauză de la proces.
http://data.europa.eu/eli/dec_framw/2009/299/oj;
 20. Decizia-cadru 2009/299/JAI a Consiliului din 26 februarie 2009 de modificare a Deciziilor-cadru 2002/584/JAI, 2005/214/JAI, 2006/783/JAI, 2008/909/JAI și 2008/947/JAI, de consolidare a drepturilor procedurale ale persoanelor și de încurajare a aplicării principiului recunoașterii reciproce cu privire la deciziile pronunțate în absența persoanei în cauză de la proces;
 21. Decizia-cadru 2009/299/JAI a Consiliului din 26 februarie 2009 de modificare a Deciziilor-cadru 2002/584/JAI, 2005/214/JAI, 2006/783/JAI, 2008/909/JAI și 2008/947/JAI, de consolidare a drepturilor procedurale ale persoanelor și de încurajare a aplicării principiului recunoașterii reciproce cu privire la deciziile pronunțate în absența persoanei în cauză de la proces;
 22. Declarația Universală a Drepturilor Omului din 10 decembrie 1948;
 23. Directiva (UE) 2016/343 a Parlamentului European și a Consiliului din 9 martie 2016 privind consolidarea anumitor aspecte ale prezumției de nevinovăție și a dreptului de a fi prezent la proces în cadrul procedurilor penale;
 24. Directiva 2013/48/UE a Parlamentului European și a Consiliului din 22 octombrie 2013 privind dreptul de a avea acces la un avocat în cadrul procedurilor penale și al

procedurilor privind mandatul european de arestare, precum și dreptul ca o persoană terță să fie informată în urma privării de libertate și dreptul de a comunica cu persoane terțe și cu autoritățile consulare în timpul privării de libertate;

25. Directiva 2016/1919 a Parlamentului European și a Consiliului din 26 octombrie 2016 privind asistența judiciară gratuită pentru persoanele suspecte și persoanele acuzate în cadrul procedurilor penale și pentru persoanele căutate în cadrul procedurilor privind mandatul european de arestare. <https://eur-lex.europa.eu/eli/dir/2016/1919/oj/?locale=ro> ;
26. Legea nr.30/1994 privind ratificarea Convenției pentru apărarea drepturilor omului și a libertăților fundamentale și a protocoalelor adiționale la această convenție. Se ratifică Convenția pentru apărarea drepturilor omului și a libertăților fundamentale, încheiate la Roma la 4 noiembrie 1950, amendată prin protocoalele nr.3 din 6 mai 1963, nr.5 din 20 ianuarie 1966 și nr.8 din 19 martie 1985 și completată cu Protocolul nr.2 din 6 mai 1963, care fac parte din acestea;
27. Legea nr.302/2004 privind cooperarea judiciară internațională în materie penală, modificată prin Legea nr.411 din 27 mai 2019;
28. Legea nr.302/2004 privind cooperarea judiciară în materie penală, modificată prin Legea nr.411 din 27 mai 2019, *Darea în urmărire internațională*;
29. Legea nr.51/2021 pentru modificarea Legii nr.302/2004 privind cooperarea judiciară internațională în materie penală;
30. Legea nr.565/2002 pentru ratificarea Convenției Națiunilor Unite împotriva criminalității transnaționale organizate, a Protocolului privind prevenirea, reprimarea și pedepsirea traficului de persoane, în special al femeilor și copiilor, adițional la Convenția Națiunilor Unite împotriva criminalității transnaționale organizate, precum și a Protocolului împotriva traficului ilegal de imigranți pe calea terestră, a aerului și pe mare, adițional la Convenția Națiunilor Unite împotriva criminalității transnaționale organizate, adoptate la New York la 15 noiembrie 2000;
31. Lei no 144/99 de 31 Agosto, *Aprova a lei de cooperação judiciária internacional em matéria penal* <https://diariodarepublica.pt/dr/detalhe/lei/144-1999-581978>
32. Manual privind emiterea și executarea unui mandat european de arestare, Bruxelles , 28.09.2017 C (2017) 6389;
33. Planul de acțiune al Consiliului și al Comisiei din 3 decembrie 1998 privind cel mai bun mod de a pune în aplicare a dispozițiilor Tratatului de la Amsterdam privind crearea unui spațiu de libertate, securitate și justiție;

34. Prelucrat după Raportul Anual 2023 Eurojust. <https://www.eurojust.europa.eu/annual-report-2023>;
35. Prezentarea întregului cadru al litigiului principal și a întrebării preliminare, a se vedea CJUE, C-294/16 PPU, JZ împotriva Prokuratura Rejonawa Lodz - Srodmiescie, <https://curia.europa.eu/juris/document/document.jsf?jsessionid=F5ED0522016563013A80A8850B5D41F3?text=&docid=181834&pageIndex=0&doclang=ro&mode=lst&dir=&occ=first&part=1&cid=26878068>;
36. Protocolul (nr.3) privind Statutul Curții de Justiție a Uniunii Europene, anexat la tratate, astfel cum a fost modificat prin Regulamentul (UE, Euratom) nr.741/2012 al Parlamentului European și al Consiliului din 11 august 2012, publicat în JO L 228, 23 august 2012;
37. Protocolul nr.7 adițional la CEDO și art.50 din Carta Drepturilor Fundamentale a UE, publicat în JO C 303/14 decembrie 2007;
38. Publicat în J.O.UE seria L 190/1 din 18 iulie 2002, modificată prin Decizia-cadru 2009/299/JAI a Consiliului de consolidare a drepturilor procedurale ale persoanelor și de încurajare a aplicării principiului recunoașterii reciproce cu privire la deciziile pronunțate în absența persoanei în cauză de la proces, publicată în J.O.U.E. seria L 81 din 27 martie 2009;
39. Report from The Commission to the European Parliament and The Council on the implementation since 2007 of the Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States, Brussels, 11 aprilie 2011 COM (2011) 175, final;
40. Statutul de la Roma al Curții Penale Internaționale (1988); Convenția privind prevenirea și pedepsirea crimei de genocid (1948); Rezoluțiile Consiliului de Securitate al ONU; Convențiile de la Geneva (1949) și Protocoalele Adiționale (1977). Jurisprudență internațională: *Prosecutor v. Charles Taylor* la Tribunalul Special pentru Sierra Leone <https://www.refworld.org/jurisprudence/caselaw/scsl/2012/en/85716> , sau *Prosecutor v. Omar Al-Bashir* la Curtea Penală Internațională <https://www.icc-cpi.int/darfur/albashir> ;
41. Tratatul dintre statele Benelux privind extrădarea și asistența judiciară în materie penală din 27 iunie 1962;
42. Tratatul privind Uniunea Europeană și a Tratatului privind Funcționarea Uniunii Europene (2016/C 202/01);

43. TUE, în forma în vigoare la momentul adoptării Deciziei-cadru. Articolul a suferit modificări majore prin Tratatul de la Nisa și Tratatul de la Lisabona;

II. Works by author

1. A. Górski, *The European Arrest Warrant and its Implementation in the Member States of the European Union*, Editura C.H.Beck, Varșovia, 2008;
2. A. Nieto-Martin, *Principiul recunoașterii reciproce și al încrederii reciproce*, în *Revista de drept penal* nr.4/2012;
3. A. Hernández López, *El papel de eurojust en la resolucion de conflictos de jurisdiccion penal en la union europea. Propuestas legislativas*, Editorial Thomson Reuters aranzadi, Espana, 2020;
4. A. Boroï, *Drept penal partea generală, Ediția a 5-a*, Editura C.H.Beck, București, 2022;
5. A. Boroï, I. Rusu, M.I Rusu, *Tratat de Cooperare judiciară internațională în materie penală*, Editura C.H.Beck, București, 2016;
6. A. N. Pîrvulescu, *The importance of judicial cooperation in criminal matters in the age of contemporary globalization*, în *Law Society & Organization*, Vol. II, Issue 2 (1/2017),
7. A. E. Constantin, *Punct de vedere asupra angajării răspunderii civile a statului român în cazul erorilor judiciare produse atunci când autoritățile judiciare române pun în executare mandate europene de arestare emise de către state (partea a II-a)*. *Revista Pro-lege*
8. A. E. Constantin, *Punct de vedere asupra angajării răspunderii civile a statului român în cazul erorilor judiciare produse atunci când autoritățile judiciare române pun în executare mandate europene de arestare emise de către alte state, (Partea a II-a)*, în *Pro Lege* nr.2/2017;
9. A. Sinn, L. Worner, *The European Arrest Warrant and Its Implementation in Germany – Its Constitutionality, Laws and Current Developments*, în *ZIS* nr.5/2007, pp.204-220 https://www.zis-online.com/dat/artikel/2007_5_135.pdf
10. A. Fuerea, *Manualul Uniunii Europene. Ediția a VI-a, revăzută și adăugită*, Editura Universul Juridic, București, 2016;
11. B. David, *Natura juridică a dreptului la apărare în procesul penal*, în *Univers Strategic*, anul V, nr.2 (18), București, 2014;
12. B. Dragoș, *Arestarea preventivă și detenția în jurisprudența CEDO*, Editura Hamangiu, București, 2008;

13. B. Micu, Radu Slavoiu, *Cooperare judiciară internațională în materie penală*, Editura Hamangiu, București, 2020;
14. C. Beccaria, *Dei delitti e delle pene*, (Despre infracțiuni și pedepse) Editura Științifică, București, 1965;
15. C. Mitrache, C. Mitrache, *Drept penal român*, Ediția a 5-a, Editura Universul Juridic, București, 2023;
16. C.M. Bautista Samaniego, *Aproximación crítica a la orden europea de detención y entrega*, Editorial Comares, Granada, 2015;
17. C. Murphy, *The european evidence warrant: mutual recognition and mutual (dis)trust*, în Eckers Konstadinides, *Crime within te area of freedom, security and justice: a European public order*, Eds. Cambridge University Press, 2011;
18. C. Renaud, *Domesticating the European Arrest Warrant: European Criminal Law between Fragmentation and Acculturation in Colson*, Renaud, Field, Steward, *Eu criminal justice and the challenges of diversity: legal culttues in the area of freedom security and justice*, Cambrige University Press, 2016;
19. D. A. Cărmidariu, *Jurisprudența Curții Constituționale a Germaniei în materia integrării, II*; publicată în *Analele Universității de Vest din Timișoara. Seria Drept* nr.2/2014;
20. D. Flore, *Droit pénal européen. Les enjeux d'une justice pénale européenne*, Larcier, Bruxelles, 2014;
21. D. Grădinaru, Florentina Dragomir, *Executarea mandatului european de arestare de către instanțele române. Jurisprudență comentată*, Editura C.H.Beck, 2013;
22. D. Dediu, *Locul comiterii infracțiunilor prin internet – implicații asupra executării mandatului european de arestare*, comunicare susținută la Conferința cu participare internațională „Abordare multidisciplinară în domeniul prevenirii și combaterii criminalității informatice”, București, 2018;
23. D. Dediu, *Mandatul european de arestare*, Editura Universul Juridic, București, 2022;
24. D. Dediu, *Scurte considerații referitoare la efectele unei cereri de consimțământ, în baza principiului specialității în materia extrădării, asupra cursului prescripției răspunderii penale*, în *Pro Lege* nr.1/2018;
25. D. – Martha Ilucă, *Dreptul Uniunii Europene. Spațiul de libertate, securitate și justiție*, Note de curs, Editura Hamangiu, București, 2024;

26. E. Herlin – Karnell, *Constitutional Principales in the EU Area of Freedom, Security and Justice* în D. Acosta și C. Murphy (ed.) *Eu Security and Justice Law*, Hart Publishing, Oxford, 2014;
27. E. N. Vâlcu, *Dreptul Uniunii Europene. Instrumente legislative unionale și de transpunere privind cooperarea judiciară unională în materie penală. Comentarii*, Editura C.H.Beck, București, 2023;
28. F. R. Radu, *Legea 302/2004 privind cooperarea judiciară internațională în materie penală – un pas important spre integrarea României în spațiul de libertate, securitate și de justiție al Uniunii Europene*, în *Revista Dreptul* nr.11/2004;
29. F. Streteanu, Daniel Niță, *Drept penal. Parte generală. Volumul II*, Editura Universul Juridic, București, 2018;
30. F. Streteanu, Daniel Nițu, *Drept penal. Partea generală*, Editura Universul Juridic, București, 2014;
31. G. L. Ispas, Daniela Panc, *Drept instituțional al Uniunii Europene*, Editura Hamangiu, București, 2019;
32. G. Legault, *Fonctions et structure du langage juridique*, în *Meta* nr.1/1979, vol. 24,
33. G. Bodoroncea, V. Cioclei, Irina Kugly ș.a. *Codul penal. Comentariu pe articole*, Ediția a 3-a, Editura C.H.Beck, București, 2020;
34. G. Tudor, M. Constantinescu, *Mandatul european de arestare. Aspecte teoretice și practică judiciară*, Editura Hamangiu, București, 2009;
35. G. Sabrine, Schaffner Daniel, *The Handing Over of Property According to Article 29 of the European Arrest Warrant Framework Decision: Legal Scope, Implementation and alternative regimes of the handing over Property in the EU Members States*, în N. Keijzer E van Sliedret (eds.) *The European arrest warrant in practice*, TMC Asser Press, Haga, 2009;
36. G. Fabian, *Drept instituțional al Uniunii Europene, Ediția a 3-a*, Editura Hamangiu, București, 2023;
37. I. Muraru, E.S. Tanasescu, *Constituția României. Comentariu pe articole*, Ediția a 3-a, Editura C.H. Beck, București, 2022;
38. I. Gâlea, *Tratatul Uniunii Europene. Comentarii și explicații*, Editura C.H.Beck, București, 2012;
39. I. E. Nistor, *Extrădarea. Formă a cooperării judiciare internaționale în materie penală*, Editura C.H.Beck, București, 2020;

40. Înlocuită prin Regulamentul (UE) 2018/1727 al Parlamentului European și al Consiliului din 14 noiembrie 2018 privind Agenția Uniunii Europene pentru Cooperare în Materie de Justiție Penală (EUROJUST).
41. J.Pradel, G. Corstens, *Droit pénal européen*, Dalloz, Paris, 1999;
42. J. Goldsmith, *EWA-Right, Analysis of the implementation and operation of the European Arrest Warrant from the point of view of defence practitioners*, Council of Bars and Law Societies of Europe, European Lawyers Fondation;
43. J. Hester, K.Michael, M. Zainea, *Recunoașterea reciprocă în domeniul cooperării judiciare în materie penală: instrumente juridice și implementarea lor. Manual.*, Editura Euro Standard, București, 2010;
44. K. Lenaerts, *The Principle of Mutual Recognition in the Area of Freedom, Security and Justice*;
45. L.A. Susuan, *Detention*, în Keijzwe, Nico van Sliedregt Elies, *The European arrest warrant in practice*, TMC Asser Press, Haga, 2009;
46. L. Klimek, *European Arrest Warrant*, Editura Springer, 2015;
47. L.M. Montaldo Stefano, *On a collision course! Mutual recognition, mutual trust and the protection of fundamental rights in the recent case-law of The Court of Justice*, in Europran Papers nr.3/2016, vol. I;
48. I. Muraru, E.S. Tănăsescu s.a., *Constituția României. Comentariu pe articole, Ediția a 3-a*, Editura C.H.Beck, București, 2022;
49. I.C. Morar, *Mandatul european de arestare. Infrațiuni exceptate de la verificarea îndeplinirii condiției dublei incriminări*, în Buletinul Rețelei Judiciare Române în materie penală, Editura Hamangiu, 2011;
50. M. Pătrăuș, *Considerații privind întreruperea cursului prescripției executării pedepsei în cazul emiterii mandatului european de arestare*, Curierul judiciar nr.4/2011, Editura C.H.Beck, București;
51. M. Pătrăuș, *Cooperare judiciară internațională în materie penală. Compendium. Legislație. Doctrină. Jurisprudență europeană și națională*, Editura Universul Juridic, București, 2021;
52. M. Pătrăuș, *Drept instituțional European – curs universitar*, Editura Pro Universitaria, București, 2018;
53. M. Pătrăuș, *Principiul non bis in idem în lumina jurisprudenței europene și naționale*, Buletinul Rețelei Judiciare Române în materie penală, anul II, 2013, Editura Hamangiu, București, 2014;

54. M. Pătrăuș, *Recunoașterea unei hotărâri penale pronunțate într-un stat membru UE de către România. Aplicarea principului ne bis in idem*, în Revista Facultății de Drept Oradea, 1/2018, Editura Pro Universitaria;
55. M. Pătrăuș, *Scurte considerații referitoare la probleme din practica judiciară privind predarea persoanei căutate în baza mandatului european de arestare în contextul pandemiei*, în Revista Universul Juridic Premium nr.1/2021;
56. M. Vasiescu, *Mandatul european de arestare – art. 548 C.pr.pen.*, în Revista Română de Jurisprudență nr.4/2019, Editura Universul Juridic.
57. M.A. Hotca, *Manual de drept penal. Partea generală*, Ediția a IV-a, revăzută și adăugită, Editura Universul Juridic, București, 2024;
58. M. Udriou, A. Andone Bontaș, ș.a., *Codul de procedură penală. Comentariu pe articole*, Ediția a 4-a, Editura C.H.Beck, București, 2023;
59. M. I. Rusu, *Asistența judiciară în materie penală la nivel european*, Editura Universul Juridic, București, 2015;
60. N. Keijzer, Elies van Slidregt, *The european arrest warrant in practice*, Editura T.M.C. Asser Press, Haga, 2009;
61. N. Volonciu, A.S. Uzlău, ș.a. *Codul de procedură comentat. Ediția a 4-a*, Editura Hamangiu, București 2024;
62. Maierhöfer, *Weltrechtsprinzip and Immunität: das Völkerstrafrecht vor den Haager Richtern*, Europäische Grundrechte – Zeitschrift – EuGRZ, 2003, pp.545 și urm.
63. Manual pentru emiterea și exercitarea unui mandat european de arestare, (2017/C 335/01), p. 12.
64. M. Jimebo-Bulnes, *The enforcement of the European Arrest Warrant in Spain: problems of practice and legislation*, p. 94.
65. N. Neagu, *Cooperare judiciară internațională în materie penală*, Editura Universul Juridic, București, 2012,
66. N. Neagu, Daniela Dediu, *Cooperare judiciară internațională în materie penală. Ediția a II-a, revăzută și adăugită*, Editura Universul Juridic, București, 2021,
67. N. Volonciu, A.S. Uzlău (coord.) *Noul Codu de procedură penală comentat*, Ediția a 2-a, revizuită și adăugită, Editura Hamangiu, București, 2015;
68. O.M.Salomia, *Instrumente juridice de protecție a drepturilor fundamentale la nivelul Uniunii Europene*, Editura C.H.Beck, București, 2020,
69. P. Lemoine, *La jurisprudence de la chambre criminelle en matière de mandat d'arrêt européen*, în „Bulletin d'information”, 15 martie 2009;

70. *Pitrzak v. Regional Court in Wloclawek, Poland*, (2008), *WLR (D)* 190, <https://www.innertemplelibrary.com/2008/06/pietrzak-v-regional-court-in-wloclawek-poland-wlr-daily/>
71. S. Miettinen, *Onward transfer under the European Arrest Warrant: is the EU moving towards the free movement of prisoners?* In „New Journal of European Criminal Law”, nr.1-2/2013, Volumul 4;
72. S. Deva Bedi, *Extradition in International Law and practice*, Bronder-Offset, Rotterdam, 1996;
73. S. Bot, *Le mandat d'arrêt européen*, Larcier, Bruxelles, 2009;
74. S. Maior Mariana, *Consent Procedure*, în Keijzer Nico van Sliedregt Elies, *The European Arrest Warrant in practice*, TMC Asser Press, Haga, 2009;
75. V. Cioclei, Iuliana Nedelcu, Teodor Manea, ș.a. *Codul penal. Comentariu pe articole*, Ediția 3, Editura C.H.Beck, București, 2020;
76. V. Mitsilegas, *EU Criminal Law*, Hart Publishing, Oxford, 2009;
77. P.Craig, de Burca Grainne, *Dreptul Uniunii Europene. Comentarii, jurisprudență și doctrină*, Editura Hamangiu, București, 2017;
78. E.N. Vâlcu, *Dreptul Uniunii Europene. Instrumente legislative unionale și de transpunere privind cooperarea judiciară unională în materie penală. Comentarii*, Editura C.H.Beck, București, 2023.

III. European and national case law

1. Bundesverfassungsgericht, Hotărârea celui de-al doilea Senat din 18 iulie 2005, 2 BvR 2236/04;
2. BverfG, Ordinul Senatului II din 18 iulie 2005, 2 BvR 2236/04 alin. 1-201, https://www.bverfg.de/e/rs20050718_2bvr223604en;
3. C-2/2013, EU:C:2014:2454, din 18 decembrie 2014;
4. C-514/17, *Marin-Simion*, Sut, Hotărârea din 13 decembrie 2018, ECLI:EU:C:2018:1016;
5. C-66/08, *Kozłowski*, hotărârea din 17 iulie 2008 EU:C:2008:437;
6. Cauza C-123/08, *Dominic Wolzenburg*, hotărârea din 6 octombrie 2009, ECLI:EU:C:2009:616;
7. Cauza C-191/16, *Pisciotti*, hotărârea din 10 aprilie 2018, ECLI:EU:C:2018:222 ;
8. Cauza C-195/20, *XC*, hotărârea din 24 septembrie 2020, ECLI:EU:C:2020:749;

9. Cauza C-237/15, *Minister for Justice and Equality/ Francis Lanigan*, hotărârea din 16 iulie 2015, ECLI:EU:C:2015:474, pct.59;
10. Cauza C-270/17, *Tupikas*, hotărârea din 10 august 2017, ECLI:EU:C:2017:628;
11. Cauza C-306/09, *IB*, hotărârea din 21 octombrie 2010, ECLI:EU:C:2010:626, pct.50;
12. Cauza C306-09, *IB*, Hotărârea din 21 octombrie 2010, ECLI:EU:C:2010:626;
13. Cauza C-399/11, *Stefano Melloni*, Hotărârea din 26 februarie 2013, ECLI:EU:C:2013:107;
14. Cauza C-416/20, TR hotărârea din 17 decembrie 2020, ECLI:EU:C:2020:1042;
15. Cauza C467/18, EP, hotărârea din 19 septembrie 2019, ECLI:EU:C:2019:765;
16. Cauza C-492/18 PPU, *TC*, hotărârea din 12 februarie 2019, ECLI:EU:C:2019:108;
17. Cauza C-502/19, *Oriol Junqueras Vies*, hotărârea din 19 decembrie 2019, ECLI:EU:C:2019:1115, pct.84;
18. Cauza C514/17, *Marin-Simion Sut*, hotărârea din 13 decembrie 2018, ECLI:EU:C:2018:1016, pct.29-30;
19. Cauza C-551/18, *IK*, hotărârea din 6 decembrie 2018, ECLI:EU:C:2018:991;
20. Cauza C-640/15, *Tomas Vilkas/Lituania*, hotărârea din 25 ianuarie 2017, ECLI:EU:C:2017:39, pct.26;
21. Cauza C665/20 PPU, X, hotărârea din 29 aprilie 2021, ECLI:2021:339 sau decizia nr.3902/2010 a Înaltei Curți de Casație și Justiție, Secția penală, www.scj.ro ;
22. Cauza C-665/20 PPU, X, Hotărârea din 29 aprilie 2021, ECLI:EU:C:2021:339;
23. Cauza CEDO *Mursic/Croația*, hotărârea din 20 octombrie 2016;
24. Cauza CEDO *Stoichkov/Bulgabrai*, hotărârea 24 martie 2005;
25. Cauza CEDO *Varga/România*, hotărârea din 11 martie 2008;
26. Cauza CEDO, hotărârea *Hermi/Italia* din 28 iunie 2005 și *Sejdovic/Italia*, hotărârea din 1 martie 2006;
27. Cauza CEDO, *Huber/Elveția*, hotărârea din 23 octombrie 1990;
28. Cauza *Dominic Wolzenburg*, C123/08, hotărârea din 6 octombrie 2009;
29. Cauza *Varga și alții împotriva Ungariei*, Cererile nr.14097/12, 54135/12, 73712/12, 34001/13, 44055/13 și 64586/13, Strasbourg;
30. Cauzele C123/08, *Dominic Wolzenburg*, hotărârea din 6 octombrie 2009, ECLI:EU:C:2009:616, pct.62;
31. Cauzele C-486/14, *Kossowski*, hotărârea din 29 iunie 2016, ECLI:EU:C:2016/:48; C-452/16 PPU, *Poltorak*, hotărârea din 10 noiembrie 2016, ECCLI:EU:C:2016:858;

32. Cauzele conexate C-404/15 și C-659/15 PPU, *Pal Aranyosi și Robert Căldăraru*, hotărârea din 5 aprilie 2016, ECLI:EU:C:2016:198;
33. CJUE, Cauza *AY*, C-268/17 hotărârea din 25 iulie 2018, dispozitiv. CJUE, Cauza *Piotr Kossowski*, C-486/14 hotărârea din 29 iunie 2016 dispozitiv, Cauza C-488/19, *JR*, hotărârea din 17 martie 2021, ECLI:EU:C:2021:206;
34. CJUE, Cauza C-182/15, *Petruhhin*, hotărârea din 6 septembrie 2016, ECLI:EU:C:2016:630;
35. CJUE, Cauza *Dawid Piotrowski*, C-367/16, hotărârea din 18 ianuarie 2018, dispozitiv;
36. CJUE, Cauza *Dworezecji*, C-108/16 PPU, hotărârea din 24 mai 2016, dispozitiv;
37. CJUE, cauza *Jeremy F. c. Premier ministre*, C-168/13 PPU, hotărârea din 30 mai 2023, parag.36;
38. CJUE, Cauza *Jozef Grundza*, C-289/15 PPU, hotărârea din 11 noiembrie 2017;
39. CJUE, Cauza *JZ c. Prokuratura Rejonowa Lodz – Srod miescie*, C-294/16 PPU, hotărârea din 28 iulie 2016;
40. CJUE, cauza *Leymann și Pustovarov*, C-388/08 PPU, hotărârea din 1 decembrie 2008;
41. CJUE, Cauza *Melvin West*, C-192/12 POU, hotărârea din 28 iunie 2012;
42. CJUE, Cauza *Stefano Melloni c. Ministerio Fiscal*;
43. CJUE, Concluziile Avocatului General Damaso Ruiz-Jarabo Colomer în cauza C-297/07, *Bourquain*, prezentate la 8 aprilie 2008;
44. CJUE, Concluziile Avocatului General Paolo Mengozzi în cauza C-42/11, *Lopes Da Silva Jorge*, prezentate la 20 martie 2012;
45. CJUE, Concluziile Avocatului General Paolo Mengozzi în cauza C-42/11, *Lopes Da Silvia Jorje*;
46. CJUE, Concluziile Avocatului General Paolo Mengozzi, prezentate la 2 decembrie 2009, *Cauza C-171/08*;
47. CJUE, Concluziile Avocatului General Pedro Cruz Villalon în cauza C-306/09, *IB* prezentate la 6 iulie 2010;
48. Concluziile Avocatului General Evgeni Tanchev prezentate la 28 iunie 2018 în Cauza C-126/18 PPU;
49. Concluziile președinției Consiliului European de la Cardiff din 15-16 iunie 1998;
50. Controlul proporționalității este prevăzut la art.10 par.3 din Directiva 2014/41/UE a Parlamentului European și a Consiliului din 3 aprilie 2014 privind ordinul european de anchetă în materie penală, publicat în JO L 130 din 1 mai 2014, p.1;

51. CtEDO, Cauza *Kafkaris c. Ciprului*, cererea nr.21906/04, hotărârea din 12 februarie 2008;
52. Curtea de Apel Bacău, s.pen., sent.pen., nr.8 din 21 ianuarie 2021, definitivă, nepublicată;
53. Curtea de Apel București, s. a II-a, sen. Nr.189 din 3 iulie 2009;
54. Curtea de Apel București, s.I. pen., sent.pen.nr.87 din 27 aprilie 2021, <http://sintact.ro/>;
55. Curtea de apel București, Secția a II-a penală, dec.pen., nr.233/CO din 23 aprilie 2015 (dosar nr.2421/2/2015). ICCJ, Secția penală, încheierea nr.3079 din 02.12.2014 (dosar nr.2827/2/2014/a12); ICCJ Secția penală, încheierea nr.277 din 25 februarie 2015;
56. Curtea de Apel Cluj, s. pen., și min. înch. Din 10 iunie 2009;
57. Curtea de Apel Cluj, Secția penală, sent.pen nr.24 din 18 martie 2014;
58. Curtea de Apel Constanța, s.pen., sent. Nr.70 din 10 iunie 2010;
59. Curtea de Apel Craiova, s.pen., nr.154 din 7 iulie 2012;
60. Curtea de Apel Galați, s.pen. sent. Nr.20 din 8 februarie 2016;
61. Curtea de Apel Iași, s.pen., sent.nr.9 din 19 iunie 2009, disponibilă pe www.jurisprudenta.org ;
62. Curtea de Apel Oradea, s.pen., sent. Pen., nr. 19/P din 27 martie 2020;
63. Curtea de apel Oradea, s.pen. dec. Nr.133/C din 10 octombrie 2014;
64. Curtea de Apel Oradea, s.pen., sent. Nr.41/PI din 3 aprilie 2009;
65. Curtea de Apel Oradea, s.pen., sent. Nr.80 din 3 iulie 2012, modificată prin dec.pen., nr.2487 din 27 iulie 2012 a ICCJ;
66. Curtea de Apel Oradea, Secția penală și pentru cauze cu minori, încheierea din 10 iulie 2020, pronunțată în dosarul 165/35/2020, privind pe persoana solicitată VC; încheierea din 15 iulie 2020 pronunțată în dosarul nr.182/35/2020, privind persoana solicitată LMC, nepublicată; încheierea din 17 iulie 2020 pronunțată de Curtea de Apel București, s.I. pen. Privind persoana solicitată A, definitivă prin. Dec. pen. Nr.435/2020 pronunțată de ICCJ, Secția penală;
67. Curtea de Apel. Iași, S. pen., Sent. nr. 11/2009, definitivă prin nerecurare, *apud* D. Grădinaru, F. Dragomir, *op. cit.*, p. 114-117;
68. Curtea de Casație, Camera penală din 25 mai 2005, 05-81.724;
69. Decizia nr.2 din 12 martie 2012, pronunțată de ICCJ complet RIL, publicată în M. Of. nr.281 din 27 aprilie 2012;
70. Declarația universală a drepturilor omului și cetățeanului din 1789. Declarația universală a drepturilor omului din 1948; Pactul internațional cu privire la drepturile

civile și politice din 1966; Convenția europeană a drepturilor omului și a libertăților fundamentale din 1950;

71. Hotărârea Curții de Justiție din 1 iunie 2016 Bob-Dogi, C-241/15, ECLI:EU:C:2016:385;
72. Hotărârea Curții de Justiție din 16 noiembrie 2010, Mantello, C-261/09 ECLI:EU:C:2010:683;
73. Hotărârea Curții de Justiție din 27 mai 2014, PPU, Spasic, C-129/14 ECLI:EU:C:2014:586;
74. Hotărârea Curții de Justiție din 28 iunie 2012, *West*, C-192/12 PPU, ECLI:EU:C:2012:404;
75. Hotărârea Curții de Justiție din 3 mai 2007, *Advocaten voor Wereld*, C-303/05, ECLI:EU:C:2007:261, punctele 48-61;
76. Hotărârea din 1 iunie 2016, *Bob-Dogi*, C:2016:385;
77. Hotărârea din 27 aprilie 2005 a Tribunalului Constituțional al Poloniei;
78. ICCJ s.pen, dec. nr. 1469 din 24 noiembrie 2016;
79. ICCJ s.pen., dec nr.255 din 23 martie 2018;
80. ICCJ s.pen., dec. nr. 40 din 16 ianuarie 2018;
81. ICCJ s.pen., dec. nr.1118 din 26 martie 2008;
82. ICCJ s.pen., dec. nr.3141 din 12 iunie 2007;
83. ICCJ s.pen., dec. nr.488 din 9 mai 2017;
84. ICCJ s.pen., dec. nr.53 din 20 ianuarie 2017;
85. ICCJ s.pen., dec.nr. 312, din 10 iunie 2019;
86. ICCJ s.pen., nr.307 din 6 martie 2015;
87. ICCJ, complet RIL, dec. Nr.2. din 12 martie 2012, publicată în M.Of. nr 281 din 27 aprilie 2012;
88. ICCJ, s.pen., dec. nr. 206 din 28 februarie 2017;
89. ICCJ, s.pen., dec. nr.488 din 9 mai 2017;
90. ICCJ, s.pen., dec. pen. Nr. 2795/2010 în Buletinul Rețelei Judiciare Române în materie penală, anul I, 2012, Editura Hamangiu, București, 2013;
91. Judecătoria Arad, sen.pen., nr.1943 din 20 septembrie 2016;
92. Sentința penală nr.108 din 20 martie 2014 pronunțată de Judecătoria Caransebeș;
93. Sentința penală nr.83 din 5 mai 2015 pronunțată de Judecătoria Huși;
94. Tribunalul Giurgiu s.pen. Decizia nr.773 din 23 octombrie 2014;
95. Tribunalul Bistrița – Năsăud, s.pen., dec. Nr.102/C din 2 noiembrie 2016;

96. Tribunalul Teleorman, s.pen., încheierea nr.136 din 7 noiembrie 2019,
<https://sintact.ro.ro/>.

IV. Bibliographic resources on the INTERNET

1. <https://www.legifrance.gouv.fr/juri/id/JURITEXT000007068708>
2. <https://drept.uvt.ro/administrare/files/1481047524-dr.-dan---adrian-ca--ra--midariu.pdf>
3. https://eur-lex.europa.eu/eli/dec_framw/2009/299/oj/eng
4. <https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=CELEX:62005CJ0303>
5. <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32002F0584>
6. <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32002F0584>
7. <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex%3A32002F0584>
8. <https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=celex:32012L0013>
9. https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=LEGISSUM:2303_2
10. https://european-union.europa.eu/principles-countries-history/history-eu/eu-pioneers_ro
11. <https://fra.europa.eu/ro/eu-charter/article/47-dreptul-la-o-cale-de-atac-eficienta-si-la-un-proces-echitabil>
12. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
13. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
14. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
15. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
16. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
17. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
18. <https://legislatie.just.ro/Public/DetaliiDocument/53158>
19. <https://legislatie.just.ro/Public/DetaliiDocumentAfis/153510>
20. <https://likumi.lv/ta/lv/starptautiskie-ligumi/id/804>
21. <https://politiaromana.ro/ro/politia-romana/unitati-centrale/centrul-de-cooperare-politieneasca-internationala>
22. <https://schengen.mai.gov.ro/Documente/utile/catutil/Conventia%20Schengen.pdf>
23. <https://www.ejn-crimjust.europa.eu/ejn2021/Home/RO>
24. <https://www.eurojust.europa.eu/annual-report-2023>
25. <https://www.dirittounioneuropea.eu/principle-mutual-recognition-area-freedom-security-justice>
26. www.scj.ro