

EUROPEAN PROTECTION ORDER IN CRIMINAL MATTERS: A NEW FORM OF COOPERATION IN EUROPEAN UNION

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Abstract

Treaty on the Functioning of the European Union (TFEU) emphasized judicial cooperation in criminal matters, based on the principle of mutual recognition of all types of judgments and decisions of a judicial nature. In a common area of justice without internal borders, it was considered necessary to adopt a EU legal instrument that should provide achievement of the following desideratum: protection provided to a natural person in one Member State is maintained and continued in any other Member State to which the person moves or has moved.

Directive 2011/99/EU of the European Parliament and of the Council sought to establish rules by means of which protection measures adopted in criminal matters in the issuing Member State can be extended to any of the executing Member States.

In this context, the purpose of the article is to analyze if Romanian authorities transposed the Directive according to the purposes for which it was adopted and whether the measures taken at national level by Law no. 151/2016 ensure effective protection of fundamental rights protected in all Member States: life, freedom, physical or sexual integrity, etc.

The objectives of the present study are to analyze the European protection order in criminal matters as it is regulated by the above mentioned national law of transposition, to explain the terminology used, to analyze the procedure of issuing this protection measure in a Member State/recognizing it in another Member State and, last but not least, practical aspects related to execution.

Keywords: European protection order. Directive 2011/99/EU of the European Parliament and of the Council. Issuing Member State. Executing Member State. Supervision Member State.

1. Introduction

The Treaty on the Functioning of the European Union¹ (TFEU) has granted a special importance to the subject of international cooperation in criminal matters, based on the principle of mutual recognition of judgments and judicial decisions. This principle is found in article 82 (1) a, d of TFEU regarding:

- the introduction of norms and procedures that will insure the recognition, throughout the entire EU, of all categories of judgments and judicial decisions.
- the facilitation of cooperation between judicial authorities, or their equivalent, in Member States in the area of criminal investigation and enforcing court decisions.

Placing in the centre of attention the component of judicial cooperation between Member States has appeared as a stringent necessity, able to respond to the needs pointed out by other measures adopted by the EU. Among these measures the gradual abolition of controls at common borders on EU territory stands out, issue that has given the possibility for EU citizens to travel free, but has also allowed the criminals to act easier at a transnational level².

In order to rebut the transnational organized crime phenomena the Lisbon Treaty has comprised measures

meant to encourage international cooperation in criminal matters, as well as regulations meant to ensure that the rights of the victims are effectively protected throughout the EU.

The Stockholm Programme – an open and secure Europe serving and protecting citizens³, has shown the way that an united Europe wants to take on the matter of judicial cooperation, establishing as its goal that mutual recognition should be extended to all types of judgments and judicial decisions of a juridical nature, regardless if these are, depending on the legal system, either criminal or administrative.

In particular, in the EU there has been a constant preoccupation for consolidating the rights of the victims of crimes, as well as the protection that the national authorities are obliged to give them. Thus came the need to find a mechanism of cooperation between Member States that would guarantee the mutual recognition of all decisions that comprise measures of protection for the victims of crimes conferred by criminal proceedings.

In a common area of justice without internal frontiers it was considered necessary to adopt, at EU level, an instrument meant to ensure the fulfilment of a desideratum: the protection provided to a natural person in a Member State is maintained and continued

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¹ Signed by the EU Member States at the 13th of December 2007, in force following December 1st 2009

² Kristiina Milt, <http://www.europarl.europa.eu>

³ Published in the Official Journal of the European Union (2010/C 115/01) on 4/5/2010

in any other member state in which that person moves or has moved.

On December 21st 2011, in the Official Journal of the European Union, the Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order was published, this act having been intended to be an instrument for the protection of all persons that have been or could become victims of crime, its stated goal being the extending of the protection stemming from certain judicial decisions given according to the internal law of a Member State, to other Member States, where the protected person decides to move to or to reside.

The aforementioned Directive 2011/99/EU of 13 December 2011 on the European protection order was further implemented in the internal legislation in 2016 through the passing of Law no. 151/2016 on July 13th 2016⁴.

In this context, the aim of the article is to analyse the extent in which the Romanian authorities have implemented in the national legislation and have taken in the abovementioned Directive according to the goals for which it was adopted and if the measures taken at a national level are able to ensure the efficient protection of certain fundamental rights recognized and upheld in all Member States: life, freedom, physical or sexual integrity etc.

Concurrently, this study aims to analyse the European protection order in criminal matters, to explain the terminology used by the national legislation, to analyse the procedure carried out for the issuing/recognition of this protection measure, and last but not least, reveal practical sides of the executing procedure itself.

The analysis of the case-law of the national courts is also able to probe if the national judicial instrument corresponds to the assumed objectives.

2. Content

The European protection order is represented as a decision adopted by a judicial authority, or an equivalent one, of a Member State, comprising a protection measure, on whose grounds a judicial authority, or an equivalent one, of another Member State orders the adequate and appropriate measures, under the provisions of its national legislation, in order to provide continued protection to the protected person.

Out of reasons of legislative technicality, for a better clarity of the legal text, the national rendering of the law clarifies the meaning of the terms used in Law no. 151/2016, such as: “measure of protection”, “protected person”, “issuing State” or “executing State”.

Thus, „*protection measure*” refers to a final decision in a criminal matter adopted in the issuing State and through which one or more prohibitions or restrictions are imposed on the person causing danger, in order to prevent the committing upon the protected person of a crime that might endanger its fundamental rights recognised and upheld in all Member States such as life, physical and psychological integrity, dignity, personal freedom or sexual integrity.

It must be said that, in the denotation of the law, “protection measure” refers **exclusively** to the decisions taken in criminal matters, whilst, for mutual acknowledgement of the protection measures in civil matters the provisions of Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 are applicable⁵.

The prohibitions and the restrictions that may be enforced in this procedure may be:

1. the prohibition to enter certain localities, places or specific areas where the protected person resides or visits;
2. the prohibition to contact, under any form, the protected person, including by phone, electronic or ordinary mail, fax or any other means;
3. the prohibition to approach the protected person closer than a prescribed distance.

In the event in which the court ruling deems it satisfying, its decision can only refer either to a partial limitation or the precise lining out of the way of contacting or approaching the protected person.

In general terms, the European protection order may be issued, or recognized and enforced, according to the specific situation, only when the protected person has established its domicile or residence or has inhabited for a period of time or is about to establish its domicile or residence or will inhabit for a period of time on the territory of another Member State than in the one where the protection measure was issued.

By interpreting *ad litteram* the provisions that set the scope⁶ of this judicial instrument, it comes down to the idea that for issuing the European protection order, at least two requirements must be met:

- a) a protection measure was previously adopted on the territory of a Member State, by a judiciary (or equivalent) authority, prior to the request of issuing the protection order.
- b) the beneficiary of a protection measure on the territory of a Member State must establish or intends to establish its’ domicile/residence/lodging, for a period of time, on the territory of another Member State.

Because the European protection order represents a judicial instrument that may be applied throughout the European Union, the regularization of different working procedures was necessary, depending if

⁴ Published in the Official Journal of Romania, Part I no. 545 on July 20 2016

⁵ Published in the Official Journal of the European Union of 29/6/2013

⁶ Art. 2 Law no. 151/2016

Romania is issuing or executing such an order, thus being either the issuing State⁷ or the executing State⁸.

2.1. The procedure when Romania is the issuing State

The general rule is that the competent authority to issue the European protection order is *the judicial body held to rule the case* in which the protection measure has been taken, on whose basis the issuing of the European protection order is requested to be made.

Thus, out of reasons regarding a good cognition of the circumstances that led to the necessity of taking certain protection measures, the law has also granted the competence to the same judicial body that has ruled the case to appreciate upon the necessity and the opportunity of issuing the European protection order.

Establishing in this way, through regulation in this fashion, the authority in favour of the national competent body, may be seen as a positive aspect, given the fact that in order to decide upon issuing the order, there must be analysed, alongside other criteria that will be discussed in this study, also aspects regarding the factual danger for the protected person or the proportionality of the measure. Since the judicial authority was the one that initially instated a protection measure, it is also the most recommendable to further analyse the necessity on maintaining it by issuing the European protection order.

Derogatory from the general rule is the situation in which in the court case where the protection measure was ruled, on whose basis the European protection order is demanded to be issued, a final decision was given to convict the offender, the competence to issue the European protection order is given to *the judge delegate in charge of enforcement*, according to art. 554 of Law no. 135/2010 regarding the Criminal Procedure Code.

If a decision to condemn the offender has not been given, but the Court has ruled to postpone enforcement of a penalty, the competence is given to the *Court* that has first pronounced the postponement of penalty enforcement.

This being said, we can state that the national competent authority to issue a European protection order may either be: the court, the preliminary chamber judge, the judge for rights and liberties, the judge delegate in charge of enforcement or the prosecutor (if the case is under criminal investigation).

In order for the European protection order to be issued, the protected person, personally or by

representative, must file a *petition* to the competent judicial body. The request must contain, along side the personal identification data of the protected person, highlights regarding the Member State where the protected person will establish its domicile or residence or where it will stay or intends to stay and the time period for these dislodgements.

In order for the competent authority to issue the European protection order the following conditions must be met:

- a) the protected person must be granted the *status of victim* in a criminal trial under way or where a penalty has been enforced through a final decision, or the postponement of penalty enforcement has been pronounced.
- Also a member of the victims' family may ask for the European protection order to be issued, if it is in turn a beneficiary of a protection measure⁹;
- b) the protected person stays or will stay or has established, or will establish its domicile or residence *in another Member State* of the European Union;
- c) the person causing danger has the *status of defendant, convicted individual*, or a *person for whom the postponement of penalty enforcement has been pronounced* during criminal proceedings and against it one or more measures listed in the Criminal Procedure Code¹⁰ and Criminal Code¹¹ have been enforced.
- d) issuing the European protection order is *needed to eliminate* a future or present *danger* for the protected person.

Referring to the measures listed under letter c), it must be mentioned that these are actually restrictions/prohibitions and obligations enforced upon the defendant during the criminal proceedings, with the ordering of judicial control, or judicial control under bail¹², or house-arrest¹³, postponement of penalty enforcement¹⁴, conditional release¹⁵, enforcing non-custodial educational measures¹⁶, or enforcing additional or ancillary penalties of receiving a ban on the exercise of a number of rights¹⁷.

For example, these measures may refer to the prohibition for the defendant to return to the family domicile, or to come near the victim or the victim's family, to communicate with the victim, or to go in certain locations.

When deciding upon the issuing of a European protection order, the national competent authority in the issuing State shall take into account, a series of

⁷ According to art. 1 Law no. 151/2016 the issuing State means the Member State in which a protection measure has been adopted that constitutes the basis for issuing a European protection order

⁸ The executing State means the Member State to which a European protection order has been forwarded with a view to its recognition and execution

⁹ From the persons listed under letter c)

¹⁰ Law no. 135/2010 published in the Official Journal of Romania no. 486 on July 15th 2010

¹¹ Law no. 286/2009 published in the Official Journal of Romania no. 486 on July 24th 2009

¹² Obligations listed under art. 215 (2) lit. b) or d) of the Criminal Procedure Code

¹³ Obligation listed under art. 221 (2) lit. b) of the Criminal Procedure Code

¹⁴ Obligations listed under art. 85 (2) lit. e) or f) of the Criminal Code

¹⁵ Obligations listed under art. 101 (2) lit. d) or e) of the Criminal Code

¹⁶ Obligations listed under art. 121 (1) lit. c) or d) of the Criminal Code

¹⁷ A ban on one of the rights listed under art. 66(1) lit. l)-o) of the Criminal Code

predetermined **criteria** such as the actual danger for the protected person, the length of the period of time that the protected person intends to stay in the executing State, the proportionality of the measure and any other relevant circumstances able to demonstrate the opportunity and need of the protection measure.

In all situations, the European protection order may be issued only for the duration of time in which the protected person is staying or will be staying, or has established its domicile or will establish its domicile or residence in another EU Member State. Also, it may not surpass the duration of time for which the measure that is the ground for the order has been enforced.

Upon the protected persons request, the court, the preliminary chamber judge, the judge for rights and liberties, the judge delegate in charge of enforcement will pass a court **resolution** and the prosecutor will give a **prosecutorial order**.

When the judicial body observes that the petition of the protected person is well-founded a *final court resolution/order* will be given, *in chambers*, issuing the European protection order. In other words, when the national competent authority will rule the issuing of the European protection order, the resolution, or the order, issued for this purpose can not be challenged.

The procedure of issuing the European protection order stated under the provisions of art. 6 of Law no. 151/2016 **does not impose** the citation of the protected person or of the person causing danger, nor the prosecutor, because the law says nothing about their presence.

Still, the apparent lack of provisions seems to have its fundament in art. 6 (4) of the Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order, which clearly states that: "Before issuing a European protection order, the person causing danger shall be given the right to be heard and the right to challenge the protection measure, **if** that person has not been granted these rights in the procedure leading to the adoption of the protection measure." Nevertheless, the procedural warranties given to the defendant by the national legislation bestow upon him the right to challenge the protection measure, from the moment it was adopted throughout the entire criminal proceedings, so that the summoning of the involved parties in the issuing procedure of the European protection order is not necessary¹⁸.

Nevertheless, if the protected persons' petition to issue the order has been rejected, the ruling can be challenged in 3 days time from receiving notification of the decision. The legal text does not mention to whom the court resolution or the prosecutorial order containing the rejection of the petition for the European protection order will be communicated to, nor who are

the persons allowed to take effective remedy by challenge of the decision.

By trying to supply for the lack of clarity of the legal provision, we consider that the court resolution/prosecutorial order of rejection of the request of issuing the European protection order *is communicated exclusively to the protected person, upon issuing the ruling*. We believe that the time frame for filing the challenge shall start from the date when the ruling regarding the decision upon the protected persons request for issuing the order was communicated and does not start from the notification of the reasoned court resolution. We take into account the fact that whenever the Romanian law has wanted to establish as the moment for starting the count of a time frame for filing a challenge with a different moment than the communication of the decision, it has stated it an express provision¹⁹.

The author reckons that, *the holder of the right to challenge* the rejection decision of the issuing of a European protection order is only the protected person, as the only one that can justify a legitimate interest in advancing the challenge.

The challenge shall be settled by the Judge for Rights and Liberties, respectively by the Preliminary Chamber Judge from the court that is higher than the notified one or, as the case may be, by the court higher than the notified one, but the legal text says nothing about the composition of the judicial panel. We reckon that this oversight can be complemented through the analysis of incidental provisions in the Law governing the organisation of the judicial system²⁰. Thus, according to art.54 (1¹) of Law no. 304/2004, it was established in general terms that the challenges against rulings regarding criminal matters coming from first instance courts and tribunals during first instance trials, issued by the judges for rights and liberties and the preliminary chamber judges of those courts, is adjudicated by a panel of 2 judges.

In order to settle the challenge *the protected person* is **summoned** and in order to keep to the equality of arms ground rule, *the person causing danger* and the *prosecutor* are summoned as well.

Thus, in this procedure the prosecutor is summoned as well, just as the plaintiff (the protected person) and the defendant (the person causing danger), which means that the Public prosecutor may or may not present itself at the settlement of the challenge. In support of this allegation are the provisions of art. 6 (2) in its final theses²¹, stating that the absence of the summoned persons (including the prosecutor) does not preclude the ruling of the cause.

To sum up, it may be possible upon the adjudication of the challenge for all the summoned persons to be present, or just some of them, or none, since the presence of the prosecutor is not mandatory.

¹⁸ See also the Decision of the Constitutional Court of Romania no. 139/2017, published in the Official Journal of Romania no. 336 of May 5th 2017

¹⁹ According to the provisions of art. 347 (1) of the Criminal Procedure Code

²⁰ Law no. 304/2004 published in the Official Journal of Romania, Part I, no. 827 on September 13th 2005

²¹ Law no. 151/2016 on the European protection order

The challenge is settled **in chambers** within a time period of 3 days, but neither does now the law say since when does the count for the time frame begin. Having in mind the necessity of rapidly solving the protected persons petition (that is also implied by the fact that a solution can be given without the presence of the parties), we reckon that the count begins upon the registration of the case file containing the challenge with the competent authority.

As for the prosecutorial order containing the rejection of the request, it can be challenged before the chief prosecutor of the prosecutor that has rejected the petition, according to the above mentioned distinctions and time frames.

After the court resolution or prosecutorial order has remained final, the solution is communicated, regardless if the European protection order was issued or not, both to the protected person and to the person causing the danger.

If it was decided for the European protection order to be issued, a copy of the order is also communicated to the parties and another one is attached to the case file.

A forth copy is sent by the issuing judicial body, *by any direct and safe means which leaves a written record* to the competent authority of the executing State as to allow the competent authority of the executing State to establish the authenticity of the European juridical instrument.

After the issuing, the European protection order can be renewed, revoked, or modified in its content.

The order can be **renewed** if the measure that is the grounds for its enforcement is prolonged and if the reasons taken into consideration upon its issuing are maintained. Although the law does not provide the *procedure* applicable for renewal, we reckon according to the *ubi eadem est ratio, eadem solutio esse debet* principle, that it must be *similar* to the one that led to the issuing of the European protection order and the measure is notified to the executing State.

The European protection order may also be **revoked** if the protection measure that it is issued upon ceases or is revoked.

Finally, the European protection order may be **modified** in its content if, for example, the protection measure on which it was based is replaced with another protection measure with a different content. In this case the competent national authority may issue a new European protection order.

2.2. The procedure when Romania is the executing State

If Romania is the executing State, the competent authority to recognize the European protection order, adopt the measures for its enforcing and impose the replacing or ceasing of these measures is the *Tribunal* in whose venue the protected person stays or will stay,

or has established or will establish its domicile or residence.

Thus, in a different way from the procedure presented in item I²², the national competent authority to receive and enforce a request of recognition for a European protection order can only be a **Court**.

From the procedural standpoint, the trial is conducted *urgently, in chambers*, by a panel of one judge, with the *citation* of the protected person, the person causing danger and the prosecutor. The absence of the summoned persons does not preclude the ruling of the cause.

It is noticeable that, although the procedure of recognition and enforcing of the European protection order demands urgency, the trial can not take place unless the parties²³ are legally summoned, and often this procedure contains norms that imply the use of international law applicable to the relation with the requested state, that demand the use of judicial cooperation²⁴ instruments adopted for the EU.

Thus being the case, upon establishing the court hearings, the court will take into consideration the necessity of having fulfilled the procedural demands, alongside the specific circumstances of the case, such as, the date for the arrival of the protected person in Romania or the emergency of the situation.

In order to be recognized by the Romanian authorities, the European protection order must comply with these **requirements**:

a) it must be translated in Romanian;

In the event that the order is not translated in Romanian, the court will ask the competent authority of the issuing State to send the translation in a time limit of maximum 5 days starting from the moment when the request was made.

b) to be complete;

If this requirement is not fulfilled the court may deny the recognition request or may ask the competent authority of the issuing State to send the necessary data in a time frame of maximum 10 days, the term being established according to the particularities of the case.

c) to be issued on the premises of one or several of the protection measures adopted in the issuing State by a judgment in a criminal matter;

d) the lack of any of the grounds for the rebuttal of the request.

In the hypothesis of the fulfilling of these requirements, the Court will take a decision to recognise the European protection order and will enforce upon the person causing danger one or more of the **prohibitions** that would be available under its national law, similar or with the closest content to the prohibition stated in the European protection order, such as:

- The prohibition to be in certain localities or places as established by the Court;
- The prohibition to communicate with the

²² Where Romania is the issuing State

²³ The protected person and the person causing danger

²⁴ E.g. The Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union of May 29th 2000

protected person or to go near that person;

- The prohibition to go near the domicile, workplace, school or other locations where the protected person carries social activities, in the conditions established by the Court.

At times the national courts considered that the recognition of the European protection order may be done by referring to the provisions of Law no 151/2016 and also Law no. 217/2003 on preventing and combating family violence.

In consequence, by the first court decision no. 16 of 18 February 2019 of the Prahova Tribunal the European protection order issued by the Court of First Instance for Violence against women no. 1 in Arganda del Rey – Spain was recognised, the Court having in consideration the provisions of art. 13 of Law no. 151/2016 and art. 23(1) d and f of Law no. 217/2003²⁵.

We reckon that the provisions of Law no. 217/2003 **do not** fall under the subject of the European protection order for which Romania is the executing State, and the prohibitions the Court may enforce are strictly limited, as stated under art. 13 (5) of Law no. 151/2006, such as they have been previously analysed, and by no means taken from the national legislation on preventing and combating family violence.

Immediately after the issuing of the decision, the Court shall inform the protected person, the person causing danger, the General Police Directorate of Bucharest Municipality or the County Police Department where the protected person inhabits or will inhabit, or will reside, or in whose circumscription stays, or will stay or will reside the person causing danger, or in whose circumscription the places targeted by the prohibition are.

The decision is also notified to the competent authority of the issuing State.

The Court may reject the request of recognition and enforcement of a European protection order, **the non-recognition grounds** being stated by the Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order under art. 10 as follows:

- the European protection order is not complete or has not been completed within the time limit set by the competent authority of the executing State;
- the European protection order has not been issued on the grounds of a protection measure as stated by art. 1 b) of the national law.
- the protection measure relates to an act that does not constitute a criminal offence under the law of the executing State;
- the protection derives from the execution of a penalty or measure that, according to the Romanian law, is covered by an amnesty and relates to an act or conduct which falls within its competence according to

Romanian law;

- there is immunity conferred under the Romanian law on the person causing danger, which makes it impossible to adopt measures on the basis of a European protection order;

- criminal prosecution, against the person causing danger, for the act or the conduct in relation to which the protection measure has been adopted is statute-barred under the Romanian law, when the act or the conduct falls also within its competence under Romanian national law;

- recognition of the European protection order would contravene the *ne bis in idem* principle;

- the person causing danger falls under the provisions of art. 113 of the Romanian Criminal Code²⁶,

- the protection measure that laid the grounds for the issuing of the European protection order relates to a criminal offence which is regarded as falling under the competence of Romanian criminal law²⁷.

In these cases, the decision by which the request of recognition of the European protection order is rejected is without undue delay notified to the competent issuing authority, to the protected person, the latter being also informed about the possibility of requesting the adoption of protection measures in accordance with its national law²⁸.

The Court decision on the request of recognition of the European protection order can be **appealed** in a 48 hours time frame starting when it was notified, regardless if the issuing of the order was granted or not. We believe that all the persons summoned in this procedure can file the appeal, meaning the protected person, the person causing danger and the prosecutor, even if they were not present in court when the case was tried.

When the appeal is filed, its effect shall not suspend the execution. Thus, if the protection order was recognized and enforced, by filing the appeal the protection measures taken for the safety of the protected person will not be suspended from execution.

By recognizing the protection order the Court will enforce the **prohibitions** available in its own national legislation for the duration of time demanded in the European protection order request, but no more than the Romanian law permits for similar, or with the closest content measures that were the grounds for issuing the protection order. In all cases the protection measure can only be enforced for a 180 days period.

After the recognition of the European protection order, while being in force, **incidents** may occur such as: breaches of prohibitions or changes in the execution of the protection order.

Thus there are situations when the person causing danger does not comply with the prohibitions

²⁵ Published in the Official Journal of Romania, Part I, no. 205 of March 24th 2014

²⁶ The juvenile who has not turned 14 years of age, or who is between 14 and 16 years of age, for the latter if proven that the act was committed without competence

²⁷ Art. 8 of the Criminal Code

²⁸ Law no 217/2013 on preventing and combating family violence published in the Official Journal, Part I, no 205 of March 24th 2014

established by the Court. In this event, the executing Court must inform the competent authority of the issuing State or of the State of Supervision²⁹. Thus, the national judicial authorities may take measures against the person that breaches its obligations, except when these breaches fall under the Romanian Criminal law.

At the same time, it may be possible for the issuing State to modify the European protection order, in which case it will address the Romanian judicial authorities with a new request for recognition and enforcing of the order. The Court will undertake a new evaluation of the request and may either order the modification of the protection measures in a corresponsive manner, either reject the recognition of the modified order if any of the non-recognition grounds exists.

The execution of the European protection order **may cease** when the maximum term for which the European protection order has been recognised has expired³⁰, *or* if there is clear indication that the protected person does not reside or stay in the territory of Romania, or has definitively left its territory. In a similar way, the execution may cease if after the recognition and the enforcement of the European protection order, Romania recognizes a supervision measure, a probation measure or an alternative sanction regarding the person causing danger for which the European protection order was issued³¹.

The enforcement **ceases** upon revocation or withdrawal of the European protection order by the issuing State.

In all situations, the competence to decide upon the discontinuation of the European protection order belongs to the **Court** that has initially recognized this judicial instrument.

Although the national law does not state the applicable procedure in the hypothesis of existing reasons for discontinuing the European protection order, we reckon that the **notification** of the court can be done: by the judge delegate in charge of enforcement, by the police authorities, or by the judicial authorities of the issuing State.

The trial will be held **in chambers**, *without* the citation of the protected person, the person causing danger or the prosecutor.

After the court has ruled the discontinuation of the execution of the order, it has the obligation to notify without any delay the competent authority of the issuing State, and also, if it is possible, the protected person.

3. Conclusions

The transposition in the national law of the Directive 2011/99/EU of the European Parliament and of the Council corresponds to the aim for which it was adopted and ensures the assumed desideratum: the creation of a juridical instrument by which the protection granted to a natural person in a Member State is maintained and continued in any other Member State in which that person moves or has moved to.

The national authorities have established the juridical framework to ensure the efficient protection of all fundamental rights upheld in all member states such as life, freedom, physical or sexual integrity etc.

Even if, at times, the national regulation is not extremely clear and precise, the judicial cooperation in criminal matters carried out on the premises of the Treaty on the Functioning of the European Union (TFEU) regarding this legal work instrument represents a success, aspect that leads us to trust in the principle of mutual recognition of all types of judgments and decisions adopted in the Member States.

Future examination activities may look upon the means of solving the identified problems in the present study in a unified manner, alongside the direction given by the case-law of the Courts and the analogy with the national provisions applicable for the protection of victims of violence (Law no 217/2013 on preventing and combating family violence); Order no 146/2578/2016 regarding the management of domestic violence by the police force.

To rally up, we reckon that a new analysis on the European protection order institution may target exclusively the jurisprudential orientation of the national useful courts.

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²⁹ According to art. 1 of Law no. 151/2016, 'State of supervision' means the Member State of the European Union to which a final decision, enforcing upon a natural person that has committed a crime, one of the sanctions or measures stated under art. 170¹, or art. 170¹⁷ of Law no 302/2014 on international judicial cooperation in criminal matters, has been transferred to.

³⁰ Before ordering the discontinuation, the competent Court can ask the national authority of the issuing State to provide information as to whether the protection provided by the European protection order is still needed in the circumstances of the case in question.

³¹ As stated by art. 170¹ (2) a) and art. 170²⁰ of Law no. 302/2004

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