

Hearing by Teleconference Carried out by Moldovan Authorities on the Ground of Letter Rogatory

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A rogatory letter represents a form of international legal assistance by which a judicial authority from one state or an international authority empowers a similar authority from another state to fulfil on its behalf certain procedural acts in a criminal trial. The requested judicial authority, to which the letter is addressed, shall execute it in the manner provided by its national legislation and international treaties. It should not exceed the limits of the received delegation, being obliged to procure only the evidence specifically mentioned by the authority that issued the request.

Most often, letters rogatory are intended for hearing of defendants, victims, witnesses, searching, identifying and locating persons, seizure, inspection of the place, surveys, audio and video recordings, etc.

In case of Moldova, a detailed description of the procedure for hearing by teleconference, as one of the most important and effective in modern practice is given by the Law No. 371 since December 1, 2006.

If a person that is in Moldova is to be heard as a witness or expert by the courts of a foreign state or by an international court and it is inappropriate or impossible for that person to appear in person within that state, the foreign state may request that the hearing is held by teleconference. This request may be accepted by the Republic of Moldova under the terms of the Criminal Procedure Code on special arrangements for the hearing of the witness and his protection, provided the arrangement of the technical means to make the hearing by teleconference.

The competent central authorities of Moldova and those of the requesting state agree, as appropriate, on measures to protect the witness or expert.

The hearing shall be made directly by the competent authority of the requesting State or under its direction. According to the legislation of the Republic of Moldova, the expert or the witness is entitled to be assisted, if necessary, by an interpreter. A person summoned as a witness or expert may invoke the right not to testify, conferred by the Republic of Moldova law or by the law of the requested State.

Notwithstanding the agreed measures to protect witnesses, expert or witness statements heard under the above mentioned conditions, shall be recorded by video technical means and registered in the minutes drafted in accordance with the Criminal Procedure Code. The minutes shall be sent to the competent authority of the requesting state through the central authorities or through diplomatic channels if that is the case.

In all cases where the letter rogatory is not executed by the requested authority, the latter shall immediately so inform the requesting authority, indicating the reasons why execution was not possible.