

University of Study - Milano Bicocca
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THE EPPO AND EU LAW – A STEP FORWARD AN INTEGRATION
THE EPPO AND DIGITALIZATION OF CRIMINAL JUSTICE

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European Public Prosecutor' Office – 24.11.2021

Program Guidelines 2013-2021

- Digitalization of criminal justice
- The organizational foundation of the EPPO will equally build on broader EU-level efforts towards the digitalization of justice, and criminal justice in particular.
- In December 2020, the European Commission adopted a package of initiatives to modernize the EU justice systems, including the Communication on the Digitalization of Justice in the EU.
- The Covid-19 pandemic has given an extra impetus to digitalization efforts.
- To capitalize on these new possibilities, the EPPO will continue to develop and consolidate its in-house capabilities to support the Office's operational and strategic goals. At this stage, this consists primarily of the setup of a high-performing case management system, as well as improvements to its interoperability both at the Member State and at EU level, in spite of highly divergent IT infrastructures – notably in different participating Member States' criminal prosecution systems

Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on 2.12.2020

- The premises :
- Access to justice and facilitating cooperation between Member States are among the main objectives for the European Union
- Effective judicial systems not only allow a better coexistence between subsidiaries that feel more protected their rights but facilitate economic growth and more easily attract investors
- Access to justice must keep pace with changes including the development of digital systems
- **The effects of the Covid-19 pandemic** and restrictions on freedom of movement and assembly have highlighted the need to accelerate reforms to allow a range of activities related to the world of justice to be carried out «not in person» but remotely

- Let's try to exemplify these activities :
- **For the citizen:**
- The submission of requests (a general term within which we can include both requests for information - for example on the existence of criminal proceedings against them - and the submission of acts of impulse of criminal proceedings (complaints, charges) either the submission of internal documents to criminal proceedings already pending (pleadings, requests for the assumption of evidence, production of documents, appeals, etc.)
- The possibility to remotely consult the file relating to its criminal proceedings and to extract copies of the acts
- The possibility to participate in proceedings or proceedings remotely or without going directly to the judicial offices

- **For the Lawyer :**
- Remote access to documents on file
- The possibility of interacting with the Magistrate and with the judicial offices through digital systems (e-mail)
- The possibility of presenting procedural documents (applications, pleadings, appeals) and the process through digital systems
- The possibility to process all or some of the steps of the process remotely through audio or video conferencing systems
- The opportunity to meet your customers (especially if held) through digital systems

- In the second part of this intervention we will see how the Italian State responds to address these needs in order to reflect on what problems will be faced in order to have access to the services of the European Prosecutor's Office not only by operators of justice but also on the part of the citizens, directly or indirectly, of these services.

Measures envisioned by the European Commission in their Communication on 2 December 2020

1)- Digitalization of cross-border judicial cooperation

In particular, making the European Arrest Warrant available online in civil matters for the resolution of small claims and in criminal matters (with the possibility of citizens and businesses communicating directly with the competent authorities online)

2)- Exchange of digital information in cross-border terrorism cases (strengthening the role of Eurojust and improving the functioning of the Counter-Terrorism Registry)

3)- Collaborative platform for Joint Investigation Teams (JITs) with a specific IT tool to facilitate information and evidence sharing (database - videoconferencing system for JITs participation in digital mode) - the rules should regulate privacy in respect to the protection of personal data and the roles and responsibilities of the parties concerned

- The European Commission therefore has a **twofold objective** for the coming years:
- a)- support Member States in advancing their national legal systems by strengthening the adoption of digital solutions
- b)- to improve cross-border judicial cooperation by an extended digitization of public justice services, by promoting the use of secure distance communication technologies with high quality standards (videoconferencing) the interconnection of national databases and registers and the use of secure electronic transmission channels between competent authorities
- c)- all of this while respecting fundamental rights, security and access to digital justice

- **Existing critical points:**
- Individual access to cases' electronic files
- The possibility to provide evidence in digital format and eligibility
- Dominant use of paper dossiers in cross-border trade
- Variety of national IT tools that should be unified and coordinated
- Lack of state-of-the-art digital infrastructures and reliable communication channels and applications for the exchange of evidence between national authorities and EU agencies/bodies
- Need for a common approach between Eurojust (European Agency for Criminal Judicial Cooperation) EPPO (European Public Prosecutor's Office) - OLAF (European Anti-Fraud Office) - Europol (Agency for Law Enforcement Cooperation)

- **FINALLY**
- A)- A need for a common approach between
 - euro just (European Agency for Criminal Judicial Cooperation)
 - EPPO (European Public Prosecutor's Office) -
 - OLAF (European Anti-Fraud Office)
 - EUROPOL (agency for law enforcement cooperation)

- **Euro Just** - a body set up in 2002 to combat organized and cross-border crime with these functions:
- To stimulate and improve the coordination of investigations and prosecutions between Member States' authorities on the basis of requests made by them or information from other Community bodies (Europol - Olaf)
- Improve judicial cooperation with particular regard to requests for judicial assistance and requests for extradition
- Assisting national authorities to improve the effectiveness of their investigations and prosecutions
- In some cases provide direct assistance in investigations and criminal proceedings
- May also require Member States to initiate criminal investigations or proceedings in respect of specific facts.

- Weaknesses in the operation of Eurojust
- The case management system should be modernized with a new case management system (registration- data processing and registration of cross-border judicial cooperation cases) - as the current one requires continuous updates with many manual interventions

- **OLAF (European Anti-Fraud Office)** - investigates cases of fraud against the EU budget and cases of corruption involving EU funds and serious non-compliance with professional obligations within the European institutions
- For example, investigates all EU expenditure (structural funds - agricultural policy - rural development funds - etc.)
- On some EU revenue - for example customs duties
- Investigating suspected serious non-compliance by staff, officials and members of the European institutions
- Internal investigations within the European institutions and bodies
- External investigations of administrative nature outside the European institutions to detect fraud cases
- Coordination with national authorities and other Union services for the exchange of information

- **Europol** -
- European Agency responsible for assisting Member States in the fight against international crime and terrorism and is particularly concerned with the fight against: terrorism, international drug trafficking , money laundering, organized fraud, euro counterfeiting, trafficking
- Supports the field operations of contrast forces
- A center for the exchange of information about criminal activity (An extension of the Europol mandate in the field of data on cross-border crime is being approved but with significant development in the ability to identify criminal profiles [with the delicate implications on privacy because they have collected data of citizens not related to criminal activities]
- A specialized center of expertise to combat the criminal activities mentioned above

B)- Task force on the connection «hit/no hit» or positive feedback/no feedback

on the exchange of information between JHA bodies and agencies (Justice and Home Affairs Council composed of the Ministers for Justice and Home Affairs - the former dealing in particular with cooperation in civil, criminal and fundamental rights - meets every three months, the next meeting is on 9 June 2022)

Interconnection between Eurojust's case management systems - Europol and EPPO so that these bodies are always aware of any connections between investigations and prosecutions they are working on

On 9 February 2022 an interim agreement was signed between the Presidency of the Council and the European Parliament on the amendments to the Europol Regulation which provides for a reinforcement of the means available to the Agency

- It provides for cooperation with the European Public Prosecutor's Office, either by supporting investigations at request or by communicating any criminal conduct falling within the competence of the European Public Prosecutor's Office.
- Draft Regulation lays down rules allowing EPPO access to Europol data
- **C)- Joint Investigation Teams (JITs)** - can be set up between two or more countries when it is necessary to carry out criminal investigations involving more than one State and requiring coordinated action.
- In order to improve efficiency, a new IT environment adapted to their needs is needed to enable the storage and exchange of documents/evidence (platform for collaboration between JITs)

- **D)- Extension of the scope of eEdes IT tool** through which the Authorities of the Member States can exchange in a secure way European orders of investigation, requests for legal aid and associated evidence in digital format.
- Currently using the post as a means to transmit this documentation or electronic tools that do not always guarantee necessary security standards.
- (common rules for secure electronic interactions between citizens, businesses and public administrations - increasing the electronic security of services and commercial transactions - common framework for electronic signatures, electronic seals, electronic time validation, etc.)

- Because public electronic services, including the judiciary, often require the identification of users for authentication and authorization purposes ; these systems must therefore be adapted to developments in electronic identity (ID) technology
- Essentially, there is a need to modernize the current legal framework and adapt the framework for digital services (with implications on : responsibility - risks for users and their protection in respect to privacy) which also entails a modernisation of internal judicial systems

E)- Ecodex Regulation : is a package of software components that allows the connection between national systems and users (judicial authorities - operators of justice- citizens) can send and receive, electronically, documents, legal forms, evidence and other information quickly and securely (documents and also audio and video recordings)

It therefore allows an interaction between decentralised communication networks in European countries through a secure system, in support of civil and criminal proceedings

Council of the European Union 28.5.2021- approval of a general guideline on the system regulation e-Codex : essentially using this system within the e-Justice portal to allow citizens to sign and send applications for European payment injunctions and small claims resolution .

- Member States are involved and a number of projects have been under way for years, especially in the civil field (order for payment - small claims - European order for the attachment of accounts - matrimonial affairs and parental responsibility - etc.) and what interests us today is the e-EDES project (Evidence Digital Exchange System) or exchanges on European investigation orders and judicial assistance in judicial cooperation in criminal matters
- The management of the system will be entrusted in the course of 2023 to eu-Lisa or the European agency which deals with the management of IT operating systems on a large scale; each Member State will continue to manage its own access point and eu-Lisa will provide the software as well as technical assistance for installation and maintenance and will also have to update the models to be used in the different procedures to be activated

in order to have a standardization that facilitates global understanding using a single communication code

F)- European judicial training for the period 2021/2024

Progressively increasing the training of legal practitioners (magistrates - administrative staff and judicial officers - lawyers) as well as notaries : these objectives are to be achieved by 2024 for the continuation of European training :

65 % of judges and prosecutors

For administrative staff (judiciary and prosecutors) 15%

For lawyers, 15%

For notaries, 30 %

For bailiffs, 20%

Establishment of the EUROPEAN TRAINING PLATFORM a free information desk for information on the opportunities for judicial training and information material.

CCBE (Council of Bars of Europe) to which CNF adheres - elaborates European training programmes

- **INSTRUMENTS**

- Financial support to Member States
- Legislative initiatives to establish requirements for digitalization
- IT tools - interoperable by default- also accessible to disabled people, fast, safe and reliable, ensuring the protection of privacy
- Promotion of national coordination and monitoring instruments (with information sharing to improve the service)
- Even with the use of innovative technologies (artificial intelligence and distributed register c.d. blockchain) with all the precautions for the use of the first instrument in the judicial field (White Paper of February 2020)

- **EPPPO website and Rules of Procedure European Public Prosecutor's Office**
- **For users**
- Possibility to report a crime by citizens via an online form - you receive a confirmation of receipt with a report number to be used for subsequent communications
- Possibility to access documents, even if not published, by means of a reasoned written request with a response time of 15 days

- **Rules of Procedure European Public Prosecutor's Office 12.10.2020**
- **In relation to digital aspects :**
- a)- Possibility to hold internal meetings through videoconference (Art.7) allowing remote participation
- b)- Records of information : all information received and acquired by the office is recorded in **the automatic file management system (art. 44 Regulation 12.10.2017)** and each of the prosecutors (including delegates) has direct access to the register and index **while** access to the documents contained and archived electronically must be upon request.
- c)- art. 43 Rules of Procedure: copies of all the elements added to the dossier shall be stored electronically in the Case Management System

- **Reports** in the course of investigations to be kept up to date by the Public Prosecutor
- Art. 61 Regulations : the Chief Prosecutor, the substitutes and the DEPs have access to the register and the index of the file only to the extent necessary for the performance of their duties; the same applies to direct access to information stored electronically in the Case Management System

- **Italy - Circular Ministry of Justice of 21 May 2021 summarized as follows:**
 - Connection to the Single Justice Network of the Prosecutor's Offices
 - provision of computer tools and electronic mail boxes
 - creation of telecommunication platforms and registers (Art. 14 D.Lgs. 9/21) complex given the need to create a register available separately for each Public Prosecutor's Office and visible at the same time by DEPs ; also a communication channel between the individual Public Prosecutor's Office and all the DEPs to be used for the exchange of information (registration, communication of wanting to proceed or absence of interest to proceed)

- **Alert system** in case the DEP does not communicate anything within 30 days from the recording of the news of the crime - since in this case it is necessary to enter the news of the crime in the registers referred to in art. 335 c.p.p.
- Once the DEP decides to proceed, they will have to register and operate on the same registers as provided for by art. 335 c.p.p. that interact with the ISCK (information system of criminal knowledge)
- A document system will be made available for the computerized management by the secretariats of the DEP files
- The registers, the document system for DEPs and the National Public Prosecutor's Office are conceived as separate and non-communicating

- The digital working environment will be similar to that already in use at the offices of the Prosecutor's Office and will allow full integration with the TPP, both for lawyers and for transmission to the Court
- The Telematic Process Portal will also be made available for filings relating to the EPPO process assigned to DEPs
- The national systems will go to place side by side to the «automatic system of management of the dossier» own and exclusive of EPPO (art.44-45 Regulation instituting European Prosecutor's Office)

Italy: Memorandum of Understanding
National Forensic Council and
European Prosecutor (Italian
decentralised offices) of November
2021 - three-year duration

- Art. 14 D. Lgs 9/2021 - Communication and registration of criminal offences within the jurisdiction of the European Public Prosecutor's Office
- 1. The communications referred to in Article 347 of the Criminal Procedure Code, complaints, charges, pleadings and any other acts referred to in any way to which they concern crimes in respect of which the European Public Prosecutor's Office could exercise its competence under Articles 22 and 25, paragraphs 2 and 3, of the Rules of Procedure shall be submitted or transmitted, as well as the national public prosecutor, the European Prosecutor Delegate.
- 2. When he receives or acquires on his own initiative news of one of the offences referred to in paragraph 1, the public prosecutor shall ensure compliance with the provisions of the first paragraph of Article 335, of the Code of Criminal Procedure, If the European Public Prosecutor's Office has not already given notice to exercise its powers and it appears necessary to proceed with urgent proceedings, there is in any event reason to believe that a delay in initiating the investigation could jeopardise the outcome.
- 3. In addition to the cases provided for in paragraph 2, the public prosecutor shall record the offence in a register, which shall be kept automatically, which the Minister of Justice establishes by his own decree to be adopted within thirty days of the entry into force of this decree.
- 4. Where the European Public Prosecutor's Office informs him that it does not intend to exercise its powers, and, in any event, after 30 days from the entry provided for in paragraph 3, the public prosecutor shall immediately carry out the duties provided for in Article 335, of the Criminal Procedure Code.
- 5. The public prosecutor shall inform the European Public Prosecutor's Office of the registration of the procedure and of the opening of preliminary investigations pursuant to paragraph 2.

- On the basis of this rule, the «notitia criminis» which has as its object the offences which may potentially fall within the scope of those of the European Public Prosecutor's Office is transmitted to both the national and the delegated European Public Prosecutor's Office.
- The Ministry of Justice with a special decree has made available to the European Public Prosecutor's Office the SICP computer register or the same register in use at the offices of the National Prosecutor's Office with the creation of a sub-register called SICP-EPPO
- The National Forensic Council and the delegated European Prosecutor have signed a protocol aimed at better regulation of requests for information pursuant to art. 335 c.p.p. formulated by defenders of persons registered in the register of suspects of the European Public Prosecutor's Office

Art. 335 c.p.p. Register of offence reports

- 1. The public prosecutor shall immediately enter in the special register kept at the office any information relating to an offence received by him or acquired on his own initiative and, at the same time or as soon as it appears, the name of the person to whom the offence is attributed.
- 2. Omitted
- 3. With the exception of cases in which one of the crimes referred to in Article 407, paragraph 2, letter a), the entries provided for in paragraphs 1 and 2 shall be communicated to the person to whom the crime is attributed, to the offended person and their defenders, if they so request.
- 3-bis. Omitted
- 3-ter. Without prejudice to investigative secrecy, after six months from the date of lodging the complaint, or the complaint, the person offended by the law may ask to be informed by the authority responsible for the proceedings about the state of the case (1).

- Given the importance for citizens to be able to acquire information about the status of any criminal proceedings against them, the Memorandum of Understanding provides for a mutual commitment between the parties to :
- To organize and to speed up the presentation of the ex instances art. 335 c.p.p. and the dispatch of the attestation from the competent judicial offices
- Favor the wider diffusion of the good practices in use in the national territory in order to promote the diffusion of positive experiences in matter of ex instances art. 335 c.p.p.
- To organize common training events aimed at informing of the activities carried out by the European Prosecutor's Office and on the issues of the right of defence within this new system

- **Request for information pursuant to art. 335 c.p.p. Dedicated European Public Prosecutor's Office**
- Establishment of a PEC box of the European Public Prosecutor's Office dedicated to requests ex art. 335 c.p.p. - procuraeuropea.335@giustiziacert.it allowing :
 - - Defender can submit an application by PEC attaching the special power of attorney of his client
 - - the lawyer will receive the reply from the European Public Prosecutor's Office within 7 days with the result :
 - - negative certificate (if not registered)
 - - positive certificate (procedure - title of offence
 - name of the European Public Prosecutor by delegation - office indication

PART II - A LOOK AT COVID -19 ITALIAN LAW AND CRIMINAL JUSTICE

- The legislation introduced in Italy following the pandemic emergency, although not directly linked to the digitalization of the European Public Prosecutor's Office, can help us understand what the problems, also in the European context, that the legislator and the jurists will face.
- I therefore consider it useful to recall some of the rules introduced in our legal system in the last two years to allow a partial « dematerialization» of criminal justice by limiting those rules that may indirectly also affect the activity of the European Public Prosecutor's Office thus omitting any investigation on the rules

Rather than being involved in the criminal trial and in general the activity of hearing

Some points common to all the legal systems that have faced the pandemic consequences on criminal justice :

1. In all legal systems the «remote criminal justice» has prevented a blockade of criminal justice
2. All legal systems have provided for a temporary duration although the provisions in the field of electronic criminal trial
3. A difference has been found between those orders that require the consent of the prejudiced for the performance of acts at a distance (e.g. federal courts) and those that do not require it (e.g. France)
4. Criticism of remote justice for possible violations of fundamental rights has been raised in all legal systems

- Let us examine the preparatory phase of the process that is most relevant to the activity of the Prosecutor's Office (including the European one)
- What has been done in Italy :
 - a)- establishment of a system of filing documents in digital form **(Criminal Record Filing Portal)** which could then flow into the T.T.P. - electronic criminal trial - currently still in an embryonic state
 - [already operational since 2006 the T.C.P. (telematic civil process) - since 2017 the T.T.P. (telematic tax process) and the C.A.P (computerized administrative process) - systems that allow, for most of the proceedings, to submit appeals and documents through a digital system and to have a digital case file at the disposal of the parties and the judicial office]

Through the **portal pst.giustizia.it** you can access through smart card / speed the «**portal filing criminal records** - filing with electronic method criminal records» - P.F.C.R

- You must have a digital signature
- Decree-Law 34 of 19.5.20 (converted Law 77/20) - art.221
- Decree-Law 137 of 28.10.20 (converted Law 176/20) - Art. 24
- Authorized electronic storage of memories, documents, requests pursuant to art. 415a c.p.p. (notice of conclusion of preliminary investigations) and of documents and documents by the judicial police,
- Decree Ministry of Justice 13.01.2021 has expanded the type of acts for which digital filing is mandatory through the portal for the filing of criminal acts (application for opposition to the filing referred to in art. 410 c.p.p. - complaint referred to in art. 333 c.p.p. - complaint referred to in art. 336 c.p.p. and its special power of attorney - appoints a defender and revokes him or waives his mandate)
- Provisions issued by the Director General of Information Services of the Ministry of Justice (c.d. DGSIA) of 4.11.2020 and 5.2.2021 for technical specifications.

Which acts it is possible/mandatory to file through this portal :

- the appointment of the defender (waiver/revocation) - formed on paper document with signature of the client authenticated by the lawyer - transformation into pdf file and subsequent digital signature of the same
- memories and requests at the conclusion of preliminary investigations - after transformation into pdf file and digital signature

- Complaints- complaints with special power of attorney
- Request for opposition to the request for dismissal of the Public Prosecutor

- **b)-the optional filing of a series of acts by dedicated pEC**
- [I point out that the jurisprudence had always opposed the filing of documents by e-mail]
- Decree-Law 137/2020 - converted with Law 716/2020 (extension until 31.12.2022 with D.L.228/2021 and then stabilized with the c.f. reform Cartabia)
- Which documents/documents can be filed? All those for which there is no mandatory deposit on the portal of filing criminal records indicated above - by way of example :
 - Requests for referral for legitimate impediment / notices of adherence to absention from hearings
 - Witness list - instances of release - instances of alternative rites - instances of testing -

- An important addition introduced with the law of conversion of the Decree-Law concerns the **APPEALS** (also of a precautionary nature) that the Court of Cassation in 2020 had deemed inadmissible if presented by certified e-mail.
- The pleas in law added (to those on appeal) and the pleadings
- Opposition to the criminal decree of conviction
- Complaints provided for by the Penitentiary Order
- **Mode of transmission :**
- Digital native document (so pdf file is not allowed to scan images)
digitally signed
- Attached documents also digitally signed

- Maximum size allowed : 30 Megabytes
- Indication in the subject-matter of the following data : type of act, personal details of the accused and the petitioner, personal details of the lawyer, case number of the proceedings
- Pec addresses of the receiving judicial offices - those indicated in the provision of the Director General of Information and Automated Systems and published in the portal of telematic services
- (order issued on 9.11.2020 with list of certified e-mail addresses of the various offices)

Protocols between the National Forensic Council of the Court of Cassation and between the Councils of Territorial Orders and the Courts/Procure of the Republic

- In the course of 2020 and 2021, numerous protocols of understanding were signed between the National Forensic Council and the Court of Cassation/Prosecutor General and between the local Bars and the respective Courts/Prosecutors of the Republic.
- The premise was the acknowledgement of the lack of a digital system that would allow both the treatment of hearings without the physical presence of some or all the parties and the lack of a digital system that would allow the filing of documents - The covid rules provided for the possibility of participation at a distance - with audiovisual link -
- only for sporadic cases (art. 146 bis and 147 bis disp.att. c.p.p.) mostly linked to organized crime proceedings

- With regard to **notifications** since 2008, lawyers are required to have a PEC address and since 2014 it was already possible to make notifications of criminal proceedings through PEC to persons other than the accused (148 paragraph 2a - 149-150-151 c.p.p.) with the opening of the Court of Cassation also to notifications made between defendants of private parties
- It was not possible to file documents of the proceedings or of the trial (apart from some informal filing of requests for referral accepted by the judicial offices, by fax and subsequently by e-mail)
- Access to the file was almost always by physical consultation and subsequent photocopy of the relevant documents

- In some offices of the Public Prosecutor's Office (from 2016-2017) **CPPD system** was used (Computerized processing of procedural documents) or the digitalization of criminal proceedings that allowed the transmission of documents by e-mail (or the extraction of copies by USB stick) but always with prior physical access to the offices of the secretariat of the Public Prosecutor's Office dedicated to the consultation by lawyers of the telematic file (subject to the release of a temporary password).
- This was an access allowed after the notification of the notice of conclusion of the investigation (415 bis c.p.p.)
- The requests for certificates of the criminal record or pursuant to art, 335 c.p.p. occurred mostly with the physical presence and in some offices of the Prosecutor's Office also through e-mail but with physical withdrawal of the document and payment of the related rights

- The Protocols signed during 2020 have tried to make up for the physical presence thus allowing submission by e-mail a series of requests, anticipating the time compared to the rules then entered into force.
- An example is the **Prosecutor of the Republic of Monza in June 2020**
 - certificates of the criminal record and pending loads and certificates ex art. 335 c.p.p.
 - complaints/complaints from lawyers to be sent by mail to a dedicated address
 - nominations for defence, defence pleadings and applications to be sent by e-mail to a dedicated address (not exceeding 20 MB)
 - opposition to archiving only by pec

- Requests for clearance shall prevent the acquisition of records of road accidents or fires
- Requests for access to archived files
- Applications for the office execution of sentences
- settlement claims fees of consultants and interpreters
- Deposit of assisted negotiation agreements
- Urgent requests for support administration
- Etc. all by e-mail to predetermined addresses
- For the examination of files following notice 415 bis cpp. and of files with trial already fixed, it was necessary instead to fix an appointment for the physical consultation

- **Law 134 of 21 September 2021 - Delegation to the Government for the efficiency of the criminal process (c.d. Cartabia Reform)**
- 5. In the exercise of the delegation referred to in paragraph 1, the decree or legislative decrees containing provisions in the field of electronic criminal trial shall be adopted in compliance with the following principles and guidelines:
 - a) provide that procedural documents and documents may be formed and stored in digital format in such a way as to guarantee their authenticity, integrity, readability, availability and, where required by law, secrecy; provide that, in criminal proceedings, the lodging of documents and communications and service in all Member States and at all levels shall be effected electronically; provide that electronic transmissions and receipts provide the sender and the recipient with certainty, including temporal certainty, of transmission and reception, as well as the identity of the sender and recipient; provide that, in the case of acts carried out by the parties themselves, the deposit may **also** be made by means other than electronic means;
 - b) provide that, by regulation adopted by decree of the Minister of Justice pursuant to Article 17, paragraph 3, of Law No. 400 of 23 August 1988, technical rules concerning deposits are defined, the electronic communications and notifications referred to in point a) of this paragraph, ensuring compliance with the principle of suitability of the means and with that of certainty of completion of the act and amending, if necessary, the regulation referred to in the decree of the Minister of Justice of 21 February 2011, n. 44; provide that further rules and technical implementing measures can be adopted by executive act;

- c) provide for transitional arrangements based on the following criteria: 1) gradual differentiation and adequacy of central and peripheral administrative structures; 2) rational coordination and temporal succession between the existing rules and the rules for the implementation of the delegation; 3) coordination of the process of implementation of the delegation with those of training of the staff involved;
- d) provide that, by regulation adopted by decree of the Minister of Justice pursuant to Article 17, paragraph 3, of Law No. 400 of 23 August 1988, after consulting the Superior Council of the Judiciary and the National Forensic Council, the judicial offices and the types of acts referred to in point a) of this paragraph may be identified, for which non-telematic methods of filing, communication or service may also be adopted, as well as the time limits for transition to the new filing system, communication and notification;

- e) provide, for cases of malfunction of the computer systems of the domains of the Ministry of Justice:
 - 1) that alternative and **effective solutions** to the telecommunication modalities are in place to allow the timely conduct of the proceedings;
 - 2) effective detection and registration systems for the start and end of the malfunction are in place for each sector concerned; 3) timely notification to all concerned and public communication of the **malfunction** and restoration of the normal conditions of operation of the computer systems;
- f) provide that, in criminal proceedings in all Member States and at all levels, the electronic filing of documents and documents may **also** be carried out by means of technological solutions that ensure the generation of a message that the filing has been completed, in compliance with the rules, also regulatory, concerning the subscription, transmission and receipt of electronic documents

- **Telecommunication Residence**

- The Proxy Law 134/2021 - Article 6 paragraph 1 letter a)- contains a novelty with regard to notifications because it provides for the defendant's obligation (?? the person under investigation is not indicated) from the first contact with the proceeding Authority, to indicate the telephone and telecommunication addresses of which it has the availability ; it also provides for the amendment to art. 161 c.p.p. (which, on the other hand, correctly combines the accused with the person under investigation) with the possibility of choosing his or her domicile «at his or her appropriate electronic address»
- Doubts on the necessity of a PEC or the sufficiency of a PEC ; on the possibility of giving an email address of a family member and therefore on what are the requirements for a valid choice of a web address