

LAW no. 482 of November 10, 2004

for the amendment and completion of Government Emergency Ordinance no. 194/2002 regarding the regime of foreigners in Romania

ISSUER **parliament**

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The Romanian Parliament adopts this law.

UNIQUE article

Government emergency ordinance no. 194/2002 regarding the regime of foreigners in Romania, republished in the Official Gazette of Romania, Part I, no. 201 of March 8, 2004, is amended and supplemented as follows:

1. In article 2, after letter b), the letters b¹) and b²) are inserted with the following contents:

b¹) resident - the foreigner holder of a temporary residence permit on the territory of Romania, granted under the conditions of this emergency ordinance;

b²) permanent resident - the foreigner holder of a permanent residence permit on the territory of Romania, granted under the conditions of this emergency ordinance;"

2. Article 2, letter d) will have the following content:

"d) visa - the authorization, materialized by applying a sticker or a stamp on a valid state border crossing document, which allows the foreigner subject to this obligation to present himself at a border crossing point to request transit or temporary stay for a determined period, with the fulfillment of the conditions stipulated by this normative act;"

3. Article 5, letter e) is repealed.

4. In article 5, after paragraph (1), paragraph (2) is inserted with the following content:

"(2) The Government can establish, by decision, whenever it is necessary, the introduction or suspension of short-term facilities, when granting the right to enter or, as the case may be, when extending the right to stay on the territory of Romania, for certain categories of foreigners, as well as the periods for which these facilities are granted or suspended. In the long term, the Government establishes the national strategy in the field of immigration."

5. Article 8, paragraph (2) will have the following content:

"(2) The border police bodies can refuse the entry of foreigners into the territory of the Romanian state in the following situations:

a) have committed crimes during other stays in Romania or abroad against the state or a Romanian citizen;

b) they introduced or tried to introduce other foreigners illegally into Romania;

c) have previously violated, unjustifiably, the purpose declared when obtaining the visa or, as the case may be, upon entering the territory of Romania, as well as against those who previously tried to cross the Romanian border with false or falsified documents;

d) suffer from diseases that can seriously endanger public health, established by order of the Minister of Health."

6. Article 12, paragraph (1) will have the following content:

"(1) The foreigner, a citizen of one of the states included in the list provided for in art. 36 paragraph (2), legally entered the territory of Romania, has the obligation to notify the

competent territorial police body about this, within 3 days from on the date of entry."

7. In article 14, after paragraph (1), paragraph (1¹) is inserted with the following content:

"(1¹) The approval of the Authority for foreigners provided for in paragraph (1) is issued as an emergency, and in situations where detailed checks are necessary, the deadline can be a maximum of 5 days from the date of the request."

8. In article 20, letters b) and c) will have the following contents:

"b) transit visa, identified by the symbol B;

c) short stay visa, identified by the symbol C;"

9. Article 22 will have the following content:

"ARTICLE 22

Transit visa

The transit visa is the visa that allows a foreigner to transit the territory of Romania. The transit visa can be issued for one or two transits and, exceptionally, for several transits, without the duration of each transit exceeding 5 days."

10. In Article 23, paragraphs (1) and (2) will have the following content:

"(1) The short-stay visa is the visa that allows foreigners to request entry to the territory of Romania, for reasons other than immigration, for an uninterrupted stay or for several stays whose duration does not exceed 90 days, within 6 months from the date of first entry This type of visa can be issued with one or more entries.

(2) In the case of foreigners who frequently travel to Romania, for business-cooperation relations, at the request of the central administrative authorities or commercial companies with high economic-financial capacity, the short-stay visa with multiple entries may also be granted on a period of one year and, exceptionally, for a period of up to 5 years. And in these situations, the length of stay cannot exceed 90 days within 6 months."

11. In article 31, letter e) of paragraph (1) is repealed.

12. In article 31, letter f) of paragraph (1) will have the following content:

"f) in the case of foreign sailors who request transit to board, re-board or leave a ship for the purpose of repatriation upon termination of the employment contract, as well as in the case of crew changes."

13. In article 31, letter a) of paragraph (4) will have the following content:

"a) 15 days, in the case of a short-stay visa;"

14. In article 43, letter c) of paragraph (2) will have the following content:

"c) the investment that the company will make is realized through contributions of capital and technology in the minimum amount of 50,000 euros for commercial companies with limited liability, of 70,000 euros for commercial companies with shares or the creation of a minimum number of 10 jobs ."

15. In article 43, letter d) of paragraph (2) is repealed.

16. In article 46, paragraph (1) will have the following content:

"(1) Foreigners, holders of a right of residence in Romania for at least one year, may request family reunification for:

a) husband/wife;

b) the minor, unmarried children of the holder of the right of residence and of the spouse, including the children jointly adopted by them;

c) minor, unmarried children, including adopted ones, of the holder of the right of residence, if they are in his effective maintenance;

d) the minor, unmarried children, including the adopted ones, of the spouse of the holder of the right of residence, if they are in his effective maintenance."

17. After paragraph (1) of article 46, paragraphs (1¹)-(1³) are inserted with the following content:

"(1¹) The adoption of the children provided for in paragraph (1) must be ordered by a decision of a competent Romanian authority, under the law, or by a decision of an authority of another state, which produces legal effects on the territory of Romania.

(1²) The authority for foreigners approves, if the conditions stipulated by law are met, family reunification for the following categories:

a) first-degree relatives in ascending line of the holder of the right of residence or of the spouse, if they cannot support themselves;

b) adult unmarried children of the holder of the right of residence or of the spouse, if they cannot support themselves for medical reasons.

(1³) The foreigners provided for in para. (1), holders of a right of residence for the purpose of studies, may request family reunification for the spouse and minor, unmarried children, provided that the date of marriage is prior to obtaining the right of residence."

18. In article 46, letter f) of paragraph (2) is repealed.

19. In article 46, letter c) of paragraph (4) will have the following content:

"c) the applicant must have means of maintenance, in addition to those necessary for his own maintenance according to the law, in the amount corresponding to the minimum net salary on the national economy for each family member."

20. Article 49 will have the following content:

"ARTICLE 49

Long-stay visa for foreign family members of Romanian citizens

The long-stay visa can be granted:

a) foreigners married to Romanian citizens, provided that this is not a marriage of convenience, established under the conditions provided for in art. 64, and if it was concluded on the territory of Romania, the applicant had the right of residence on that date;

b) foreigners who prove that they are not married and who live with Romanian citizens, provided that they have at least one child together;

c) unmarried minor children, including those adopted;

d) relatives of the first degree in the ascending line over the age of 60."

21. In Article 50, letters b), c) and g) of paragraph (2) will have the following content:

"b) did not occur, during the stay in Romania, any of the reasons for not allowing entry provided for in art. 8 para. (1) letters b)-d) and para. (2);

c) possess a valid travel document;

.....

g) present proof of medical insurance, valid for at least one year."

22. In article 50, after paragraph (2), paragraph (2¹) is inserted with the following content:

"(2¹) Foreigners are obliged, upon the expiration of the validity of the documents provided for in paragraph (2) letters c), f) and g), to take the necessary steps to extend their validity or renew them."

23. In Article 50, paragraph (3) will have the following content:

"(3) The extension of the right of residence can be granted for periods longer than one year under the conditions of this law or on the basis of reciprocity."

24. In Article 51, paragraph (4) will have the following content:

"(4) The request will be resolved within 30 days from the date of its submission. In cases where, in order to ascertain the fulfillment of the conditions for extending the right of residence, additional checks are necessary, the deadline for resolving the request may be extended by at most 15 days."

25. In Article 55, point (iv) from letter c) of paragraph (2) will have the following content:

"(iv) documents showing that the investment is materialized in capital contribution or technology transfer, worth at least 70,000 euros or the creation of at least 15 jobs, in the case of the shareholder, and 50,000 euros or the creation of the at least 10 jobs, in the case of the associate, provided that, in the case of jobs, they are staffed with full-time employees, in accordance with the law."

26. In article 58, letters a)-c) of paragraph (1) will have the following content:

"a) is enrolled in an accredited state or private educational unit or institution, in full-time education;

b) proves that he has paid his study fees during the period for which he requests the extension of the right of residence;

c) prove the means of maintenance, in the amount of at least the minimum gross salary for the country, during the period of validity of the residence permit."

27. In article 63, letter d) of paragraph (1) will have the following content:

"d) proves that the foreigner who requested reunification has means of maintenance above the amount provided for when issuing the residence permit, at least at the level of the minimum gross salary in the country, for each family member."

28. In article 63, paragraph (2) will have the following content:

"(2) The extension of the right of residence for foreign family members of Romanian citizens can be granted as follows:

a) for foreigners married to Romanian citizens, if:

(i) presents the marriage certificate in original and copy, which must produce legal effects on the territory of Romania;

(ii) prove the means of maintenance at the level of the minimum gross salary in the country;

b) for foreigners who live with Romanian citizens, if:

(i) presents the birth certificates of the children, Romanian citizens, in original and in copy;

(ii) presents the declaration of the Romanian citizen, in authentic form, from which it can be concluded that they live together;

(iii) prove the means of maintenance at the level of the minimum gross salary in the country;

c) for unmarried minor children, including adopted ones, if:

(i) translated and legalized documents showing the existence of the relationship are presented;

(ii) proof of means of maintenance is provided at the level of the minimum gross salary in the country;

d) for first degree relatives in ascending line, if:

(i) present translated and legalized documents from which the existence of the kinship relationship results;

(ii) provide proof of means of maintenance at the level of the minimum gross salary in the country."

29. In article 68, letter a) of paragraph (1) will have the following content:

"a) foreigners posted - with the presentation of a certificate from the representative office, branch or subsidiary located on the territory of Romania or from a commercial company, Romanian legal entity, whose associate/shareholder is the parent company, with the same object of activity, if they do proof that they are not in a contractual employment relationship with a Romanian legal entity. The right of residence for this purpose can be extended only once, for a period of up to one year, for subsequent extensions the legal provisions regarding the extension of the right of residence of foreigners are applicable employees in work;"

30. Articles 69-74 will have the following content:

"ARTICLE 69

The right of permanent residence

(1) The right of permanent residence is granted, upon request, under the conditions of this law, for an indefinite period, to the foreigner holder of a temporary residence right who has been approved to establish a domicile in Romania.

(2) The right of permanent residence ceases in the following situations:

a) at the owner's request;

b) upon obtaining a right of permanent residence on the territory of another state;

c) in the case of absence from the territory of the Romanian state for a period of more than 12 consecutive months, with the exception of the situation in which, during this period, the holder benefited from the right of temporary residence in a member state of the European Union;

d) in case of absence from the territory of the Romanian state for a period of more than 6 consecutive years, even if during this period he benefited from a right of temporary residence on the territory of a member state of the European Union;

e) in case of declaration as undesirable.

(3) In the cases provided for in para. (2) lit. c) and d), the foreigner can submit a new application to establish domicile in Romania after a legal and continuous stay of 12 months.

(4) The right of permanent residence can be canceled or revoked under the conditions of this emergency ordinance.

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Conditions for establishing domicile in Romania

(1) Foreigners can establish their domicile in Romania if they cumulatively meet the following conditions:

a) a continuous and legal temporary stay in the last 5 years prior to submitting the application, as follows:

(i) the stay will be considered continuous when the period of absence from the territory of Romania is less than 6 consecutive months and does not exceed a total of 10 months for the entire period;

(ii) the stay will be considered legal when the discontinuities between the periods for which the right of stay was successively granted are less than 30 consecutive days and do not exceed a total of 90 days for the entire period, even if they have been sanctioned for contravention;

b) prove the possession of means of maintenance in the amount provided by law, corresponding to the purpose for which the right of residence was extended until the

application is submitted;

c) provide proof of social health insurance, under the law;

d) prove that they legally own adequate living space for themselves and for the family members they live with;

e) speak Romanian at a satisfactory level;

f) does not pose a danger to public order and national security.

(2) Foreigners holding a right of temporary residence for the purpose of studies cannot request to establish their domicile in Romania.

(3) If the foreigners provided for in para. (2) acquire a right of temporary residence that allows them to request the establishment of domicile in Romania, only half of the period of stay for the purpose of studies can be taken into account in the calculation of the period of continuous and legal stay, according to the provisions of para. (1) lit. a). These provisions also apply accordingly to their family members, holders of a right of residence for the purpose of family reunification.

(4) Foreigners of Romanian origin or born in Romania, as well as those whose stay is in the interest of the Romanian state, may be approved to establish their domicile without fulfilling the conditions set out in paragraph (1).

(5) The minor foreigner can obtain residence in Romania together with his parents. If only one of the parents is the holder of the right of permanent residence, the consent of the other parent, in authentic form, is required.

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Conditions regarding the request to establish domicile in Romania

(1) In order to establish domicile in Romania, the foreigner must personally submit a standard application to the territorial formations of the Authority for Foreigners.

(2) The application, completed in Romanian, must be accompanied by documents proving the fulfillment of the conditions provided for in art. 70, as well as the following documents:

a) the document for crossing the state border, in the original and in a legalized copy;

b) legalized copy of civil status documents;

c) documents proving the legal ownership of the living space, in original and legalized copy;

d) supporting documents regarding means of maintenance;

e) criminal record certificate or other document with the same legal value, issued by the authorities in the country of origin, translated and legalized. If the applicant has left the territory of Romania after the date of issuance of the criminal record certificate, he must submit a new criminal record certificate, issued after the date of return to Romania;

f) criminal record certificate, issued by the Romanian authorities;

g) proof of social health insurance.

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Approval of requests to establish domicile in Romania

(1) The establishment of domicile in Romania is approved by the head of the Authority for foreigners.

(2) In order to analyze applications for establishing domicile in Romania, by order of the head of the Authority for Foreigners, a commission is set up that formulates reasoned proposals for each individual case.

(3) Requests for establishing domicile are resolved within a maximum of 6 months from the date of registration. For objective reasons, the head of the Authority for foreigners can extend this term by another 3 months, with notification to the applicant.

(4) The approval or rejection of the request is communicated in writing to the applicant, within 10 working days from its resolution.

(5) Within 30 days of receiving the communication, the foreigner who has been approved to establish a domicile in Romania is obliged to present himself at the territorial formation of the Authority for foreigners where the request was registered, in order to issue the permanent residence permit.

(6) In case of non-presentation within 12 months from the date of communication, the foreigner loses the right to issue a permanent residence permit. For the approval of the establishment of domicile in Romania, the foreigner can submit a new application.

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Rejection of the request to establish domicile in Romania

(1) If it is found that the conditions provided for in art. 70 and 71, the commission provided for in art. 72 proposes to the head of the Authority for foreigners to reject the request.

(2) The decision to reject the application, as well as the reasons behind it, are communicated in writing to the applicant by the Authority for Foreigners.

(3) The rejection of the request to establish domicile in Romania can be contested by the foreigner through administrative litigation, within 30 days from the date of communication.

(4) The rejection of the request to establish domicile in Romania has no legal effects on the right of temporary residence of the foreigner.

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a) access to the labor market, provided that the activity carried out does not, even occasionally, involve the exercise of some prerogatives of the public authority;

b) access to all forms of education;

c) equivalence of studies and recognition of diplomas, certificates and other qualifications, in accordance with national provisions;

d) social security, social and health assistance and social protection;

e) global income tax deductions and tax exemptions;

f) access to public goods and services, including obtaining housing;

g) freedom of association, affiliation and membership in a trade union or professional organization."

(1) The authority for foreigners cancels, by reasoned decision, the right of permanent or temporary residence in Romania in the following situations:

a) it is later found that, on the date of extension of the right of temporary residence or on the date of approval of the establishment of domicile in Romania, the foreigner did not meet the conditions provided by this emergency ordinance in this regard;

b) it is later found that some documents that were the basis for granting the right of temporary or permanent residence are false or falsified;

c) it is later established that the foreigner was removed from the territory of Romania and re-entered, under another identity, during the prohibition period.

(2) The authority for foreigners revokes, by reasoned decision, the right of temporary residence in Romania when:

a) following specific checks carried out by the competent bodies of the Authority for Foreigners or notifications received from other competent authorities, according to the law, it is found that the foreigner no longer meets the conditions on the basis of which his right of residence was extended or no longer respects the purpose for who was granted this right;

b) it is found that the foreigner violated the regulations regarding the state border or those regarding the employment of foreigners;

c) it is found that the foreigner suffers from a disease that endangers public health and does not submit to the medical treatment measures established by the competent authorities."

(1) The decision to leave the territory can be challenged within 10 working days from the date of communication, at the Bucharest Court of Appeal, if it was issued by the Authority for Foreigners, or at the court of appeal in whose jurisdiction the jurisdiction lies with the territorial formation that issued the order to leave the territory. The court resolves the request within 30 days from the date of its receipt. The court sentence is final and irrevocable.

(2) Exercising the right of appeal provided for in para. (1) suspends the execution of the order to leave the territory."

(1) The return decision can be appealed by the alien against whom it was decided, within 3 days from the date of communication, to the competent territorial court of appeal. The court pronounces itself within 3 days from the date of receipt of the request. The decision is final and irrevocable.

(2) Until the judgment is pronounced by the court, the foreigner is taken into public custody, under the conditions of this emergency ordinance.

(3) Exercising the right of appeal provided for in para. (1) has a suspensive effect only with regard to the execution of the return measure."

Equal treatment

The foreign holder of a right of permanent residence benefits, under the law, from equal treatment with Romanian citizens in terms of:

31. Article 75 will have the following content:

"ARTICLE 75

Cases of cancellation and revocation of the right of residence

32. Article 79 will have the following content:

"ARTICLE 79

The removal of foreigners from the territory of Romania

Against foreigners whose stay in Romania has become illegal or whose right of stay has been canceled or revoked, the Authority for Foreigners can order the measure of removal from the territory of Romania and, as the case may be, can order the measure of banning entry into Romania for a determined period. "

33. In article 80, letter a) of paragraph (1) will have the following content:

"a) the foreigner whose visa was canceled or revoked, as well as the one whose stay became illegal, within a maximum of 10 days;"

34. In article 81, letter b) of paragraph (4) will have the following content:

"b) by posting at the headquarters of the Authority for Foreigners or its territorial units, in cases where the foreigner:

(i) refuses to sign the order to leave the territory;

(ii) no longer lives at the declared address;

(iii) did not disclose the address at which he lives."

35. Article 82 will have the following content:

"ARTICLE 82

Challenging the order to leave the territory

36. In article 83, after paragraph (4), paragraph (4¹) is inserted with the following content:

"(4¹) The enforcement of the decree of declaration as undesirable is carried out by escorting the foreigner to the border or to the country of origin, by the specialized staff of the Authority for Foreigners."

37. In article 86, letter b) of paragraph (2) will have the following content:

"b) upon the expiration of the validity of the residence permit, they did not request the extension of the right of residence, and the period elapsed since its termination is greater than 90 days;"

38. After article 86, article 86¹ is inserted with the following content:

"ARTICLE 86¹

Contesting the return measure

39. In Article 87, paragraphs (2) and (3) will have the following content:

"(2) If the foreigner possesses a valid state border crossing document, financial means and no other formalities are required, the measure will be implemented within 24 hours, unless he expresses his intention to challenge the measure of return.

(3) When the measure of return cannot be implemented within 24 hours, the foreigner will be taken into public custody."

40. After article 88, article 88¹ is inserted with the following content:

"ARTICLE 88¹

Transit assistance measures in case of return by air between the Member States of the European Union

(1) The return by air is carried out, as a rule, by using direct flights to the country of destination.

(2) In the event that the return is not possible under the conditions provided for in para. (1), The Authority for foreigners can request airport transit from other states.

(3) The General Inspectorate of the Border Police can approve transit requests addressed by the competent authorities of the member states of the European Union, in the case of the return of foreigners from third countries.

(4) The transit request provided for in para. (3) may be refused if:

a) the foreigner is accused or indicted in a criminal case or has to serve a custodial sentence as a result of committing a crime on the territory of Romania;

b) transit to other states or admission to the country of destination is not allowed;

c) the return measure requires transport to an airport located on the territory of Romania;

d) the foreigner represents a threat to national security, order and public health or international relations of the Romanian state;

e) the requested assistance is impossible at that moment for objective reasons; in this case, the General Inspectorate of the Border Police informs, in the shortest possible time, the requesting authorities about a date as close as possible to the one originally requested, in which transit assistance can be granted.

(5) In the event that, after the approval of the transit, the situations provided for in para. (4), the authorizations already issued can be revoked, with the information of the requesting authorities on the reasons that determined the revocation.

(6) The transit request must be sent in writing no later than two days before the transit. This term can be shortened in urgent and justified cases.

(7) The decision will be communicated to the requesting member state within two days. The term can be extended, in justified cases, by a maximum of 48 hours.

(8) The General Inspectorate of the Border Police establishes contact points in all important transit areas.

(9) The transit operation must not exceed 24 hours. If, for objective reasons, additional assistance measures are necessary to continue the transit operation, this term can be extended by a maximum of 48 hours.

(10) Within the limits of the available means and in accordance with the relevant international standards, the General Inspectorate of the Border Police will ensure the necessary assistance measures from landing until leaving the airport to the country of destination of the third country citizen, regarding:

a) welcoming the third-country national to the aircraft and escorting him to the perimeter of the transit airport, especially to the connecting flight;

b) providing emergency medical treatment to the third country citizen and, if necessary, escorting him;

c) provision of food for the citizen of the third country and, if necessary, of his escort;

d) receiving, keeping and handing over travel documents, especially in the case of unescorted return;

e) in the case of unescorted transit, informing the requesting member state about the place and time of departure of the third country citizen from the territory of the Romanian state;

f) informing the requesting member state about any serious incidents that occur during transit;

g) during the stationing at the transit airport, the head of the border crossing point can order the foreigner to be accommodated in specially arranged spaces and the use of legal means to prevent or eliminate any attempt by the foreigner to resist the transit.

(11) The costs of the insured services, provided for in para. (10), will be borne by the requesting member state.

(12) In cases where transit by air could not be carried out, the Authority for Foreigners will take the necessary measures to receive the foreigner in the country."

41. Article 92, paragraph (4) is repealed.

42. After article 92, article 92¹ is inserted with the following content:

"ARTICLE 92¹

Recognition of decisions to remove foreigners from the territory of the member states of the European Union

(1) The decisions to remove foreigners, citizens of third countries, from the territory of the member states of the European Union are recognized by the Romanian state and are implemented by the Authority for foreigners under the conditions of this emergency ordinance, in the following cases:

a) the removal decision is taken for reasons of public order and national security, as follows:

- (i) when the foreigner has been convicted of a crime for which the law provides a prison sentence of more than one year;
 - (ii) as a result of the conduct by foreigners or the existence of solid indications that the foreigner is going to carry out activities likely to endanger public order or national security;
- b) the removal decision is taken as a result of the foreigner's failure to fulfill the conditions related to the entry and stay of foreigners on the territory of the member state in question.
- (2) In order to be implemented, it is necessary that the removal decisions provided for in para. (1) not to have been revoked or suspended by the issuing authorities.
- (3) They are exempted from the provisions of para. (1) foreign family members of Romanian citizens, as well as family members of citizens of European Union member states.
- (4) In order to apply this article, the Authority for foreigners cooperates and exchanges information with the competent authorities of the member states of the European Union."

43. In article 93, paragraph (7) will have the following content:

"(7) In the event that, after a foreigner is taken into public custody, the existence of one of the cases provided for in art. 89 paragraph (1) is established or he formulates for the first time a request for the granting of a form of protection, the measure public custody ceases by law. When a second request is made, the measure of public custody ceases on the date of granting access to a new procedure."

44. In article 93, after paragraph (7), paragraph (7¹) is inserted with the following content:

"(7¹) I make an exception from the provisions of paragraph (7) in situations where, for reasons of national security or public order, it is necessary to remove foreigners from the territory of Romania or to keep the foreigner in public custody until the completion of the procedure for granting the status of refugee."

45. In article 93, paragraph (8) will have the following content:

"(8) Foreigners against whom public custody has been ordered, under the conditions set out in paragraph (2), may submit, within 5 days, a complaint to the Bucharest Court of Appeal, which is obliged to resolve it within 3 days from the date of receipt. Foreigners taken into public custody, as well as those returned within 24 hours, are fingerprinted and photographed."

46. Article 96 will have the following content:

"ARTICLE 96

Medical assistance of foreigners taken into custody

(1) Foreigners taken into public custody have the right to free medical assistance, medicines and sanitary materials.

(2) The medical services provided for in para. (1) is ensured, as the case may be, through the medical service of the accommodation centers or through the sanitary units of the Ministry of Health. The settlement of expenses is ensured by the Ministry of Administration and Interior, through the budget allocated to the Authority for foreigners, specially provided for this purpose."

47. In article 99, after letter e) of paragraph (1), letter f) is inserted with the following content:

"f) foreigners who are unable to leave Romania for other objective reasons."

48. In Article 101, paragraphs (2) and (3) will have the following content:

"(2) The measure of banning entry into Romania, provided for in paragraph (1), is ordered also against the persons provided for in Article 8, paragraph (1) letters b)-d) and paragraph (2) letter a) and b).

(3) The application of the entry ban measure is carried out, in all cases, by establishing the nominal record at the state border crossing points and, when possible, by applying the stamp in the state border crossing documents specify its duration."

49. In article 102, letter a) of paragraph (1) will have the following content:

"a) one year, in case:

(i) an illegal stay from 30 days to one year, for foreigners who have not left the territory of Romania upon the expiration of the right of stay conferred by visa or pursuant to international conventions or normative acts by which the visa regime is unilaterally abolished;

(ii) an illegal stay from 3 months to a year, for foreigners who were holders of a temporary residence permit;

(iii) foreigners who did not comply with the order to leave the territory and who were returned;".

50. In Article 102, paragraphs (2) and (3) will have the following content:

"(2) The limits of the prohibitions provided for in paragraph (1) are reduced by half for foreigners who:

a) requests voluntary return, under the conditions provided for in art. 90;

b) bear the expenses necessary for removal from the territory of Romania;

c) subsequently reimburses the Authority for foreigners the expenses incurred for the removal from the territory of Romania;

d) are married to Romanian citizens or are parents of minors, Romanian citizens.

(3) Against foreigners who committed crimes with intent and who were removed, the duration of the ban will be equal to the duration of the sentence to which they were sentenced, but not less than 3 years."

51. In article 102, after paragraph (4), paragraph (4¹) is inserted with the following content:

"(4¹) Against the foreigners provided for in art. 101 paragraph (2) the duration of the ban will be as follows:

a) 15 years - for the foreigners provided for in art. 8 para. (1) lit. b) and d);

b) 5 years - for the foreigners provided for in art. 8 para. (2) lit. needle)."

52. Article 102, paragraph (5) is repealed.

53. After article 120, articles 120¹ and 120² are inserted with the following content:

"ARTICLE 120¹

Foreigners with the right of permanent residence in the member states of the European Union

(1) Foreigners, citizens of third countries or stateless persons, with the right of permanent residence in the member states of the European Union, may enter and stay on the territory of the Romanian state, for a period of 90 days within 6 months, without the obligation to obtain an entry visa.

(2) The persons referred to in para. (1) they can be extended the right of temporary stay, without fulfilling the prerequisite of obtaining a long-stay visa, under the conditions provided by this emergency ordinance.

120²

Family members of foreigners with the right of permanent residence in the member states of the European Union

(1) Family members of foreigners provided for in art. 120¹, who have a right of temporary residence for the purpose of family reunification in a member state of the European Union,

may enter Romania on the basis of a long-stay visa granted for the same purpose by the diplomatic missions or consular offices of Romania, with fulfilling the general conditions for granting visas, as well as presenting evidence regarding the right of residence on the territory of the European Union member state in this capacity.

(2) Family members of foreigners provided for in art. 120¹, who do not have a right of temporary residence for the purpose of family reunification in a member state of the European Union, the provisions of art. 46.

(3) The foreigners provided for in para. (1) and (2) their right of residence can be extended, according to the provisions of art. 63 para. (1)."

54. In article 124, points 2, 3 and 8 will have the following contents:

"2. non-fulfillment by the foreigner of the obligation to leave the territory of Romania after the date on which the right of residence in Romania ceases provided for in art. 11;

3. failure by the foreigner to notify the competent territorial police body of his/her stay, until at the latest after 3 days from the end of the term provided for in art. 12 para. (1);

.....

8. failure by the foreigner to report to the territorial formation of the Authority for Foreigners, within the 30-day period provided for in art. 72 para. (5);".

55. In article 124, after point 6, point 6¹ is inserted with the following content:

"6¹. non-fulfilment by foreigners of the obligations - provided for in art. 50 paragraph (2¹);".

56. In article 125, letter a) will have the following content:

"a) with a fine from 1,000,000 lei to 5,000,000 lei, those provided for in points 3, 4, 6, 6¹, 8, 9, 10, 11 and 12;".

57. In article 129, paragraph (1) will have the following content:

"(1) Entry into the territory of Romania, by crossing the border illegally or under another identity, by a foreigner declared undesirable or who has been denied the right to enter or stay in the country in any way, constitutes a crime and is punishable by imprisonment from 2 to 6 years."

58. After article 130, article 130¹ is inserted with the following content:

"ARTICLE 130¹

Facilitating the illegal stay of foreigners on the territory of Romania

(1) Intentionally facilitating the illegal stay of foreigners on Romanian territory in any way constitutes a crime and is punishable by imprisonment from 6 months to 5 years.

(2) The act provided for in para. (1), committed in the following circumstances:

a) by two or more people together;

b) a serious injury to the life or bodily integrity of foreigners was caused, it is punishable by imprisonment from 2 to 8 years.

(3) If the deed resulted in the death of the foreigner, the penalty is imprisonment from 3 to 15 years.

(4) The attempt is punishable."

59. After article 135, article 135¹ is inserted with the following content:

"ARTICLE 135¹

Provisions applicable from the date of Romania's accession to the European Union

The provisions of art. 88¹, 92¹, 120¹ and of art. 120² will enter into force on the date of Romania's accession to the European Union."

This law was adopted by the Romanian Parliament, in compliance with the provisions of art. 75 and of art. 76 para. (1) from the Constitution of Romania, republished.

THE PRESIDENT OF THE CHAMBER OF DEPUTIES

VALER DORNEANU

THE PRESIDENT OF THE SENATE

NICOLAE VĂCĂROIU

Bucharest, November 10, 2004.

No. 482.
