

Methodological norms for the application of the Government Emergency Ordinance no. 105/ 2001 regarding the Romanian state border

CHAPTER I

General Provisions

ART. 1

The legal regime of the state border comprises all the norms provided by the internal legislation regarding the state border and the performance of various activities in the border area, in the airport and harbour areas open for international traffic.

ART. 2

The state border of Romania can have the regime of an internal border or external border.

ART. 3

The legal regime of the internal border comprises the regulations regarding the elimination of the control at the common border or in the airports and harbours open for international traffic of persons or goods, for the persons, goods and services belonging to the state or community of states with which Romania has concluded agreements, conventions or other international understandings for the elimination of the control at the state border crossing.

ART. 4

The legal regime of the internal border applies to the common land borders with each of the neighbouring countries, with which agreements, conventions and other international understandings were concluded, for the elimination of the control at the common border, as well as to the airports for external flights, regular and non-regular courses, to the maritime and river harbours for the regular routes of passengers and goods which have as departure place or as exclusive destination airports or harbours on the territory of the states or

communities of states with which Romania has concluded agreements, conventions or other international understandings regarding the elimination of the control at the state border, without calls in the airports and harbours outside its territory.

ART. 5

The legal regime of the external border comprises the regulations regarding the state border in the internal legislation and applies to common land borders, airports and harbours open for the international traffic of persons and goods, in relation to the states with which Romania does not have the regime of internal border

ART. 6

(1) The border passage and the protection strip of the state border, established according to the law, belong to the public domain of the state and are administrated by the local public administration authorities.

(2) The border passage and the protection strip of the state border, state public property, are transferred from the administration of the Ministry of Interior and Administrative Reform to the administration of the local councils, on the basis of the concluded protocols, within 6 months from the entry into force of the methodological norms herein, by the county inspectorates of border police and the local councils of the communes and towns, that have, according to the territorial administrative structure, a common limit with the state border.

(3) Local public administration authorities provided at paragraph (2) take measures to mark the border passage and the protection strip of the state border in collaboration with the local units of border police.

(4) For the cleaning and maintenance of the border passage, the maintenance and repairing of the border signs or, when necessary, for their replacement, according to the provisions of the bilateral agreements concluded with the neighbouring states, the local public administration authorities provided at paragraph (2) together with the county inspectorates of border police draw up, annually, the plan with the necessary works.

(5) The local public administration authorities provided at paragraph (2) appoint their own delegates and experts for the mixed interdepartmental commissions established to solve the problems resulting from the border bilateral agreements, regarding the border line and the border signs. The General Inspectorate of Border Police will be informed as regards the delegates

and experts, in order to make the proposals for the establishment of mixed interdepartmental commissions, according to the law.

(6) The access, traffic and performance of various activities on the protection strip of the state border, on the land between this and the border line, on the islands and islets as well as in the border waters are settled, according to the law, by a decision of the local council, with the previous consultation, if necessary, of the economic agents or institutions that carry out specific activities in this area.

ART. 7

The names of the localities in the border areas will be written on a panel together with the specification "BORDER LOCALITY".

CHAPTER 2

State Border Crossing

SECTION 1

State border crossing points

ART. 8

(1) The crossing of the state border by persons, their means of transport, goods for personal usage is carried out through the state border crossing points opened for the international traffic, low border traffic and the simplified crossing points further called *crossing points*, under the terms provided by the law.

(2) The crossing of the state border, by merchandise and means of transport is carried out only through the border crossing points open for international traffic, designed for this purpose, according to the law.

(3) The crossing points opened for international traffic, points for low border traffic and the simplified crossing points are provided in the annex which is part of these methodological norms.

ART. 9

The state border can be crossed, exceptionally, through other places besides the ones in the annex of the methodological norms herein , under the terms settled by the bilateral documents concluded by Romania with other states.

ART. 10

(1) The crossing points function under the subordination of the Ministry of Interior and Administrative Reform that coordinates the activity regarding the control of the state border crossing and ensures the public order within their responsibility area through the Romanian Border Police

(2) The public authorities that have, according to the law, competences in the field of control of the state border crossing, collaborate to make sure that the traffic of passengers, means of transport, merchandise and other goods take place in good conditions.

(3) The administrators of the crossing points take the necessary measures to set up these points according to the planning of the crossing point, drawn up by the Ministry of Interior and Administrative Reform and approved by the local public authorities provided at paragraph (2), within 60 days from the entry into force of the methodological norms herein.

(4) The planning of the crossing points will include details of the following perimeters, areas and spaces:

- a) the perimeter of the crossing points which will include the platforms, the buildings, the corresponding installations meant to assure the specific activity in the crossing point, on their destination, specifying the destination and the way each component will be used;
- b) the transit area, as it is defined at art. 22, paragraph (2) in the Government Ordinance no. 102/ 2000 regarding refugees' status and regime in Romania, approved with amendments by the Law no. 323/ 2001, with the subsequent amendments;
- c) the work premises for the control activities at the crossing of the state border, which will include: the buildings and the installations necessary for the performance of the border control according to the Government Emergency Ordinance no. 105/ 2001; the control points on the entry and exit, separate under the terms provided at art. 10 paragraph (1) in the Government Emergency Ordinance no. 105/2001; the place meant for the performance of the sanitary and sanitary-veterinary, phyto-sanitary and environment protection control, when, according to the law, this control is carried out separately from the control of the persons, means of transport, merchandise and goods that do not make the object of this type of control.

ART. 11

The administrators of the crossing points shall take the necessary measures, within a year, from the entry into force of the methodological norms herein, to mark the perimeter of the crossing point, of the areas and spaces provided at art. 10 paragraph (4) and for the separation of the entry and exit lines (in/ out of the country).

ART. 12

(1) The personnel of the public authorities competent to carry out the control at the state border crossing shall wear, during working hours, name plates for identification.

(2) The access of other persons in the crossing point shall be established by the chief of the crossing point.

ART. 13

(1) The personnel competent for the administration of the crossing point shall be allowed to move within its perimeter, to carry out the activities necessary for the functioning of the crossing point. This shall be done according to the rules established by the chief of the crossing point in agreement with the chief of the customs authority.

(2) The chief of the crossing point together with the chief of the customs office for control and clearing, depending on the available personnel, can form control teams, in the crossing points with a large surface and limited possibilities of direct surveillance of the perimeter, that shall ensure the control of the access and performance of various activities on the area marked by the perimeter of the crossing point and the prevention of the illegal crossing of the state border by the persons, means of transport, merchandise and other goods.

(3) Depending on the crossing point specific and on the missions of the teams formed according to the dispositions of paragraph (2) , this is also made up by sanitary, sanitary-veterinary, phyto-sanitary personnel of the Autonomous Unit “National Administration of Romanian Roads” and environment protection, made available, at the crossing point chief’s request, by the competent authorities.

(4) The personnel of the teams mentioned at paragraph (2) aims the compliance with the legal provisions in the own field of activity, ascertains and applies the measures provided by the law, under his/her competence and disposes compulsory measures to remedy the ascertained deficiencies.

(5) When the control activity is completed, the team thus established will draw up a common report of activity, which will include: the structure of the team, the mission, the ascertained aspects and the disposed measures. The report shall be drawn up in a number of copies so that it can be distributed to the chiefs of each public authority represented in the control teams.

ART. 14

(1) The transit area is established in a marked place within the crossing points or, when necessary, near the crossing point, and it is organized to allow persons, means of transport, merchandise and other goods to stop until their legal regime is settled at the state border crossing.

(2) The access in the transit area is allowed only for the personnel of the authorities responsible for the control of the state border crossing and for the fulfilment of the work tasks, or, when necessary, to give emergency medical assistance or to prevent a danger.

(3) The persons, means of transport, merchandise and other goods are forbidden to stop in the transit area after the border control is completed. The chief of crossing point together with the chief of the customs authorities have the obligations to take all the legal measures to prevent this.

(4) After the border control is completed, the chief of the crossing point takes measures to check the transit area. When, in this area persons staying illegally are discovered, they shall be returned to the territory of the neighbouring or shall be embarked on the ships and airships they disembarked, so they shall be returned to the state of embarkation, according to the law. If the ships and airships are no longer in those harbours and airports, the aliens are handed to the territorial structures competent in the field of aliens, until their situation is solved according to the Law no. 123/ 2001 regarding the regime of aliens in Romania.

(5) In the situation when the aliens discovered staying illegally in the transit area, apply for refugee status, the chief of the crossing point shall take actions according to the provisions of the Government Ordinance no. 102/2000 approved with amendments by the Law 323/ 2001, with subsequent amendments.

ART. 15

(1) The work premises for the control activities for the crossing of the state border shall be thus organized to assure the possibility to carry out the control both of the documents regarding the identity of the persons who cross the state border and of the means of transport and goods in the possession of the travellers, as well as the merchandise in the perimeters meant for their control, to assure the fluency of the passengers and means of transport traffic.

(2) In the crossing points, properly set up, in compliance with the legal provisions regarding the financial resources necessary to be allotted for this purpose, the border police and the customs authority carry out the border control with one filter. The work premises shall be provided with orientation sign posts for the participants in the border traffic and with inscriptions both in Romanian and international languages.

SECTION 2

The performance of the control for the state border crossing

ART. 16

The control for the crossing of the Romanian state border has the purpose to check and to ascertain whether the conditions provided by the law for the entry and exit of the country, by persons, means of transport, merchandise and other goods are fulfilled.

ART. 17

All the persons crossing the state border are subjected to the minimum control to establish their identity. The requirements of the minimum control are settled by the General Inspectorate of Border Police, taking into consideration the provisions of the Resolution no 1.373 of 28th of September 2001 of the Security Council of the United Nations Organization regarding the countering of international terrorism and of art. 6 in the Convention for the application of the Schengen Agreement.

ART. 18

(1) The aliens coming from states with migration potential, as well as the aliens coming from other states, about whom there are clues that they represent a danger for the public order, national safety or public health shall be subjected to a detailed control at the border crossing.

(2) The detailed control means: to check of the identity documents for the crossing of the state border, to check whether the conditions for entry, residence and exit Romania are fulfilled; to check whether that person was the object of an alert or any other notification at the border; to check the means of transport, the merchandise and the accompanying goods; the sanitary check.

(3) The check of the means of transport, merchandise and goods is carried out according to the provisions of the Law no. 141/ 1997 regarding the Romanian Customs Code, with subsequent amendments.

(4) The technical details of the border control of the aliens provided at paragraph (1) and the way to solve various situations, according to the law, shall be established by the chiefs' instructions of the institutions that assure their execution.

ART. 19

(1) In the harbours and airports border crossing points a preventive control can be carried out by the border police, at the stairway of the ship or airship, to discover the aliens without border crossing documents, with forged or falsified visas, trying to enter the country illegally.

(2) The persons discovered in the situations provided at paragraph (1) are not allowed to get off the ship or airship.

(3) In the situation provided at paragraph (2), the chief of the crossing point takes the measures provided by the law against the carrier and the necessary measure to supervise the ship and the airship until it leaves on an external route.

(4) In the harbours where arrive and leave, maritime ships belonging to the categories provided by the Convention regarding the facilitation of the international maritime traffic (FAL), adopted in London on 9th of April 1965, by the International Conference regarding the facilitation of the maritime voyage and transport, amended and completed by the amendments from 1984, 1986, 1989, 1991, 1993 and 1994, to which Romania adhered through the

Government Emergency no. 58/ 1999, approved by Law no. 80/2000, the control for the border crossing is carried out according to the provisions of the Government Decision no. 1.335/ 2000 for the approval of the Methodological norms for the application of the provisions of the Convention regarding the facilitation of the international maritime traffic (FAL), adopted in London on 9th of April 1965, by the International Conference regarding the facilitation of the maritime voyage and transport, amended and completed by the amendments from 1984, 1986, 1989, 1991, 1993 and 1994, as well, the standards and procedure specific for Romania.

ART. 20

The control for the state border crossing shall be made up of:

- a) the sanitary, the sanitary-veterinary, phyto-sanitary and environment protection control;
- b) the control carried out by the Autonomous Unit “National Administration of Romanian Roads ”;
- c) the border police checks the documents for border crossing and the persons, the compliance with the regime of guns, ammunitions, explosive substances, as well as other substances provided at art. 24 in the Government Emergency Ordinance no 105/ 2001;
- d) the performance of the customs control.

ART. 21

(1) In applying the regime of internal border, the citizens of the states or communities of states, Romania concluded agreements, conventions or understanding regarding the elimination of the state border crossing control are subjected to a minimum control, the border policemen allowing them to enter/ leave the country without any other formalities.

(2) Applying the regime of external border, after the performance of the detailed control according to the art. 18, if all the conditions provided by the law are fulfilled, the border policemen allows the person to enter or exit the country and, depending on the case, affixes the entry/exit stamp on the state border crossing document or on the special form meant for this purpose, concluding thus, the control procedure for state border crossing.

(3) Once the crossing document is checked, under the conditions provided at art. (1) and (2), the border policemen handles the aliens and Romanian citizens residing abroad, when entering Romania, the offence notification ticket, provided at art. 16 paragraph (2) in the Government Ordinance no. 2/ 2001 regarding the legal regime of offences, approved with amendments and completions by the Law no.180/ 2002. When leaving the country, the aliens and the Romania citizens residing abroad have to present, in the same time with the documents for the state border crossing, the offence notification ticket.

(4) If the conditions provided by the law are not fulfilled, for any type of control, the border policemen, on the basis of the tasks regarding the national safety and public order or at the request of the competent authority, can take the necessary measure to forbid the entry/ exit of the country of the person, mean of transport or goods.

(5) Depending on the current situation, the intelligence held and the degree of social danger of the ascertained deeds, the chief of the crossing points disposes the performance of the necessary investigation for clarification, according to the competences established by the law.

ART. 22

The control for the state border crossing on the international trains of passengers shall be carried out observing the waiting time mentioned in the train schedule for the respective trains.

ART. 23

During the missions for the surveillance of the state border, in the border area or in the areas subjected to its control regime, during the control of aliens' identity, the border police shall also follow the way these have crossed the state border.

SECTION 3

ART. 24

The border alerts are those information sent to the border police and the customs authorities regarding the persons, means of transport, merchandise and other goods in one of the situations provided by the law and which are about to be checked during the control of the state border crossing, in order to forbid the entry/ exit of Romania, pursuing or performing the detailed control.

ART. 25

The border alerts are:

a) IND – alien declared as inadmissible. The persons in case are not allowed to enter Romania.

b) NPI – not allowed to enter. The persons, means of transport, merchandise and goods that make the object of the alert are not allowed to enter the country.

c) NPE – not allowed to exit. The persons, means of transport, merchandise and goods that make the object of the alert are not allowed to leave the country.

d) CAI – detailed control on entry. The persons, means of transport, merchandise and goods that make the object of the alert are subjected to the detailed control when entering the country and depending on its results, the measures provided by the law are taken.

e) CAE – detailed control on exit. The persons, means of transport, merchandise and goods that make the object of the information are subjected to the detailed control when leaving the country and depending on its results, the measures provided by the law are taken.

ART. 26

Ministry of Interior can establish other alerts, to support the completion of the information for the alerts provided at art. 25, letters a)-e) to solve some problems related to the fulfilment of work tasks or at the request of other state authorities.

CHAPTER 3

Deontological norms for the personnel with tasks in the state border crossing points

ART. 27

(1) The personnel in the crossing points fulfil their tasks according to the legal dispositions in force and observing the deontological norms for each activity area.

(2) The relations between the representatives of the authorities that carry out their activity in the crossing points are based on the cooperation and mutual support in order to fulfil the act of control and observance of the legal provisions in the field.

ART. 28

When fulfilling their tasks, the border policemen in the crossing points have to show professionalism, liability, honesty, respect and solicitude both in the relations between them and as well as towards traffic participants.

ART. 29

The personnel of the crossing points are forbidden to drink alcoholic beverages within the crossing point, as well as to come to the working hours under the influence of the alcoholic beverages.

ART. 30

At the request of the traffic participants or of other persons in the crossing points, the responsible border policemen in the crossing point have the obligation to present themselves and reveal their position.