

**Government ordinance no. 34 of 2006**  
**on the obligation of carriers to communicate passenger data**

According to article no. 108 from the Romanian Constitution, revised, and according to article 1(VII) from Law no. 288/2006 regarding Government authority of enacting ordinances.

Romanian Government adopts the present ordinance.

Art. 1 – The present ordinance regulates the obligation of air carriers to communicate passenger data, before conducting transport activities from other country to a Romanian border crossing point, in order to combat illegal migration and improve checking procedures at the border.

Art. 2 – For the purpose of this ordinance , the following notions and expressions have the next meanings

- a) „air carrier” – any natural or legal person, Romanian or alien, whose occupation is to provide passenger transport by air;
- b) „border crossing point”, „border control” –as stipulated under art.1 of GEO no.105/2001 on the Romanian state border, approved with modifications by Law nr.243/2002, with further modifications;
- c) „personal data”, „processing of personal data” –as stipulated under art.3 of Law no.677/2001 for the protection of persons against the processing of personal data and free circulation of such data, with further modifications;
- d) „competent authority” – the Romanian Border Police structure, competent for checking passengers when crossing the border.

Art. 3 – At the request of the responsible authority, the carriers operating on Romanian territory have the obligation to transmit the following information concerning the passengers they will carry through a Romanian border crossing point, until the boarding formalities are completed:

- a) number and type of travel document used;
- b) nationality;
- c) full name;
- d) date of birth;

- e) entry border crossing point;
- f) code of transport;
- g) transportation departure and arrival time;
- h) total number of passengers carried on that transport;
- i) the initial point of boarding.

(2) From the moment of Romania's accession to the EU, the provisions of para (1) apply only for transports from a non UE state to a Romanian border crossing point

Art. 4 – In any case, the transmission of data mentioned at art.3 para 1, does not eliminate the obligations of the carrier prescribed under art.7 – GEO no. 194/2002 on the aliens' regime in Romania, republished, with the subsequent endorsements and supplements.

Art. 5 – Data provided at art.3 para 1 are communicated with electronically means which ensure the security of personal data processing and in the event of emergency shut-down or system problems, by any adequate means according to law, through protocols completed by the Border Police General Inspectorate and by carriers.

Art. 6 – (1) Data transmitted by carriers are used for facilitating checks at borders through the following activities:

- a) checks on the conditions for the foreign citizens, laid down in art.6 of Government Ordinance no.194/2002 on the aliens' regime in Romania, republished, with further modifications;
- b) checks if the alien found himself in one of the situation stipulated in art.8 of Government Ordinance no.194/2002 on the aliens' regime in Romania, republished, , with the subsequent endorsements and supplements;
- c) checks on. the legal databases, of the data transmitted by the air carrier referring to the Romanian citizens.

(2) personal data which are forwarded by the carriers are preserved by the competent authority in a temporary file and processed by their personnel with persons' border checking attributions, according to no.677/2001 with the subsequent endorsements and supplements.

Art. 7 – (1) The competent authorities has the obligation to destroy the recordings containing data transmitted by the air carriers, within 24 hours since their receiving, but not before the passenger's arrival in the Romanian border crossing point and the end of control procedures.

(2) When data are necessary for the competent authority in performing their legal activities, data referred at in article 3 para 1 can be kept and processed with the respect of Law no.677/2001, with the subsequent endorsements and supplements.

Art. 8 – (1) Air carriers which collect and transmit to the responsible authority, data on passengers in applying the legal provisions, are obliged to destroy the recordings, within 24 hours since the arrival in the Romanian border crossing point.

(2) Air carriers have the obligation, before transmitting the data referred in art. 3 para 1, to inform the passengers on the fact that their data are transmitted to the competent authority.

The notification is being done according to the conditions provided by art.12 of the Law no.677/2001, with further modifications.

Art. 9 – Data transmitted to the competent authority may also be consulted, according to Law no.677/2001 by other institutions with competences in public order or national security, in the purpose of exercising their own responsibilities.

Art. 10 – The processing of personal data forwarded by air carriers is supervised by the National Authority for Processing Personal Data, according to law.

Art. 11 – (1) The act of an air carrier, which does not comply with the transmission of data, according to art. 3 para 1 or transmits incorrect or incomplete data, is considered minor offence and is sanctioned with a 10,000-20,000 RON fine.

(2) If the carrier is committing another minor offence stipulated within the present normative, in less than 1 year since one of the minor offences provided in para 1 is observed and infringed the sanctions are increased by 5,000 RON.

(3) The sanctions on minor offences mentioned in this article are applied by the competent authority.

Art. 12 – The provisions of Government Ordinance no.2/2001 on legal regime of minor offences approved with further modifications by Law no.180/2002, with ulterior modifications and addenda are applied to the minor offences provided in the present law.

Art. 13 – The present ordinance shall enter into force 90 days after it's publication in the Romanian Official Journal.