

LAW No 186

of 13 June 2007

for the approval of Government Emergency Ordinance No 121/2006 on the legal regime of drug precursors

ISSUED BY: THE PARLIAMENT

PUBLISHED IN: THE OFFICIAL GAZETTE OF ROMANIA No 425 of 26 June 2007

The Parliament of Romania hereby adopts this Law.

SINGLE ARTICLE

The Government Emergency Ordinance No 121 of 21 December 2006 on the legal regime of drug precursors, published in the Official Gazette of Romania, Part I, No 1039 of 28 December 2006, as subsequently amended and supplemented, is hereby approved:

1. The preamble of the Emergency Ordinance shall read as follows:

“Having regard to the fact that starting with 1 January 2007, the date of Romania’s accession to the European Union, the provisions of the Regulations issued by the institutions of the European Union will have direct applicability within the Romanian legal system,

Having regard to the need to adopt adequate measures for the direct enforcement of the provisions of these Community acts, namely the establishment of the institutional framework and of the penalty regime,

Taking into account that these elements aim at the public interest and represent extraordinary situations whose regulation cannot be postponed,

Pursuant to Article 115(4) of the Constitution of Romania, as republished, Article 69 of the Europe Agreement establishing an association between Romania, of the one part, and the European Communities and their Member States, of the other part, signed in Brussels on 1 February 1993, ratified by Law No 20/1993, and Article 2 of Law No 157/2005 for the ratification of the Treaty between the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland (Member States of the European Union) and the Republic of Bulgaria and Romania concerning the accession of the Republic of Bulgaria and Romania to the European Union, signed by Romania in Luxembourg on 25 April 2005,”

2. Article 1(1) and (4) of shall read as follows:

“*Article 1* - (1) This Emergency Ordinance regulates the legal regime of the substances frequently used in the illicit manufacture of narcotic drugs and psychotropic substances, as defined in Article 2 of Regulation (EC) No 273/2004 of the European Parliament and of the

Council of 11 February 2004 on drug precursors, as published in the *Official Journal of the European Union* L 47 of 18 February 2004, p. 1-10, hereinafter referred to as Regulation 273/2004, and in Article 2 of Council Regulation (EC) No 111/2005 of 22 December 2004 laying down rules for the monitoring of trade between the Community and third countries in drug precursors, as published in the *Official Journal of the European Union* L 22 of 26 January 2005, p. 1-10, hereinafter referred to as Regulation 111/2005, the measures to control and monitor the operations with such substances, in order to prevent their diversion, as well as the measures to combat illicit operations.

(4) The terms and expressions used in this Emergency Ordinance and defined in Article 2 of Regulation 273/2004, in Article 2 of Regulation 111/2005, as well as in Article 2 of Commission Regulation (EC) No 1277/2005 of 27 July 2005 laying down implementing rules for Regulation 273/2004 and for Regulation 111/2005, as published in the *Official Journal of the European Union* L 202 of 3 August 2005, p. 7-33, hereinafter referred to as Regulation 1277/2005, shall have the meaning established by these Community acts.”

3. Article 3 shall read as follows:

“*Article 3 - (1)* The National Anti-Drug Agency is the national authority competent according to the provisions of Regulation 273/2004, of Regulation 111/2005 and of Regulation 1277/2005.

(2) The National Anti-Drug Agency is the structure for the monitoring of the operators and operations with scheduled and non-scheduled substances, for the unit coordination of the activities in the field of drug precursors, carried out by the competent institutions, and for the coordination and assurance of the cooperation between these institutions, the civil society structures and the international bodies in the field of drug precursors, and it represents the national centralized database in the field of drug precursors.

(3) In view of fulfilling the obligations provided for in this Emergency Ordinance, the contact between operators and authorities shall be carried out by the specialized structure within the National Anti-Drug Agency, functioning as “one-stop shop” in the field of drug precursors.”

4. Article 6(1) shall read as follows:

“*Article 6 - (1)* The licence issued according to Article 5 is valid for the locations on which a declaration has been given upon its request.”

5. Article 8(1) shall read as follows:

“*Article 8 - (1)* The National Anti-Drug Agency authorizes every export operation of substances listed in Schedules 1, 2 and 3, as well as every import operation of substances listed in Schedule 1, which are subject to customs declarations, operations provided for in Articles 12 and 20 of Regulation 111/2005.”

6. Article 9 shall read as follows:

“*Article 9 - (1)* According to the provisions of Article 11 of Regulation 111/2005, the notification prior to export shall be carried out by the National Anti-Drug Agency.

(2) In order to reply to the prior notifications of the competent authorities of other states, the National Anti-Drug Agency shall require the opinion of the central anti-drug unit within the General Inspectorate of Romanian Police.”

7. Article 10 shall read as follows:

“*Article 10* –The conditions for issuing, suspending or withdrawing the licences or the conditions for registering the applications, as well as the confirmation of meeting the conditions provided for in Article 5(3) shall be established by the Regulation implementing this Emergency Ordinance, drawn up by the Ministry of Interior and Administration Reform and approved by a Government Decision, within 60 days of the entry into force of the Law approving this Emergency Ordinance.”

8. Article 11(1) shall read as follows:

“*Article 11* - (1) The operators working with substances listed in Schedules 1 and 2 shall communicate to the National Anti-Drug Agency the contact data of the person responsible for this activity, and, where appropriate, of his/her substitute, according to the provisions of Article 3(1) of Regulation 273/2004.”

9. Article 12(1) shall read as follows:

“*Article 12* - (1) The operator is bound to notify immediately the National Anti-Drug Agency of any unusual precursor event or operation that may generate the suspicion that these substances may be diverted in view of the illicit manufacture of narcotic drugs and psychotropic substances.”

10. In Article 13(1), (b), (d) and (e) shall read as follows:

“(b) ensuring and keeping the records of the daily movement of scheduled substances and drawing up the documents according to the provisions of Article 5 of Regulation 273/2004 and of Articles 3 and 4 of Regulation 111/2005;

(d) ensuring the labelling, according to the legal provisions into force and pursuant to the conditions provided for in Article 7 of Regulation 273/2004 and in Article 5 of Regulation 111/2005;

(e) carrying out the packaging, according to the legal provisions in the field.”

11. Article 18 shall read as follows:

“*Article 18* - (1) In order for the competent bodies to control the compliance with the provisions of this Emergency Ordinance, operators are bound:

a) to allow the access to the locations where they carry out their activities;

b) to allow the checking of the documents upon which they carry out their activity and of the commercial documents;

c) to allow sampling, if necessary, according to the provisions of the Regulation implementing this Emergency Ordinance.

(2) The public authorities responsible for criminal investigation are entitled, in view of verification, to make the means of transport unavailable for a reasonable period of time, of maximum 30 days, depending on the circumstances.”

12. Article 22 shall read as follows:

“*Article 22* - (1) Placing on the market of the scheduled substances, import, export and intermediate activities, as well as possession of scheduled substances without the licence provided for in Article 5(1), namely without the registration provided for in Article 7(1) and (4), are considered to be criminal offences and are punishable by a prison sentence of 1 year to 5 years.

(2) The same sentence applies to the possession of equipment or materials in view of using them for the illicit production or manufacture of drugs.

(3) The marketing of the scheduled substances to economic operators or natural persons not authorized under Article 5(1) or, where appropriate, not registered pursuant to Article 7(1) and (4) for the activity with such substances is also considered to be a criminal offence and is punishable as provided in paragraph (1).

(4) Committing the facts provided for in paragraphs (1) and (3) in view of using them for the illicit cultivation, production or manufacture of drugs is punishable by a prison sentence of 3 to 10 years and deprivation of certain rights.”

13. Article 29 is hereby repealed.

This Law has been adopted by the Parliament of Romania, in compliance with the provisions of Articles 75 and 76(1) of the Constitution of Romania, as republished.

THE PRESIDENT OF THE CHAMBER OF DEPUTIES
BOGDAN OLTEANU

Acting as THE PRESIDENT OF THE SENATE,
DORU IOAN TĂRĂCILĂ

Bucharest, 13 June 2007.
No 186.