

Emergency Government Ordinance
establishing steps towards implementation of the Agreement on the withdrawal of the
United Kingdom of Great Britain and Northern Ireland from the European Union and the
European Atomic Energy Community, in the matter of regulating the right of entry and stay
on Romanian territory

Given the raising on 29 March 2017 by the de United Kingdom of Great Britain and Northern Ireland, hereinafter named the United Kingdom, of Art. 50 in the Treaty on European Union, which caused the start of the process of its withdrawing from the European Union,

Considering that on 17 October 2019 the European Council approved the revised version of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, hereinafter named the Withdrawal Agreement, as well as the Political declaration setting out the framework for the future relationship,

Noting that on 21 October 2019 the Council of the European Union adopted the decision to sign the Withdrawal Agreement and approved the decision to conclude the Withdrawal Agreement,

Mindful that on 1 February 2020 the Withdrawal Agreement came into force as a direct consequence of withdrawal on 31 January 2020,

Given that on 21 February 2020 the European Commission adopted Implementation Decision #1114 on documents to be issued by Member States pursuant to Article 18(1) and (4) and Article 26 of the Withdrawal Agreement,

Following the United Kingdom's formal rejection of an extension of the transition period agreed upon under the Withdrawal Agreement, with the transition period ending on 31 December 2020,

Considering that failure to adopt immediate measures would create difficulties in ensuring continuity of the concerned citizens' exercise of their rights, which can have negative effects reaching as far as the bilateral relations, because of the need to protect both Romanian citizens located on the United Kingdom's territory and the British citizens located on Romanian territory and in the absence of such measures their legal status could be impacted directly and irredeemably,

In the above circumstances, in terms of Art. 115 para. (4) in the Constitution of Romania, as republished, the rationale for the emergency and the extra-ordinary situation whose regulation cannot be postponed is to be found in the absence of legal instruments and proper mechanisms to make possible the implementation of the Withdrawal Agreement,

Noting that failure to put this Draft forward in emergency procedure can lead as far as an impossibility for Romania to honour its obligations as a European Union Member State, a fact that can harm bilateral relations with the British side,

Mindful that in case the proposed measures are not passed a predictability cannot be ensured for such persons as are entitled to rights under the Withdrawal Agreement, so the latter cannot be implemented efficiently and within the coordinates established therein, with direct consequences upon citizens, which is a matter of general public interest,

Considering that, in the context described, this undertaking cannot be postponed as the risk exists to see institutional bottlenecks or dysfunctions, which would constitute emergency and extra-ordinary situations the regulation of which requires immediate steps to be taken by way of this Emergency Ordinance,

Seeing that withdrawal of the United Kingdom from the European Union constitutes an extraordinary, complex and unprecedented situation, wherein regulatory steps cannot be postponed and which requires immediately taking all necessary steps to protect British citizens because in the absence of such steps their legal status would be impacted directly and irredeemably, it being therefore necessary to take urgent steps to prevent such consequences,

Given that protecting the rights of citizens has been Romania's and the European Union's primary priority as part of the Brexit process,

Based on Art. 115 para. (4) in the Constitution of Romania, as republished,

The Government of Romania adopts this Emergency Ordinance

Chapter I

General stipulations

Art. 1 – This Emergency Ordinance puts regulations in place for the implementation of the Withdrawal Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, hereinafter named the Withdrawal Agreement, in the matter of the right of entry and stay on Romanian territory.

Art. 2 – For the purpose of implementation of this Emergency Ordinance, the terms and phrases below are defined as follows:

a) beneficiary of Art. 50 in the Treaty on European Union, hereinafter *beneficiary of Art. 50 TEU* – a British citizen who is in Romania and continues to have their residence on Romanian territory at the end of the transition period, their family members living with them or joining them after the end of the transition period in case they qualified as family members before the end of the transition period, as well as children born or adopted after the end of the transition period.

b) family members of the British citizen beneficiary of Art. 50 TEU, irrespective of citizenship, accompanying them in Romania – persons in one of the following situations:

(i) husband or wife of the British citizen beneficiary of Art. 50 TEU;

(ii) direct descendants, including adopted ones, who have not turned 21 years of age or are dependants of the British citizen beneficiary of Art. 50 TEU, as well as those of the husband/wife or partner;

(iii) direct ascendants, irrespective of citizenship, who are dependants of the British citizen beneficiary of Art. 50 TEU, as well as those of the husband/wife or partner;

(iv) partner – a person who lives together with the British citizen beneficiary of Art. 50 TEU, if the partnership is registered under the law in their country of origin or country they come from or, in case the partnership is not registered, evidence can be brought of a cohabitation relationship;

(v) dependant – any other family member, irrespective of citizenship, outside the categories at items (i)-(iv) and who, in their country of origin or country they come from, is being supported by or forms a household with the British citizen beneficiary of Art. 50 TEU, or is in a situation where, for serious medical reasons, they require his/her personal assistance;

(vi) any other family member, irrespective of citizenship, outside the categories at items (i)-(v), whose presence on Romanian territory is necessary to the British citizen beneficiary of Art. 50 TEU, so the latter is not deprived of a right of stay granted under this Emergency Ordinance.

c) the family members of the British citizen beneficiary of Art. 50 TEU who join the citizen after the end of the transition period – persons in one of the situations described under letter b) items (i)-(iv) and (vi);

d) transition period – the period stipulated at Art. 126 in the Withdrawal Agreement;

e) frontier worker – the British citizen beneficiary of Art. 50 TEU who is not a resident on Romanian territory, was employed on Romanian territory before the end of the transition period and continues their activity after the end of the transition period.

Chapter II

Stipulations on the right of entry and stay on Romanian territory

Section 1

Stay on Romanian territory

Art. 3 – This Emergency Ordinance uses terms and phrases in the meaning of the text of the Withdrawal Agreement, the Emergency Government Ordinance #194/2002 on the status of foreign citizens in Romania, as republished with subsequent amendments and supplements, and Emergency Government Ordinance #102/2005 on unrestricted circulation on Romanian territory for citizens of the European Union Member States, of the European Economic Space and of the Swiss Confederation, as republished with subsequent amendments and supplements.

Art. 4 – On Romanian territory the beneficiaries of Art. 50 TEU shall be entitled to the rights stipulated in the Withdrawal Agreement.

Art. 5 – **(1)** Beneficiaries of Art. 50 TEU are under the following obligations:

a) comply with Romanian law while staying in Romania;

b) refrain from staying on Romanian territory beyond the period for which their stay was authorised, and take all necessary steps to leave Romania before the end of that period;

c) comply with inspection when crossing the national border, as required by law;

d) comply, as required by law, with inspection by the police and other authorities with legal jurisdiction in this sense;

e) report within 30 days, to the territorial office of the General Inspectorate for Immigration of the Ministry of the Interior that granted them the right of stay, about the following:

(i) any change occurred in their personal situation, especially change of name, citizenship, domicile or residence, conclusion, termination or annulment of marriage, birth or adoption of a child, death of a family member located on Romanian territory;

(ii) extension of the validity or change of the document needed for crossing the national border.

f) apply for a new residence permit in case they change their name, citizenship, domicile or residence when they report the changes occurred in their personal status;

g) report within 48 hours, to the police office that has territorial jurisdiction, the theft or loss of the document needed for crossing the national border or the identity document;

(2) In case the beneficiaries of Art. 50 TEU change their domicile or residence, the deadline stipulated at para. (1) letter e) starts running as of the date they take residence at their new address.

Art. 6 – (1) Beneficiaries of Art. 50 TEU who have obtained a right of permanent residence on Romanian territory or have been registered on Romanian territory as under Government Emergency Ordinance #102/2005, as republished with subsequent amendments and supplements, until and including the end of the transition period, will be afforded recognition until 31 December 2021 of the documents issued them by the General Inspectorate for Immigration.

(2) The rights stipulated in this Emergency Ordinance for family members shall continue to apply even after they stop being dependant on the British citizen beneficiary of Art. 50 TEU, and also if the British citizen beneficiary of Art. 50 TEU dies or leaves Romanian territory, in case of divorce, annulment of marriage or termination of partnership.

Section 2

Stipulations on the right of temporary stay

Art. 7 – (1) Beneficiaries of Art. 50 TEU who entered Romanian territory in the period 01 – 31 December 2020 can apply, within no more than 90 days of entering the country, for an extension of their temporary residence permit in Romania on the basis of the Withdrawal Agreement and the stipulations in this Emergency Ordinance. Applications are to be filed with the territorial office of the General Inspectorate for Immigration.

(2) Beneficiaries of Art. 50 TEU who carry residence permits issued under the stipulations of Government Emergency Ordinance #102/2005, as republished with subsequent amendments and supplements, can apply for an extension of their temporary residence permit in Romania on the basis of the Withdrawal Agreement and the stipulations in this Emergency Ordinance. Applications are to be filed with the territorial office of the General Inspectorate for Immigration starting on 01 December 2020 and until no later than 31 December 2021.

(3) The right of temporary stay in Romania for the beneficiaries of Art. 50 TEU will be extended if the following conditions are met:

a) they have not been flagged by relevant authorities as a threat to national defence and security;

b) they carry a valid document needed for crossing the national border, except for the cases when such document expired after entry in Romania and, for reasons independent of their control, said document's validity could not be extended;

c) they can prove legal ownership of the space they live in and are actually living at the address they declare as their residence or domicile in Romania;

d) they can prove owning sufficient means to support themselves and their family members, at least at the level of the minimum guaranteed income in Romania.

(4) Beneficiaries of Art. 50 TEU shall accompany their application for an extension of their temporary stay by their document for crossing the national border, in the original and one copy,

a valid health insurance, evidence of legal ownership of the space they live in at the address they declare as their residence or domicile on Romanian territory, evidence of means of support and, as the case may be, one of the following documents:

- a) proof of kinship in the case of family members;
- b) documents issued by the authorities in their state of citizenship or residence proving that the family member of the British citizen beneficiary of Art. 50 TEU is their dependant or forms a household with them or is in the situation where for serious medical reasons they require his/her personal assistance;
- c) document attesting the fact that the partnership with the British citizen beneficiary of Art. 50 TEU was registered, in the case of a registered partnership, or documents attesting that the respective person is in a long-term cohabitation relationship with the citizen in the case of an unregistered partnership.
- d) document attesting the fact that presence on Romanian territory of the family member of the British citizen beneficiary of Art. 50 TEU is needed by the latter so as not to be deprived of a right of stay granted on the basis of this Emergency Ordinance.

(5) Evidence of means of support can be brought in the form of a pay certificate, pension slip, statement of income and contributions owed by individuals, a bank statement or any other equivalent documents. In the case of students, evidence of means of support can be brought in the form of an affidavit.

Art. 8 – (1) The family members described at Art. 2 letter c) who are joining the British citizen beneficiary of Art. 50 TEU starting on 01 January 2021 and until 30 September 2021 can apply for an extension of their right of temporary stay in Romania until 31 December 2021.

(2) The family members described at Art. 2 letter c) who are joining the British citizen beneficiary of Art. 50 TEU starting on 01 October 2021 are under an obligation to apply for an extension of their right of temporary stay in Romania within no more than 90 days of the date of entry on Romanian territory. Application must be filed at the territorial office of the General Inspectorate for Immigration.

(3) The right of temporary stay in Romania for family members described at la Art. 2 letter c) will be extended if the conditions are met that are stipulated at Art. 7 para. (3).

(4) The right of temporary stay stipulated at para. (3) will be extended individually, for each family member.

(5) The application for an extension of temporary stay shall be accompanied by the documents stipulated at Art. 7 para. (4).

(6) Evidence of means of support can be brought in the form of the documents stipulated at Art. 7 para. (5).

Art. 9 – (1) In the situation where, based on the documents filed by the beneficiary of Art. 50 TEU, the General Inspectorate for Immigration finds the conditions are not met for an extension of the right of temporary stay, they will ask that the beneficiary of Art. 50 TEU submit, within a time frame of their choice but no longer than 30 days, any possible documentation they might have to justify the need for an extension. Should that deadline pass and the requirements remain unfulfilled, the General Inspectorate for Immigration will issue a decision to deny issuance of the temporary stay permit and will provide the reasons why that decision was made, as well as the court of law where said decision can be challenged and time frame within which the challenge can be filed.

(2) Denial of issuance of the temporary stay permit can be challenged before the jurisdictional court for administrative litigations.

(3) The deadline for the beneficiary of Art. 50 TEU to leave Romanian territory is one month of the date of communication of the General Inspectorate for Immigration's decision to deny issuance of the temporary stay permit, except for the cases where it is found that the beneficiary of Art. 50 TEU must leave Romanian territory at once or within a very short delay so as to avoid an imminent and serious threat to national security.

(4) The court trying the legal challenge of the decision to deny issuance of the temporary stay permit will examine the lawfulness of the decision as well as the facts and circumstances that warranted the challenged decision.

(5) Decisions to deny issuance of the temporary stay in whose case the deadline for leaving Romanian territory was not complied with, and those mandating immediate departure from Romanian territory, shall be enforced by the specialist staff of the General Inspectorate for Immigration escorting the concerned person to the border or to their country of origin.

(6) If the escorting stipulated at para. (5) cannot be performed within 24 hours, the General Inspectorate for Immigration can request for the concerned person to be taken into public custody, with the appropriate application of Government Emergency Ordinance #194/2002, as republished with subsequent amendments and supplements, concerning the taking into public custody and, as the case may be, tolerating a continued stay on Romanian territory.

(7) Beneficiaries of Art. 50 TEU who are under the effect of a decision to deny issuance of the temporary stay and who are identified on Romanian territory after the date for voluntary departure or in the circumstances of para. (5) shall be escorted by the specialist staff of the General Inspectorate for Immigration to the border or to their country of origin, at the same time as being notified to the criminal investigation bodies for the criminal violation at Art. 262 para. (2) letter b) in Law #286/2009 of the Criminal Code, as amended and supplemented. The stipulations of para. (6) shall apply accordingly.

(8) the decision to deny issuance of the temporary stay shall be communicated to the beneficiary of Art. 50 TEU by:

a) the General Inspectorate for Immigration or its territorial entities by handing over a copy thereof, under signature, when the person is present on Romanian territory, or by registered mail at the address they have declared as their domicile, when the person is not present.

b) the Romanian Border Police, by handing over a copy thereof, under signature, when the person arrives at the border aiming to enter Romanian territory.

(9) Art. 28 para. (5) letter a) and b) in Emergency Government Ordinance #102/2005, as republished with subsequent amendments and supplements, shall apply accordingly.

Art. 10 – (1) The right of temporary stay of the beneficiaries of Art. 50 TEU shall cease when they are found to be a threat to national security.

(2) The decision on cessation of the right of temporary stay, issued by the General Inspectorate for Immigration, must contain a precise and complete presentation of all factual and legal grounds it relied upon, the decision's implications for the person concerned, information on the court where the decision can be challenged, the deadline for filing legal action and the time frame within which the beneficiary of Art. 50 TEU is to leave the Romanian territory.

(3) Art. 9 para. (2)-(7) and (9) in this Emergency Ordinance and Art. 29¹ para. (1), (2) and (4)-(8) and Art. 29², 30, 31, 31¹, 32 and 33¹ in Emergency Government Ordinance #102/2005, as republished with subsequent amendments and supplements, shall apply accordingly. After the

end of the transition period, communication of the decision on cessation of the right of temporary stay shall be performed as under Art. 9 para. (8) in this Emergency Ordinance.

Art. 11 – (1) The General Inspectorate for Immigration can rescind, by justified decision, a person's right of temporary stay in Romania if after they received it there is a finding that:

- a) on the date of extension of the right of temporary stay the qualification as beneficiary of Art. 50 TEU was proven using false information, counterfeit or altered documents, or other illegal means;
- b) the right of temporary stay was obtained based on a marriage of convenience, found to exist as under Emergency Government Ordinance #194/2002, as republished with subsequent amendments and supplements, or based on a partnership if such was entered or declared as for the purpose of securing the right of stay on Romanian territory;
- c) the right of residence, secured as under Government Emergency Ordinance #102/2005, as republished with subsequent amendments and supplements, was based on a partnership if such was entered or declared for the purpose of securing the right of stay on Romanian territory.

(2) The temporary stay permit shall be rescinded on the date the decision was issued as under para. (1) and shall be taken back at the latest on the date when that decision is communicated to the person concerned.

(3) Art. 9 para. (2)-(9) shall apply accordingly.

Section 3

Stipulations on the right of permanent stay

Art. 12 – (1) The beneficiaries of Art. 50 TEU who secured, by 31 December 2020, the right of permanent residence on Romanian territory as under Government Emergency Ordinance #102/2005, as republished with subsequent amendments and supplements, shall receive recognition of that right after that date as well, if they apply for permanent stay document by and including on 31 December 2021, while satisfying the requirements under Art. 7 para. (3) letters a) – c).

(2) The application for a permanent stay document shall be accompanied by a document for crossing the national border, in the original and one copy, a statement of criminal history or another document of equal legal value issued by the authorities of their state of domicile or residence, as well as evidence of legal ownership of the space at the address they declare as their residence on Romanian territory.

Art. 13 – (1) Under this Emergency Ordinance, the right of permanent stay will be granted, on demand, for an indeterminate period, to the persons described at Art. 7 and 8 and who on the date their application is processed are lawful holders of a right of temporary stay on Romanian territory and cumulatively satisfy the following requirements:

- a) they have had a right of temporary stay on Romanian territory constantly over the 5 years prior to filing their application, and over that period they were never subject to any decision or removal from Romanian territory;
- b) they can prove owning sufficient means to support themselves and their family members, at least at the level of the minimum guaranteed income in Romania;
- c) they can prove legal ownership of their living space as under the law;
- d) they are not a threat to national security;

- e) they are not a threat to public order. This requirement is deemed satisfied if the foreign citizen has not committed criminal violations with intent on Romanian territory that they have received a prison sentence for in excess of 5 years.
- (2)** Evidence of sufficient means to support themselves can be brought using the documents described at Art. 7 para. (5).
- (3)** Juveniles can obtain the right of permanent stay without satisfying the requirements under para. (1) and only if one or both parents hold a right of permanent stay on Romanian territory. In case only one of the parents holds a right of permanent stay on Romanian territory it will be necessary to secure notarised consent from the other parent.
- (4)** The following are not considered interruptions of the period of temporary stay:
- a) temporary absence from Romanian territory for less than 6 months in one year;
 - b) absence from Romanian territory to comply with mandatory military service;
 - c) absence from Romanian territory for justified reasons, such as pregnancy and birth, serious illness, attending education or vocational training programmes, or moving as a job requirement to another European Union Member State or a third country for a duration of no more than 12 consecutive months;
 - d) the duration of service of a prison sentence on Romanian territory, less than 6 months.
- (5)** The burden of proof for continued temporary stay on Romanian territory as under para. (1) letter a), shall lie with the applicant and can be brought using any means of proof.
- (6)** The granting of the right of permanent stay is exempt from the fee payable as under the Appendix to letter B item 4 in Government Ordinance #24/1992 on establishing certain public services and the fees payable for obtaining such services on Romanian territory, approved with amendments under Law #89/1993, as amended and supplemented.

Art. 14 – (1) In case it is found that the requirements in this Emergency Ordinance are not satisfied the General Inspectorate for Immigration will communicate its decision to deny issuance of the permanent stay document in writing and will provide the reasons why that decision was made, as well as the court of law where said decision can be challenged.

(2) The denial stipulated at para. (1) can be challenged before the jurisdictional court for administrative litigations.

(3) The court trying the challenge against the decision to deny issuance of the permanent stay document shall examine the lawfulness of the decision as well as the facts and circumstances the decision relied upon.

(4) Communication of the decision to deny issuance of the permanent stay document stipulated at para. (1) shall be performed by handing over a copy thereof, under signature, when the person is present on Romanian territory, or by registered mail at the address they have declared as their domicile, when the person is not present.

Art. 15 - (1) The right of permanent stay shall cease in one of the following situations:

- a) the person is a threat to national security;
- b) the person is absent from Romanian territory for longer than 5 consecutive years;

(2) For the situation at para. (1) letter a), the stipulations of Art. 9 para. (2)-(8) in this Emergency Ordinance, as well as those of Art. 28 para. (5) letter a) and b), Art. 29¹ para. (1), (2) and (4)-(8) and Art. 29², 30, 31, 31¹, 32 and 33¹ din Emergency Government Ordinance #102/2005, as republished with subsequent amendments and supplements, shall apply accordingly.

(3) For the situation at para. (1) letter b), within 30 days of the cessation of the right of permanent stay the beneficiary of Art. 50 TEU can apply at the General Inspectorate for

Immigration or its territorial entities for the right of temporary stay, as under this Emergency Ordinance.

(4) The right of permanent stay shall also cease when the person concerned files an application to that effect. Within 30 days of the cessation of the right of permanent stay the beneficiary of Art. 50 TEU can apply at the General Inspectorate for Immigration or its territorial entities for the right of temporary stay, as under this Emergency Ordinance.

Art. 16 - (1) The General Inspectorate for Immigration can rescind the right of permanent stay, by justified decision, if after such right was granted it is found that:

- a) on the date of securing that right, the qualification as beneficiary of Art. 50 TEU was proven using false information, counterfeit or altered documents, or other illegal means;
- b) the right of temporary stay was obtained based on a marriage of convenience, found to exist as under Emergency Government Ordinance #194/2002, as republished with subsequent amendments and supplements, or based on a partnership if such was entered or declared as for the purpose of securing the right of stay on Romanian territory;
- c) the right of residence, secured as under Government Emergency Ordinance #102/2005, as republished with subsequent amendments and supplements, was based on a partnership if such was entered or declared for the purpose of securing the right of stay on Romanian territory.

(2) The permanent stay permit shall be rescinded on the date the decision was issued as under para. (1) and shall be taken back at the latest on the date when that decision is communicated to the person concerned.

(3) Art. 9 para. (2)-(8) in this Emergency Ordinance, as well as Art. 28 para. (5) letter a) and b) in Emergency Government Ordinance #102/2005, as republished with subsequent amendments and supplements, shall apply accordingly.

Section 4

Stipulations on applications for extension of the right of temporary stay, for recognition of the right of permanent stay and stay permits issued

Art. 17 – (1) Applications for an extension of the right of temporary stay, as well as those for recognition of the right of permanent stay, are to be filed by the applicant in person.

(2) Applications for an extension of the right of temporary stay, as well as those for recognition of the right of permanent stay shall be processed by the territorial offices of the General Inspectorate for Immigration within 30 days of the date they were filed. In the situation where additional research is needed in order to establish satisfaction of the requirements for an extension of the right of temporary stay, the deadline for response can be pushed back by no more than 15 days.

(3) In the situation of continued stay on Romanian territory, the temporary stay permit holder must go to the territorial office of the General Inspectorate for Immigration and apply for a new temporary stay permit at least 30 days before expiry of their current temporary stay permit.

(4) The permanent stay permit holder must go to the territorial office of the General Inspectorate for Immigration and apply for a new permanent stay permit at least 30 days before expiry of their current permanent stay permit.

(5) On receiving the applications stipulated at para. (1), the General Inspectorate for Immigration shall issue applicants with a certification of receiving the application, which shall contain

information on the fact that the applicant is entitled to the rights stipulated by the Withdrawal Agreement, and will serve the applicant until a final decision is issued concerning their application.

Art. 18 – (1) Extension of the right of temporary stay as under this Emergency Ordinance is exempt from the fee payable as under the Appendix to letter B item 4 in Government Order #24/1992, approved with amendments under Law #89/1993, as amended and supplemented

(2) Stay permits shall be exempt from the fee payable for such permits and shall contain the phrase “Article 50 TEU.” Under “Remarks” a mention shall read “Art. 18 (1) in WA,” where “WA” means Withdrawal Agreement.

(3) Temporary stay permits are valid for 5 years of the date of issuance.

(4) Permanent stay permits are valid for 10 years of the date of issuance, except for those issued to persons aged under 14, which are valid for 5 years of the date of issuance.

(5) The format and contents of the stay permits shall be established by Government Decision on proposal from the Ministry of the Interior, within 30 days of the entry into force of this Emergency Ordinance.

Art. 19 – Every beneficiary of Art. 50 TEU who has received an extension of the right of temporary stay or recognition of their right of permanent stay on Romanian territory shall receive, or keep in case they already have it, a Personal Identification Number from the General Inspectorate for Immigration, a code that will be printed in their stay permit.

Art. 20 – (1) The stipulations in this Emergency Ordinance concerning temporary stay permits and permanent stay documents issued to beneficiaries of Art. 50 TEU shall operate in corroboration with the stipulations in Government Emergency Ordinance #194/2002, as republished with subsequent amendments and supplements, concerning temporary stay permits and long-term stay permits.

(2) The stipulations of Art. 8 in Emergency Government Ordinance #102/2005, as republished with subsequent amendments and supplements, shall apply to the beneficiaries of Art. 50 TEU accordingly.

Section 5

Stipulations on frontier workers and their family members

Art. 21 – (1) On Romanian territory frontier workers shall be entitled to the rights stimulated by the Withdrawal Agreement.

(2) Frontier workers are under the obligations stipulated at Art. 5 para. (1).

(3) The permit for frontier workers, issued as under this Emergency Ordinance, is the document that affords the British citizen beneficiary of Art. 50 TEU and employed on Romanian territory the right to enter/exit Romania.

(4) While the permit for frontier workers is valid, the frontier workers’ stay is considered legal stay. This period of legal stay does not constitute temporary stay in the meaning of Art. 13 para. (1).

(5) As of 01 January 2021 frontier workers can apply for the frontier workers’ permit on the basis of the Withdrawal Agreement and this Emergency Ordinance, at the territorial entities of the General Inspectorate for Immigration.

- (6) Applications for the frontier workers' permit are to be filed by the frontier workers in person at the head office of the territorial entities of the General Inspectorate for Immigration in whose jurisdiction the frontier worker is performing their activity.
- (7) The frontier workers' permit shall be issued if the following requirements are satisfied:
- a) they have not been indicated as a threat to national defence and security by the relevant authorities;
 - b) holds a valid document for crossing the national border, except for the case where it expired after entering Romania and, for reasons independent of their control, said document's validity could not be extended;
 - c) holds a valid labour contract on Romanian territory, signed as required by law.
- (8) The application for a frontier workers' permit shall be accompanied by the document for crossing the national border in the original and one copy, as well as a copy of the labour contract.
- (9) Applications for a frontier workers' permit shall be processed by the jurisdictional territorial offices of the General Inspectorate for Immigration within 30 days of the date they were filed.
- (10) The holder of a frontier workers' permit is under an obligation to go to the jurisdictional territorial office of the General Inspectorate for Immigration at least 30 days before expiry of their current permit so as to get a new document.
- (11) Frontier workers' permits shall be exempt from the fee payable for such permits. Under "Remarks" a mention shall read "Art. 26 in WA," where "WA" means Withdrawal Agreement. The field "type of permit" shall contain the phrase "Article 50 TEU – Frontier worker."
- (12) The validity of the frontier workers' permit shall be equal to the validity of the labour contract, but no longer than 5 years.
- (13) The format and contents of the frontier workers' permit shall be established by Government Decision on proposal from the Ministry of the Interior, within 30 days of the entry into force of this Emergency Order.
- (14) The stipulations of Art. 9 para. (2)-(8), Art. 10 and Art. 11 para. (1) letter a) and para. (2) in this Emergency Ordinance, as well as of Art. 8 and Art. 28 para. (5) letter a) and b) in Emergency Government Ordinance #102/2005, as republished with subsequent amendments and supplements, shall apply to the frontier workers accordingly.

Art. 22 – Family members of frontier workers who reside on Romanian territory or establish their residence on Romanian territory after the end of the transition period shall come accordingly under the stipulations of this Emergency Ordinance concerning family members of the beneficiary of Art. 50 TEU.

Section 6

Administrative violations

Art. 23 – (1) The following shall constitute administrative violations, unless they were committed in conditions that warrant qualifying them as criminal violations under criminal law:

- a) failure by the beneficiaries of Art. 50 TEU to meet their obligation under Art. 5 para. (1) letter b) to leave the Romanian territory after the date their right of stay in Romania ceases, and respectively after expiry of the frontier workers' permit;
- b) failure by the beneficiaries of Art. 50 TEU to comply with Art. 5 para. (1) letter e) and f);
- c) failure by the beneficiaries of Art. 50 TEU to comply with Art. 5 para. (1) letter g);
- d) failure by the beneficiaries of Art. 50 TEU to apply for extension of their right of stay on Romanian territory within the deadlines stipulated at Art. 7 para. (1) and (2), Art. 8 para.

(1) and (2) and Art. 17 para. (3), and respectively for a frontier workers' permit within the deadline stipulated at Art. 21 para. (10);

e) failure by the beneficiaries of Art. 50 TEU to comply with Art. 17 para. (4).

(2) The administrative violations at para. (1) are punishable by a fine of no less than 100 RON and no more than 500 RON.

(3) The finders of fact and enforcers of the administrative violations shall be police officers and warrant officers specifically appointed from the personnel of the General Inspectorate for Immigration and the Romanian Border Police.

(4) The administrative violations at para. (1) also come under the stipulations of Government Ordinance #2/2001 on the legal status of administrative violations, approved with amendments and supplements by Law #180/2002, as amended and supplemented.

Section 7

Stipulations on entering Romania with the goal of subsequent joining

Art. 24 – (1) For applicability of the stipulations in this Chapter, the family members of the British citizen beneficiary of Art. 50 TEU who join them after the end of the transition period are deemed to be the persons who are in one of the situations described at Art. 10 para. (1) letter e), para. (3) and (4) in the Withdrawal Agreement.

(2) To enter Romania with the goal of securing the right of temporary stay and their new status, the family members of the beneficiary of Art. 50 TEU, described at para. (1), who join the British citizen beneficiary of Art. 50 TEU after the end of the transition period, can obtain an entry visa that is issued to them free of charge and within the shortest delays based on an accelerated procedure, unless they are exempt from that obligation under international conventions Romania is a party to, regulatory acts that unilaterally remove the visa requirements or legislative acts of the European Union instating exemptions from the obligation to secure a visa.

(3) The visa at para. (2) shall be issued on demand for an authorised stay of 90 days during any period of 180 days prior to every day of stay on Romanian territory, with multiple entries and a validity of one year.

(4) On applying for a visa each applicant shall submit the following documents:

a) a valid document for crossing the national border accepted by the Romanian state;

b) a copy of the stay permit of the beneficiary of Art. 50 TEU whose status they rely upon, together with a notarised statement by the beneficiary indicating that the claimed family or partnership relationship is current, the fact that they agree to the applicant joining them, and mentions concerning the applicant's residence in Romania;

c) any evidence of the reason why they have not applied for registration as beneficiary of Art. 50 TEU as a family member within the required deadline in this Emergency Ordinance;

d) documents justifying registration of their new status as stipulated at Art. 18 para. (1) letter m) in the Withdrawal Agreement, proving continuity of the family or partnership relationship at the time of the visa application.

(5) The visa shall be issued by the Romanian diplomatic missions and consular offices, based on prior approval from the National Visa Centre of the Foreign Ministry after obtaining the agreement of the General Inspectorate for Immigration.

(6) The agreement at para. (5) shall be issued within 7 working days of the date the request is received from the National Visa Centre of the Foreign Ministry, a deadline which can be extended by up to 7 working days in thoroughly justified cases, and shall establish that the person being joined by the visa applicant is a beneficiary of the Withdrawal Agreement and that the following requirements are satisfied cumulatively:

a) the applicant and the beneficiary of Art. 50 TEU whom they are joining do not constitute a real, current and sufficiently serious threat to national defence and security, public order and health;

b) the applicant and the beneficiary of Art. 50 TEU whom they are joining are not under the effect of one of the measures to limit the right to unrestricted circulation on Romanian territory, that of other Member States of the European Union, the European Economic Space and the states party to the Agreement on the gradual abolition of checks at their common borders signed in Schengen on 14 June 1985.

(7) The visa will only be issued if all the requirements in this Article are satisfied.

(8) Under “Remarks” on the visa sticker applied as a result of securing a visa as under this Article a mention shall read “Family member beneficiary of Art. 50 TEU.”

(9) Denial of the visa shall be communicated in writing and will provide the reasons why that decision was made. Denial of the visa can be challenged before the jurisdictional court for administrative litigations.

(10) For failure to comply with the obligation under Art. 18 para. (1) letter b) in the Withdrawal Agreement – applying for an extension of the right of stay at the territorial offices of the General Inspectorate for Immigration after entry in Romania for reasons attributable to the applicant, the holder of a visa secured under this Article shall no longer benefit from the procedure for issuing a visa based on the Withdrawal Agreement and this Emergency Ordinance.

Art. 25 – This Emergency Ordinance comes into force on 01 December 2020.

PRIME MINISTER

LUDOVIC ORBAN

N°

Bucharest