



COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Strasbourg, 4 June 2004

Opinion N° 299 / 2004

Restricted
CDL(2004)053
Engl. only

EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

DRAFT LAW
CONCERNING THE SUPPORT
FOR ROMANIANS LIVING ABROAD
OF THE REPUBLIC OF ROMANIA

LAW CONCERNING THE SUPPORT FOR ROMANIANS LIVING ABROAD

Pursuant to stipulations of article 7 of the Constitution of Romania,

Having regard to the provisions of the Framework Convention for the Protection of National Minorities adopted by the Council of Europe on February 1, 1995, ratified by Romania by means of Law nr. 33/ 1995,

Taking into account the guidelines stipulated by the European Commission for Democracy through Law (the Venice Commission) in the “Report on the Preferential Treatment of National Minorities by their Kin-state” (Venice, 19 October 2001),

Bearing in mind the Declaration “Sovereignty, Responsibility and National Minorities” of the OSCE High Commissioner on National Minorities (The Hague, 26 October 2001),

The Parliament of Romania adopts the following Law:

Article 1

The present Law sets forth:

- a) The rights of persons of Romanian ethnic origin, and those of persons sharing a common Romanian cultural identity, residing outside Romanian borders (hereinafter called “Romanians living abroad”), aiming to preserve, promote and develop their cultural, ethnic, linguistic and religious identity.
- b) The attributions of Romanian competent authorities.

Article 2

1. The Romanian authority competent to implement the provisions of this Law is the Department for Romanians Living Abroad.
2. In order to enforce the provisions of this Law, the Department for Romanians Living Abroad shall be organized as a public institution with legal personality, subordinated to the Government and coordinated by the Prime Minister.
3. A President having the rank of State Secretary/ Minister Delegate shall coordinate the Department for Romanians Living Abroad.
4. The funds necessary for the functioning of the Department for Romanians Living Abroad and for the implementation of projects concerning the Romanians living abroad shall be allocated through the budget of the Government’s General Secretariat.

Article 3

1. The Ministry of Foreign Affairs, the Ministry of Education, Research and Youth, the Ministry of Culture and Religious Affairs, the Government's General Secretariat and other Romanian institutions with competence on the matter shall provide the necessary support on the basis of institutional partnership.
2. Within 30 days after the entry into force of this Law, the Department for Romanians Living Abroad shall conclude partnership protocols with the institutions mentioned in paragraph 1 in order to implement the provisions of the Law.

Article 4

The provisions of this Law shall be applied without prejudice to the principles of territorial sovereignty, good neighborliness, reciprocity, *pacta sunt servanda*, respect of human rights and fundamental freedoms and non-discrimination.

Article 5

1. The implementation of the present Act shall proceed on the basis of the conclusion of agreements and programs with the States where there are persons mentioned in article 1 a) or of protocols of the bilateral Joint Commissions and respectively on the basis of reciprocity and in line with provisions of the Framework/Convention on the Protection of National Minorities, of the Venice Commission's Report on the preferential treatment of national minorities by their kin-State, adopted on October 19, 2001 and with the recommendations of the OSCE High Commissioner on National Minorities, with a view to ensure protection of their cultural, ethnic, linguistic and religious identity.
2. Periodically, the Government of Romania shall assess the state of implementation of the provisions of the agreements and programs in force concluded with the States mentioned in paragraph 1 and of the international and European standards and documents regarding the protection of persons belonging to national minorities to which the respective States are parties.

Article 6

1. Aiming at strengthening the relations with the Romanians living abroad, the Congress of Romanians Living Abroad shall be convened, annually, under the aegis of the Romanian Parliament, either in Romania or abroad.
2. The Congress of Romanians Living Abroad shall be convened by the leadership of the Chamber of Deputies, and the expenses entailed by the organization of the Congress shall be provided for in the budget of the Chamber of Deputies, in a special budgetary chapter.
3. The Congress of Romanians Living Abroad shall, at its first reunion, elect its leadership and elaborate its Rules of Procedure.

Article 7

1. The Congress of Romanians Living Abroad shall elect the Council of Romanians Living Abroad as a permanent body.

2. The Council of Romanians Living Abroad shall have legal personality and shall have its headquarters in Bucharest, at the Palace of Parliament. The expenses related to the functioning of the Council are covered from the budget of the Chamber of Deputies.
3. The organization and functioning of the Council shall be instituted by the Congress of Romanians Living Abroad with the approval of the Permanent Bureau of the Chamber of Deputies.
4. The Council of Romanians Living Abroad shall provide consultancy and assistance for the competent governmental institutions with which it collaborates in order to accomplish and implement the programs devised for the Romanian communities.

(Article 7*

The Day of Romanians Living Abroad shall be instituted and shall be celebrated annually on ...).

(Article 7**

The Museum *of Romanian communities, of political exile and of persons with Romanian origins* shall be founded. The Museum shall have its headquarter in Bucharest. The organization and functioning of the Museum, including the ascription of an adequate headquarter, shall be provided in a Government Decision).

Article 8

1. Romanians living abroad shall enjoy the following rights:
 - a) The right to free access, in Romania, to public cultural institutions, historical monuments, sites belonging to the national patrimony;
 - b) The right to study in Romania and to benefit from the related facilities, at all levels and forms of education;
 - c) The right to apply for and be awarded scholarships and related facilities in Romania, at all levels and forms of education;
 - d) The right to further training in Romania and to benefit from the related facilities available for the teaching staff;
 - e) The right to request for and obtain assistance of the Romanian authorities in order to receive textbooks, manuals, literature, publications and other printed materials or edited on electronic support in Romanian language;
 - f) The right to request for and obtain assistance of Romania for building or renovating worship buildings in the State of residence;
 - g) The right to request for and obtain assistance of Romania for building or renovating educational establishments teaching in the Romanian language in the State of residence;
 - h) The right to request for and obtain assistance of Romania for endorsing cultural, artistic and religious events of Romanians living abroad, for promoting the education in Romanian language, as well as for the functioning of cultural organizations of Romanians living abroad and for other activities related to their customs and traditions;
 - i) The right to participate to the Congress of Romanians Living Abroad;

- j) The right to obtain free visas in order to participate to those activities, organized in Romania, aiming at preserving and developing their cultural, ethnic, linguistic and religious identity;
 - k) The right to request for and obtain assistance for editing publications and producing audio-visual materials in Romanian, as well as for creating their own media institutions;
 - l) Other rights provided for in international agreements and partnership programs.
2. Any person pursuing his/her studies/teaching abroad in Romanian language, can benefit, irrespective of his/her ethnic origin and with no discrimination whatsoever, at his/her request, of the rights mentioned in letters a)-e).
3. Assistance set forth in para 1 e) f), g). h) k) shall be granted with due observance of the principle of non-discrimination and of the home State applicable regulations, which are in conformity with European standards.

Article 9

1. Romanians living abroad shall benefit from the rights provided for by this Law, under the following conditions:
 - a) To freely declare, in accordance with the principles enshrined in the Framework Convention for the Protection of National Minorities, that they assume the Romanian cultural identity, no matter the name the respective minority is identified by in the State of residence;
 - b) To possess appropriate linguistic knowledge;
 - c) To prove his/her membership of a cultural organization of Romanians living abroad, provided that this membership exists.
2. The declaration mentioned in paragraph 1(a), the assessment of the appropriate linguistic knowledge mentioned in paragraph 1(b) and the proof of membership referred to in paragraph 1(c) shall be made at the Romanian embassies or consulates in the State of residence, with the assistance of the Department for Romanians Living Abroad.
3. The diplomatic missions and the consular offices shall forward to the Department for Romanians Living Abroad the information regarding the fulfillment of the conditions mentioned in paragraph 1.
4. The Department for Romanians Living Abroad, after taking note of the fulfillment of the conditions mentioned in paragraph 1, issues a simple document attesting that the applicant is entitled to the rights provided for by this Law.
5. The benefits specified in this Law may be received by presenting the document mentioned in paragraph 3, together with a valid identity document issued by the authorities of the State of citizenship.
6. The expenses incurred with the issuing and sending by mail of the certificate to the applicant shall be covered from the budget of the Department for Romanians Living Abroad.

Article 10

1. The financial and logistic assistance implied by the exercise of the rights mentioned in article 8 shall be managed, as well, through foundations of public benefit.
2. The assistance required for the projects devised for Romanians living abroad can be provided by means of advance payments, in accordance with the legislation in force, with no bank guarantee.

Article 11

1. The Government's General Secretariat, through the "Eudoxiu Hurmuzachi" Center for Romanians living abroad (hereinafter called the "Center"), public institution with legal personality, having its headquarters in Bucharest, shall support the exercise of the rights mentioned in article 8 paragraph 1 (b), (c) and (d).
2. The Center shall function in accordance with its own rules.
3. The Minister for the co-ordination of the Government's General Secretariat shall regulate by order, with the approval of the Department for Romanians Living Abroad, the organization and functioning of the Center, as well as the number of employees, the Center's structure and the remuneration of the personnel.
4. The General Manager of the Center shall be a member of the Romanian Academy, a prominent personality in the field of culture or a professor appointed by order of the Minister for the co-ordination of the Government's General Secretariat.
5. The Center has, also, as purpose the drawing and the coordination of the training programs for the individuals exercising the rights mentioned in article 8 paragraph 1 (b), (c) and (d).
6. The Government's General Secretariat shall cover, from the State budget, the expenses related to the functioning and development of the Center.
7. Donations, sponsorships, assistance granted by international organisms, incomes resulting from agreements having as object scientific research, specialized assistance, consultancy, as well as other legal resources shall contribute to the funds required for the activities of the Center.
8. Individuals exercising the rights mentioned in article 8 paragraph 1 (b), (c) and (d) can benefit from free accommodation in student hostels during their studies pursued in Romania, as well as from other forms of assistance, which the Government deems necessary.
9. The public local administration authorities in the territorial administrative units where the activities organized or coordinated by the Center take place shall offer the necessary assistance in order to make available, during the respective activities, free of charge, the rooms and the appropriate equipment.
10. For the purposes of the activities of the Center, the establishment situated in the Crevedia Village, Dâmbovița County, public property, managed by the Government's General Secretariat, shall be in the Center's exclusive use, together with the corresponding land and other movable and immovable goods.

Article 12

The Government shall elaborate programs and annual projects concerning the assistance of Romanians living abroad, on the basis of current needs.

Article 13

In the budget of the Government's General Secretariat, a sum necessary for the achievement of projects in the benefit of the Romanians living abroad shall be approved, annually, at the disposal of the Prime Minister, by means of budgetary laws.

OR

In the budget of the Presidential Administration, a sum necessary for the achievement of projects in the benefit of the Romanians living abroad shall be approved, annually, at the disposal of the President, by means of budgetary laws.

Article 14

1. This Law shall be applied without prejudice to the attributions of the Ministry of Education, Research and Youth, the Ministry of Foreign Affairs or of other Romanian institutions competent on the matter, to grant scholarships to foreign citizens.

2. Scholarships to Romanians living abroad shall be granted with the approval of the Department for Romanians Living Abroad, as well as that of the Ministry of Foreign Affairs, according to the circumstances.

Article 15

On the date the entry into force of this Law, the validity of Law nr. 150/ 1998 concerning the support for the Romanian communities from all over the world shall be terminated.

The Law was adopted by the Chamber of Deputies in the public session held on ..., in accordance with the provisions of article 74 paragraph 2 of the Constitution of Romania.

Deputies

President of the Chamber of

Valer DORNEANU

The Law was adopted by the Senate in the public session held on ..., in accordance with the provisions of article 74 paragraph 2 of the Constitution of Romania.

President of the Senate
Nicolae VĂCĂROIU