

BULLETIN

No. 647, 11<sup>th</sup> of October 2006

**Travel and Residence Conditions for the EU Citizens, within the Territory of the European Union Member States**

**- applicable to the Romanian citizens, starting with the 1<sup>st</sup> of January, 2007-**

*Taking into account the necessity of keeping the citizens well-informed, regarding the travel conditions for the Romanian citizens, starting with the moment of our country's integration in the European Union, and also as a consequence of the media representatives' requests related to this topic, the Ministry of Administration and Interior mentions the following information:*

On the 1<sup>st</sup> of January, 2007, Romania will become a Member State of the European Union, having all the rights and obligations stipulated by the Treaty of Adhesion from the 25<sup>th</sup> of April, 2005.

The Romanian citizens will therefore become, starting with the 1<sup>st</sup> of January, 2007, **citizens of the European Union**, and will benefit, within the territory of the Member States, from the rights and liberties conferred by the basic treaties of the European Union.

**The right to move and reside freely** is one of the most important and "visible" achievements of the European Communitarian Right, for the EU citizens. The EU citizens' right to travel, for economic purposes or other purposes, on short, long or unlimited periods of time, to other EU Member States, is unique in our world. No other manner of international cooperation between states assures, for the time being, a comparable right.

The conditions regulating the right to move and to reside freely within the territory of the Member State, the right of permanent residency and the restrictions regarding the right to move and to reside freely within the territory of the Member States, on grounds of public policy, public security and public health, are stipulated by the **CE Directive no. 38/2004**.

**The Right to Move Freely within the Territory of a Member State  
(art. 4-5 of the CE Directive no. 38/2004)**

**All Union citizens**, including the Romanians, have the right to enter another Member State by virtue of having an identity card or valid passport, attesting their nationality (for the time being, Romanians cannot travel by using the identity card because the Romanian document has no sufficient security elements).

*The EU citizens' family members who do not have the citizenship of a Member State can leave the territory of a Member State to travel to the territory of a different Member State, by virtue of having a valid passport. But, in order for them to enter the territory of that different Member State, the EU citizens' family members who do not have the citizenship of a Member State must have either a short stay visa or a residence permit.*

The Member States can ask the persons who entered their territory and who observed all the above-mentioned conditions to *register* their presence in the country, within a reasonable and non-discriminatory period of time.

**The Right of Residence for up to three months  
(art. 6 of the CE Directive no. 38/2004)**

The EU citizens, including the Romanian ones, have the right to reside within the territory of a different Member State, for **up to 3 months, unconditionally and without any other formalities**, only by virtue of a **valid identity card** or a **valid passport**.

The EU citizens' family members who travel together with the EU citizens and who do not have the citizenship of a Member State can reside within the territory of a different Member State for up to 3 months, by virtue of a **valid passport**.

**The Right of Residence for more than 3 months**

**(art. 7-15 of the CE Directive no. 38/2004)**

The EU citizens, including the Romanians, can reside, for more than 3 months, within the territory of a different Member State, if he/she fulfills one of the following conditions:

- a) either be engaged in economic activity, *on an employed or self-employed basis*;
- b) to have *sufficient resources* and *medical insurance* so that he/she *will not become a burden for the social services* of the country where he/she wants to stay (there is no minimum amount established so far, but the personal situation of that particular citizen will be taken into account);
- c) or be following *vocational training* as a *student*, having *medical insurance* and to *assure* the national authorities of the state where he/she intends to stay, by making a statement or by equivalent means, that *he/she will not become a burden for the social services* of the respective state;
- d) to be a *family member* of a EU citizen, even though he/she does not have the citizenship of a EU Member State, and to travel together with him/her, and to fall into one of the conditions from above a)-c).

The EU citizens are not asked to have residence permits. Nevertheless, the Member States can ask the citizens of a different EU Member State to register themselves at the competent authorities, within a period of time that cannot be shorter than 3 months from the date of entrance on the territory of the state where they intend to stay for more than 3 months.

*The Certificate of registering will be issued by virtue of the following documents:*

- a valid *identity card* or a valid *passport*;
- a statement of the respective citizen which mentions that he/she fulfills the necessary conditions to reside for more than 3 months, or any other proof;
- a proof regarding the family relationship or the partnership, when it concerns family members of a EU citizen, the respective members being also EU citizens

*The EU citizens' family members who are not EU citizens* must obtain a **residence permit** if they want to reside on the territory of an EU Member State for more than 3 months. The deadline for the stay permit request application cannot be shorter than 3 months from the date of entrance on the territory where the respective persons intend to stay.

*The stay permit, for these persons, will be called "Stay Permit of an EU citizen's family member"* and it will be issued in maximum 6 months from the date of applying. In order to be issued a stay permit, the respective family member must fulfill the same conditions as for the registering certificate, the only difference being that for the first condition he/she must present only a valid passport.

*The stay permit validity* is of *maximum 5 years* from the date of issue, depending on the period of stay requested. The stay permit validity will not be affected if the *absence* from the territory of the state where the stay permit was obtained does not exceed the following limits:

- 6 months in a year;
- more than 6 months in a year, but for reasons of attending military service;
- more than 12 months in a row, for important reasons such as pregnancy and child birth, serious disease, study or vocational training, or changing the job location to a different Member State or to a third country.

*The death* of an EU citizen, *his/her leaving* from the host-country, *the divorce*, *the marriage annulment* or *the termination of the registered partnership* do not affect the family member's right, no matter if he/she is an EU citizen or not, to continue to stay on the territory of the respective Member State, by fulfilling the same conditions requested to an EU citizen in case of staying on the territory of a different Member State (a)-d) from above). The citizen's children, who finds himself/herself in such situation, can continue to stay on the territory of the respective state if they are registered to an education institution, till they complete their studies.

Depending on each case, the family members who do not have EU citizenship can be required to fulfill some other conditions:

- when the respective citizen deceased or left the respective country, his/her family member must have stayed on the territory of the respective state at least one year before the EU citizen died, having the quality of family member of the respective EU citizen;
- in case of divorce, marriage annulment or partnership termination, the following situations take place:
  - o the marriage or the registered partnership lasted for 3 years at least, out of which 1 year at least on the territory of the host-Member State;
  - o under difficult circumstances, such as domestic violence during marriage or registered partnership, the partner can continue to stay;

- when the right of visiting the minor child, resulted during the relation, was established and the court decided that the access to the child must be done on the respective territory, the respective partner whom was given that right and who does not have an EU Member State citizenship can have unlimited access in order to achieve that goal.

**The Right of Permanent Residence**  
**(art. 16-21 of the CE Directive no. 38/2004)**

Union citizens acquire the right of permanent residence in the host Member State after a five-year period of uninterrupted legal residence, provided that an expulsion decision has not been enforced against them. This right of permanent residence is no longer subject to any conditions. The same rule applies to family members who are not nationals of a Member State and who have lived with a Union citizen for five years. The right of permanent residence is lost only in the event of more than two successive years' absence from the host Member State.

Permanent stay permits are valid indefinitely and are renewable automatically every 10 years. They must be issued no more than three months after the application is made. The citizens can use any kind of evidence generally accepted by the host Member State, in order to prove that they have been continuously resident.

**Restrictions of the Right to Move and Reside Freely, on grounds of Public Policy, Public Security or Public Health**  
**(art. 27-33 of the CE Directive no. 38/2004)**

Union citizens' and their family members' rights of free movement and stay can be restricted on grounds of public policy, public security or public health, on the territory of a different EU Member State. These decisions cannot be taken on economical grounds whatsoever. The measures which affect the free movement and the stay must be based on the respective person's conduct; the previous penal sentences do not automatically justify these decisions.

This conduct must be a sufficiently real and serious threat which can affect the fundamental interests of the respective state. The simple fact that the entrance documents used by the respective person have expired cannot be a reason for expulsion.

For each and every case, before taking the decision of expulsion, the Member State must assess a series of factors, such as the period of time when the respective person stayed, the age, the integration level and the family situation on the territory of the respective state and the connections with the origin country. Only in exceptional cases and for certain highly important reasons of public security, the expulsion orders can concern an EU citizen, if he/she stayed on the territory of the respective state for 10 years, or if he/she is under-aged.

The person who is the subject of an entrance or residence refusal on the territory of a Member State must be notified about that decision. The reasons for that decision must be offered and the respective person must be informed about the procedures of appealing. With the exception of the cases of emergency, the subject of such decision must be permitted to leave the territory of the respective Member State within one month.

The orders of expulsion for life cannot be issued under any circumstances. The persons for whom orders of expulsion are issued can require to be re-assessed after maximum 3 years.

**Definitions:**

- **Union citizen:** any person having the nationality of a Member State.
- **Family member:** the spouse; the registered partner, if the legislation of the host Member State treats registered partnerships as equivalent to marriage; the direct descendants who are under the age of 21 or are dependants and those of the spouse or partner as defined above; the dependent direct relatives in the ascending line and those of the spouse or partner.