

Emergency Ordinance n° 143/2002 for the amendment and supplementation of certain provisions in the Criminal Code and of certain special laws, to the purpose of protecting minors against sexual abuses

THE ROMANIAN GOVERNMENT

EMERGENCY ORDINANCE

For the amendment and supplementation of certain provisions in the Criminal Code and of certain special laws, to the purpose of protecting minors against sexual abuse

On the grounds of Art. 114 par. (4) from the Constitution,

The Romanian Government adopts the present emergency ordinance.

Art. I. — The Criminal Code of Romania, republished in the Official Gazette of Romania, Part I, Issue No. 65 from April the 16th 1997, with its ulterior amendments and supplements, shall be amended and supplemented as follows:

1. Paragraph 3 of Article 197 shall have the following text:

"The punishment shall be 10 to 25 years imprisonment and the prohibition of some rights, if the victim has not reached the age of 15, and if the deed has had as result the victim's death or suicide, the punishment shall be 15 to 25 years imprisonment, and the prohibition of some rights."

2. Article 198 shall have the following text:

"Sexual contact with a minor

Art. 198 — Sexual contact, of any nature, with a person of the other sex or of the same sex, who has not reached the age of 15, shall be punished by 3 to 10 years imprisonment and the prohibition of some rights.

This punishment shall also be applied to sanction sexual contact, of any nature, with a person of the other sex or of the same sex aged between 15 and 18 years, if the deed is committed by the person's tutor or guardian or by his or her supervisor, by the person in charge of his or her care, by the person's physician, teacher, professor or educator, while taking advantage of his or her quality, or if the perpetrator has abused the victim's confidence or his or her own authority or influence on/over the victim.

If the sexual contact, of any nature, with a person of the other sex or of the same sex, who has not reached the age of 18, was determined by the perpetrator's offering or giving the victim money or other benefits, directly or indirectly, the punishment shall be 3 to 12 years imprisonment and the prohibition of some rights.

If the deeds stipulated in par. 1-3 were committed to the purpose of producing pornographic material, the punishment shall be that of 5 to 15 years of imprisonment and the prohibition of some rights, and if for the accomplishment of such a purpose coercion was used, the punishment shall be that of 5 to 18 years of imprisonment and the prohibition of some rights.

When the deed stipulated in par. 1 has been committed in the circumstances provided in Art. 197 par. 2 letter b) or if the deeds provided in par. 1-4 have had the consequences provided in Art. 197 para. 2 letter c), the punishment shall be that of 5 to 18 years of imprisonment and the prohibition of some rights.

If the deed has had as a result the victim's death or suicide, the punishment shall be that of 5 to 15 years of imprisonment and the prohibition of some rights, the punishment shall be that of 15 to 25 years of imprisonment and the prohibition of some rights."

3. Paragraphs 2 and 3 from Article 201 shall have the following text:

"Deeds of sexual perversion involving a person under the age of 15 shall be punished by 3 to 10 years of imprisonment and the prohibition of some rights.

This punishment shall also be applied to sanction the deeds of sexual perversion involving a person aged between 15 and 18 years, if the deed is committed by the person's tutor or guardian or by his or her supervisor, by the person in charge of his or

her care, by the person's physician, teacher, professor or educator, while taking advantage of his or her quality, or if the perpetrator has abused the victim's confidence or his or her own authority or influence on/over the victim."

4. In Article 201, after paragraph 3, paragraphs 31 and 32 shall be introduced, with the following text:

"If the deeds of sexual perversion involving a person under the age of 18 was determined by the perpetrator's offering or giving the victim money or other benefits, directly or indirectly, the punishment shall be 3 to 12 years imprisonment and the prohibition of some rights.

If the deeds provided in para. 2, 3 and 31 were committed to the purpose of producing pornographic material, the punishment shall be that of 5 to 15 years of imprisonment and the prohibition of some rights, and if for the accomplishment of such a purpose coercion was used, the punishment shall be that of 5 to 18 years of imprisonment and the prohibition of some rights."

5. Paragraphs 1 and 2 of Article 202 shall have the following text:

"Deeds having an obscene character committed against a minor or in the presence of a minor shall be punished by 6 months to 5 years of imprisonment.

When the deeds stipulated in para. 1 were committed within the family, the punishment shall be of 1 to 7 years of imprisonment."

6. In Article 202, after paragraph 2, paragraph 21 shall be inserted, having the following text:

If the deeds provided in para. 1 and 2 were committed to the purpose of producing pornographic material, the special maximum of the punishment shall be raised by 2 years."

7. Article 306 shall have the following text:

"Ill treatment applied to minors.

Art. 306 — Gravely jeopardizing, through measures or treatment of any kind, a minor's physical, intellectual or moral development, by his/her parents or by any other person entrusted with the care and education of the minor, shall be punished by 3 to 15 years of imprisonment and the prohibition of some rights."

8. Paragraph 3 of Article 329 shall have the following text:

"If the deed stipulated in para. 1 or 2 is committed against a minor or it has any other grave characteristics, the punishment shall be that of 5 to 18 years of imprisonment and the prohibition of some rights."

Art. II. — Article 18 from Law No. 678/2001 on the prevention and combatting of trafficking in human beings, published in the Official Gazette of Romania, Part I, Issue No. 783 from December the 11th 2001, shall be amended and have the following text:

"Art. 18. — (1) The deed of exposing, selling or spreading, renting, distributing, manufacturing or producing in any other manner, sending, offering or making available or possessing to the purpose of spreading objects, films, photographs, slides, emblems or other visual media, representing sexual positions or contact with pornographic character, presenting or involving minors under the age of 18, is the offense of infantile pornography and shall be punished by 3 to 10 years of imprisonment.

(2) This punishment shall also be applied for sanctioning the import or handing over of objects such as those stipulated in para. (1) to a transport or distribution agent, to the purpose of selling or distributing them.

(3) The deeds stipulated in para. (1) and (2), committed by a person who is part of an organized group, shall be punished by 3 to 12 years of imprisonment and the prohibition of some rights."

PRIME MINISTER

ADRIAN NĂSTASE

Countersigning:

The Minister of Justice,

Rodica Mihaela Stănoiu

Bucharest, October 24th 2002,

No. 143.