LAW No 300

of 17 May 2002

concerning the legal regime of the precursors used for illicit drug production

ISSUED BY: THE PARLIAMENT **PUBLISHED IN**: THE OFFICIAL GAZETTE OF ROMANIA No 409 of 13 June 2002

The Parliament of Romania hereby adopts this Law.

CHAPTER I

GENERAL PROVISIONS

Article 1

(1) This Law lays down the legal regime of the precursors used for illicit drug production, the authorization and development of the operations involving precursors, as well as the measures for fighting against illicit operations involving precursors.

(2) The production, possession or any activity involving precursors shall be allowed only for commercial, medical, veterinary, industrial, educational and scientific research purposes.

Article 2

The terms below, used in this Law, shall have the following meaning:

a) "precursors" means the chemical substances used for the illicit production of drugs, mentioned in Annex 1, their salts, as well as the mixtures containing such substances, except for the pharmaceutical preparations and other preparations containing such substances, which cannot be recovered or used to this end by laboratory methods;

b) "operator" means the natural or legal person carrying out operations for the precursors' manufacture, production, treatment, synthesis, extraction, market preparation, distribution, selling, placing on the market, supply, purchase, use, packaging, transport, storage, handling or any other legal activity relating to import, export, transit or intermediation, hereinafter referred to as "operations involving precursors".

Article 3

(1) The list of chemical substances frequently used for the illicit production of drugs, referred to as "precursors" in this Law, is provided for in Annex 1.

(2) The substances listed in Annex 1 are classified in three schedules, according to the risk level and the possibility to replace them with other substances within the illicit drug production process, as well as in order to ensure the normal functioning of the legal operations involving precursors.

(3) Annex 1 can be completed by registering new substances or amended by eliminating other substances or by transferring them from one schedule to another, by order of the Minister of Health and Family.

Article 4

(1) The operations involving precursors listed in Schedules I and II mentioned in Annex 1 shall be authorized by the Ministry of Health and Family after having obtained the preliminary and mandatory authorization of the General Police Inspectorate.

(2) The operations involving precursors in Schedule III mentioned in Annex 1 shall be allowed based on the functioning authorization issued by the Ministry of Industry and Resources, except for the cases provided for in Article 5.

Article 5

The natural and legal persons can own and use, without being obliged to obtain an authorization, only the precursors from Schedule III, licensed for marketing to population through the commercial network, within the limits and quantities established in the Regulation for implementing the provisions of this Law, upon the proposal of the Ministry of Industry and Resources.

Article 6

(1) The export and import of the precursors shall be carried out by licensed operators, that have obtained the authorization according to the provisions of Article 4, based on the licence issued by the Ministry of Foreign Affairs, only after having obtained the authorization of the General Police Inspectorate, based on the documents which are to be established in the Regulation for implementing the provisions of this Law.

(2) For obtaining the authorization necessary for the import licence, the operators must also submit to the General Police Inspectorate, where appropriate, the end-use declaration or the use declaration, according to the models provided for in Annexes 2 and 3.

(3) In the case of operators requiring the authorization for obtaining the export licence, they must also submit the import licence, as well as the end-use declaration of the foreign partner.

(4) For the substances listed in Schedules I and II, mentioned in Annex 1, obtaining an export certificate is also necessary and this shall be issued by the Ministry of Health and Family, drafted according to Annex 4.

CHAPTER II

OPERATIONS INVOLVING PRECURSORS

Article 7

The operators producing precursors are bound to draft, for each product, specific technical regulations regarding their production, packing, transport, storage, handling, destruction or neutralization, to record, ensure and manage the antidote in case of intoxication, established with the approval of the Ministry of Health and Family.

Article 8

(1) Any authorized natural or legal entity supplying to a buyer one of the substances mentioned in Annex 1 is bound to obtain from the buyer a declaration specifying the precise uses of the respective substance.

(2) In case the supply refers to several substances of those mentioned in paragraph (1), the supplier shall require the buyer to provide a separate declaration for each of the respective substances.

(3) The suppliers of the precursors in Schedule II mentioned in Annex 1 may accept from the buyers that they regularly supply, as an alternative to the declaration for individual deliveries, a single declaration including the number of deliveries for a period of maximum one year. The alternative declaration shall be accepted if the following conditions are simultaneously fulfilled:

a) the buyer is one of those to which the supplier has delivered the substance at least 3 times during the last 12 months;

b) the supplier has no reasons to suspect that the substance could be used for illegal purposes;

c) the ordered quantities are compatible to the normal use for that buyer.

(4) The use declarations of the buyer for individual and multiple deliveries shall be drafted according to the models provided for in Annexes 5A and 5B.

Article 9

(1) The operators are bound to ensure and keep the record of the daily movement of the precursors in special registers drafted according to Annex 6.

(2) The registers shall be numbered, initialled, tied in, sealed by the operator and, then, annually endorsed by the police official who granted the authorization.

(3) All the documents referring to the operations involving precursors shall be kept separately from other documents and shall not be destroyed sooner than 4 years of their drafting date.

(4) Each operator is bound to assign, from its employees, a person responsible for the activity involving precursors, with university or secondary studies in the field of chemistry or pharmacy and to expressly establish his/her duties on keeping and recording precursors.

Article 10

(1) The operator is bound to submit the licence to the Ministry of Health and Family within 30 working days of the date on which the activity involving precursors ceases and to send a written notice regarding this fact to the police unit, which previously authorized the licence.

(2) Within the delay of 30 days provided for in paragraph (1), the operator shall give into custody the entire quantity of precursors still in stock on the date when the activity ceases, to a licensed operator, where this quantity shall be kept, at the expense of the operator having ceased its activity, until it is sold to a licensed buyer. If giving the precursors into custody is not justified or is not possible, the operator can destroy them, under ecological conditions, based on a record countersigned by the police body, in compliance with the same delay.

(3) When ceasing the activity, the operator is bound to deliver all the documents relating to the operations involving precursors to the county directorate or to the Directorate of the State Archives of Bucharest.

Article 11

(1) The keeping or storage of the precursors listed in Schedules I and II provided for in Annex 1 shall be carried out in rooms fitted with metal doors, iron grills at the windows, optic or acoustic safe locking systems and alarm devices, for preventing any theft. Other materials or products shall not be stored in these rooms, except for the cases when the respective spaces are authorized, according to the Law, for keeping toxic substances or narcotic drugs.

(2) The keeping in laboratories and pharmacies of the precursors listed in Schedules I and II provided for in Annex 1 shall be allowed under the safety conditions established by the Regulation for implementing the provisions of this Law.

Article 12

The distribution of the precursors, irrespective of the purpose, from the warehouses, rooms or other spaces where they are kept shall be carried out only based on the licence of the receiver or, where appropriate, based on the functioning authorization granted under the conditions of Article 4.

Article 13

(1) The operators carrying out operations relating to the production, synthesis, extraction, market preparation, treatment or selling of precursors are bound to ensure their labelling before their placing on the market. The labels shall compulsorily include at least the name of the substance, as mentioned in Annex 1, the serial number or the manufacturing batch number, the packing date, the name of the producer and, if the substance is subject to repacking, the name of the operator that repacked it.

(2) The operators are bound to observe the legal labelling conditions also in the case of mixtures containing precursors.

Article 14

The packing and labelling of the precursors classified as dangerous chemical substances shall be carried out in compliance with the legal provisions into force and of the Regulation for implementing the provisions of this Law.

Article 15

(1) The operators can entrust the precursors for transport only to the transport operators, holders of a special licence, issued under the conditions of Article 4.

(2) The operators shall also provide the transport order, together with the precursors meant for transport, in addition to the documents mentioned by the regulations specific to each means of transport, according to the model provided for in Annex 7.

(3) The transport order shall be issued by the deliverer of merchandise and shall be signed by the unit manager and by the person in charge of the activity involving precursors.

Article 16

The transit of the precursors, as well as any other suspensive customs operations with such substances, shall be carried out according to the legal provisions into force and pursuant to the Regulation for implementing the provisions of this Law.

Article 17

In the case of commercial transactions involving precursors, that are carried out outside the physical Romanian territory, the Romanian operator performing them is bound to send written notifications regarding this fact, at least 5 working days before the date on which the operation is to be carried out, to the Ministry of Health and Family, under the conditions provided for in the Regulation for implementing the provisions of this Law.

Article 18

(1) The conditions and procedure for issuing the authorization and licence provided for in Article 4(1) shall be established by the Regulation for implementing the provisions of this Law.

(2) The application for the licence related to the activities involving precursors listed in Schedules I and II, mentioned in Annex 1, shall be solved within 60 days from the date of registration at the competent authority, under the conditions provided for in the Regulation for implementing the provisions of this Law.

Article 19

The licence related to the activities involving precursors is not transmissible, it is valid for 3 months from the date of its issuance, and this period can be extended successively for periods of 3 years, under the conditions provided for in the Regulation for implementing the provisions of this Law.

Article 20

The applications for the licence related to the activities involving precursors listed in Schedule III, mentioned in Annex 1, shall be solved within 30 days from the date of registration at the authority entitled to issue the respective authorization.

Article 21

The functioning licence or authorization shall be withdrawn if:

a) theft cases from the legal destination of the precursors have been reported for reasons imputable to the operator;

b) the management staff or the person responsible for the activity involving precursors within the operations has been convicted for criminal offences related to drugs or drug precursors;

c) the operator has been penalized for offences more than 3 times during a calendar year for violating the legal provisions in the field.

Article 22

The authorization of the General Police Inspectorate, necessary for obtaining the import/export licence for the substances provided for in Annex 1, shall not be granted in the following situations:

a) submitting incomplete or inappropriate documents both in form and content or without the authorizations required by the Law;

b) the applicant does no submit the use declarations for the precursors to be imported/exported, or he submits use declarations that do not comply with the reality or that are incorrectly drafted;

c) upon the express and justified request of a national competent authority from another state, which is a party to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, adopted in Vienna in 1988;

d) for the cases referred to in Article 21;

e) not submitting the documents regarding the justification of the use of the precursors that have been imported/exported before obtaining a new authorization;

f) the lack of a note regarding the import/export activity involving precursors in the memorandum of association of the respective operator or in one of its addenda.

Article 23

The producers of precursors listed in Schedules I and II provided for in Annex 1 shall annually notify the Ministry of Family and Health, by January 31st, of the situation of the previous year regarding the production and marketing of such substances, and for the precursors listed in Schedule III, they shall notify the Ministry of Industry and Resources by the same date.

Article 24

The operators carrying out import/export operations involving precursors are obliged to send a written notification to the General Police Inspectorate, on a quarterly basis, within 10 working days from the completion of every quarter, regarding the following data:

a) the name and quantity of the substances provided for in Annex 1, which were imported or exported;

b) the supplier, the consignee and the transport operator.

Article 25

The General Police Inspectorate shall pre-notify the national competent authorities in the countries of destination of the export operations involving precursors carried out by the Romanian operators.

(1) The enforcement of the provisions of this Law shall be exercised, according to their attributions in relation to their field of activity, by the Ministry of Health and Family, the Ministry of Interior, the Ministry of Public Finance and the Ministry of Industry and Resources.

(2) The authorities provided for in paragraph (1) are obliged to collaborate in order to achieve the purposes of this Law and to take all the measures necessary for ensuring a permanent cooperation with the operators.

(3) The General Police Inspectorate shall establish the database regarding the operations involving precursors and shall cooperate with the competent authorities in other states, as well as with the international bodies, that are involved in the prevention and fight against the use of precursors for the illegal production of drugs.

CHAPTER III

OFFENCES AND CRIMINAL OFFENCES

Article 27

The following are considered to be offences:

a) the failure of the operator to notify the police authorities in writing, within 24 hours from the moment of the ascertaining, of the loss or theft of precursors;

b) failure to submit, within 30 working days from the date on which the activity involving precursors ceases, the authorization at the Ministry of Health and Family and/or failure to notify in writing the police station, which previously authorized the licensing, of this fact;

c) failure to draft the technical regulations provided for in Article 7 by the operators producing precursors;

d) failure to appoint a person responsible for the activity involving precursors;

e) the transport of precursors on the Romanian territory, by infringing the rules provided for in Article 15;

f) failure to declare, at least 5 working days before the date on which the operation is to be carried out, the commercial transactions involving precursors, that do not transit Romania;

g) failure to transmit the data mentioned in Articles 23 and 24 to the General Police Inspectorate and to the Ministry of Family and Health or failure to comply with the communication delays;

h) failure to announce the loss or disappearance of the licence issued under the conditions of Article 4 or the export certificate, within maximum 24 hours from the ascertaining, at the Ministry of Health and Family;

i) releasing, for any purpose and in any quantity, precursors listed in Schedules I, II and III, provided for in Annex 1, to an operator that, although possessing a licence, respectively an authorization, according to Article 4, does not submit these documents;

j) preventing the access of the control bodies to the working areas or the places where the operations involving precursors are carried out or refusing to provide to the control bodies the required data and documents regarding the operations involving precursors;

k) failure to fulfil, by the operators, of the obligation regarding the record of the daily movements of the precursors in special registers;

1) failure to ensure the security and guard conditions provided for in Article 11 or of those imposed by the competent control bodies, under the legal conditions;

m) failure to comply, by the operators, with the obligations regarding labelling, provided for in Articles 13 and 14;

n) the inscription in the documents, based on which the operators carry out activities involving precursors, of other names, different from those provided for in Annex 1.

Article 28

(1) The offences provided for in Article 27(a)-(i) shall be sanctioned by a fine ranging between 10.000.000 lei and 30.000.000 lei, while those provided for in (j)-(n), by a fine ranging between 20.000.000 lei and 60.000.000 lei.

(2) The offences provided for in the customs legislation, if committed in relation to the precursors, shall be penalized by a fine ranging between 20.000.000 lei and 60.000.000 lei.

Article 29

The ascertaining of offences and the application of penalties provided for in Articles 27 and 28 shall be carried out by the police bodies or the authorized staff of the other authorities referred to in Article 26(1), where appropriate.

Article 30

The provisions of this Law shall be supplemented by the provisions of the Government Ordinance No 2/2001 regarding the legal regime of offences.*

Article 31

(1) The operators are bound to immediately notify the competent bodies of any operation involving precursors suspected to be carried out for the purpose of illicit drug production, and to provide them with the records and documents referring to the respective operation, in case the truthfulness of the notification is verified.

(2) The competent authorities are bound to ensure the confidentiality of the data and information provided by the operators.

Article 32

^{*} The Government Ordinance No 2/2001 was published in the Official Gazette of Romania, Part I, No 410 of 25 July 2001 and was approved and amended by Law No 180/2002, published in the Official Gazette of Romania, Part I, No 268 of 22 April 2002.

(1) The unlawful production, synthesis, extraction, experimentation, possession, transport, selling, marketing or carrying out of other operations involving precursors shall be a criminal offence and shall be punished with imprisonment from 1 to 5 years.

(2) Marketing of precursors to economic agents or natural persons unauthorized to carry out activities involving such substances shall also be a criminal offence and shall be sanctioned by the penalty provided for in paragraph (1).

(3) If the offences provided for in paragraphs (1) and (2) are committed for the purpose of illicit drug production or manufacture, other than high-risk drugs, they shall be punished with imprisonment from 3 to 10 years.

Article 33

The frontier crossing of precursors, without the documents provided for in Article 6, shall be a qualified smuggling criminal offence, provided and punished by Article 176 of Law No 141/1997 regarding the Romanian Customs Code.

Article 34

(1) In the case of the criminal offences provided for in Articles 32 and 33, the precursors are to be confiscated under the conditions of Article 118 of the Criminal Code regarding special confiscation.

(2) If the precursors which have been the subject of the criminal offences provided for in Article 32 are not found, the offender is obliged to pay their corresponding value in cash.

CHAPTER IV

FINAL PROVISIONS

Article 35

Annexes 1-7 are part of this Law.

Article 36

The provisions of this Law shall be supplemented by the provisions of Law No 143/2000 concerning the fight against illicit drug trafficking and use, if not otherwise specified.

Article 37

Within 60 days from the date on which this Law is published in the Official Gazette of Romania, Part I, the Ministry of Health and Family, the Ministry of Interior, the Ministry of Public Finance and the Ministry of Industry and Resources shall draw up the Regulation for implementing the provisions of this Law, which is to be approved by Government Ordinance.

Article 38

(1) This Law shall enter into force within 60 days of its publication in the Official Gazette of Romania, Part I.

(2) Upon the entry into force of this Law, any other contrary provisions shall be repealed. This Law has been adopted by the Senate during the meeting of 21 February 2002, in compliance with the provisions of Article 74(1) of the Constitution of Romania.

Acting as THE PRESIDENT OF THE SENATE, ALEXANDRU ATHANASIU

This Law has been adopted by the Chamber of Deputies during the meeting of 9 April 2002, in compliance with the provisions of Article 74(1) of the Constitution of Romania.

THE PRESIDENT OF THE CHAMBER OF DEPUTIES VALER DORNEANU

ANNEX 1

LIST of the substances frequently used for illicit drug production (precursors)

SCHEDULE I

Crt. No	Substance	Tariff heading	
1.	Ephedrine	2939.41.00	
2.	Ergometrine	2939.61.00	
3.	Ergotamine	2939.62.00	
4.	Lysergic acid	2939.63.00	
5.	1-phenyl-2-propanone (BMK) -	2914.31.00	
	phenylacetone		
6.	Pseudo-ephedrine	2939.42.00	
7.	N-acetylanthranilic acid	2924.22.00	
8.	3,4 methylendioxy-phenylpropan - 2 - one	2932.92.00	
	(PMK)		
9.	Isosafrole	2932.91.00	
10.	Piperonal	2932.93.00	
11.	Safrole	2932.94.00	
12.	Pseudo-ephedrine clorhydrate	2939.42.00	
13.	Pseudo-ephedrine sulphate	2939.42.00	
14.	Ephedrine clorhydrate	2939.41.00	
15.	Ephedrine nitrate	2939.41.00	
16.	Ephedrine sulphate	2939.41.00	
17.	Ergometrine clorhydrate	2939.61.00	
18.	Ergometrine hydrogenomaleate	2939.61.00	
19.	Ergometrine oxalate	2939.61.00	
20.	Ergometrine tartrate	2939.61.00	
21.	Ergotamine clorhydrate	2939.62.00	
22.	Ergotamine succinate	2939.62.00	
23.	Ergotamine tartrate	2939.62.00	
24.	Norephedrine	2939.41.00	
25.	Potassium permanganate	2841.61.00	

SCHEDULE II

Crt. No	Substance	Tariff heading	
26.	Acetic anhydride	2915.24.00	
27.	Anthranilic acid	2922.43.00	
28.	Phenylacetic acid	2916.34.00	
29.	Piperidine	2933.32.00	
30.	Piperidine auriclorure	2843.30.00	
31.	Piperidine clorhydrate	2933.32.00	
32.	Piperidine hydrogen tartrate	2933.32.00	
33.	Piperidine nitrate	2933.32.00	
34.	Piperidine phosphate	2933.32.00	
35.	Piperidine picrate	2933.32.00	
36.	Piperidine platinoclorure	2843.90.90	
37.	Piperidine thyocianate	2933.32.00	

SCHEDULE III

Crt. No	Substance	Tariff heading	
38.	Acetone	2914.11.00	
39.	Ethyl ether (diethyl oxide)	2909.11.00	
40.	Methyl ethyl ketone (MEK) butanone	2914.12.00	
41.	Toluene	2902.30.10	
		2902.30.90	
42.	Sulphuric acid	2807.00.10	
43.	Hydrochloric acid	2806.10.00	

FIRST NOTE:

The tariff headings comply with the Harmonized Commodity Description and Coding System and with the Romania's Import Customs Tariff 2001.

SECOND NOTE:

Other salts of the substances classified in these three schedules are also included, except for the salts of hydrochloric acid and sulphuric acid, whenever the existence of such salts is possible.

ANNEX 2

......

(letterhead of the operator)

(No and date of registration)

END USE DECLARATION

....., with

(name of the operator)

the registered office in...../(full address)....., I hereby declare on my own responsibility that the entire quantity of...../(quantity)...../(name of the

(first name and last name) (date) (position) (signature)

ANNEX 3

.....

(letterhead of the operator)

(No and date of registration)

USE DECLARATION

....., with

(name of the operator)

(date) (signature)

ANNEX 4

EXPORT CERTIFICATE

1=Exporter (name and address)

2=Certificate number....., issued by.....on.....

4=Estimated date of export

5=Importer in the country of destination (name and address)

6=Issuing authority (name and address)

7=Other involved operator (name and address)

8=Customs office where the export declaration is to be submitted (name and address)

9=End user (name and address)

10=Customs post of exit

11=Customs post of entry in the country of destination

12=Means of transport

13=Route 14a=Full name of the exported substances 14b=Full name of the exported substances 15a=Code No 15b=Code No 16a=Weight 16b=Weight 17a=Mixture percentage 17b=Mixture percentage 18a=Invoice No 18b=Invoice No 19=Name of the operator (representative), signature, date 20=No of the customs export declaration. Stamp 21=Confirmation of the exit. Exit date Signature Position Date Stamp

ANNEX 5A

.....

(letterhead of the buyer)

(No and date of registration)

DECLARATION

of the buyer regarding the precise use/uses of the substances provided for in Annex 1 (individual delivery)

egistered office in/(full address)
Licence/authorization for the activity involving precursors No, issued
n/(date) by/(name of the issuing authority)
have ordered from/(full name and address of the supplier)the following
ubstance:/(name and heading in Annex 1 to Law No 300/2002 concerning
he legal regime of the precursors used for illicit drug production) quantity
kg/l, that will be used within our own production process
or/(precise uses to be mentioned)
hereby declare that the mentioned substance will be resold or supplied to a buyer only
provided that the latter gives a similar use declaration or, for the substances listed in Schedule
II, a declaration for multiple deliveries.
understand that failure to comply with the purpose stated herein represents a false
leclaration offence, provided and punished by Article 292 of the Criminal Code.
first name and last name of the representative (date)
authorized by the buyer)
(position) (signature)

ANNEX 5B

.....

(letterhead of the buyer)

(No and date of registration)

DECLARATION

of the buyer regarding the precise use/uses of the substances listed in Schedule III provided for in Annex 1 (multiple deliveries)

....../(name of the operator, with full identification data), with the registered office in....../(full address)......

Licence/authorization for the activity involving precursors No....., issued in..../(date).....by/(name of the issuing authority)

The abovementioned quantity is sufficient, on our best judgement, for normally carrying out the production process for/(maximum 12 months)...... months.

We declare that the mentioned substance will be resold or supplied to a buyer only provided that the latter gives a declaration for individual or multiple deliveries.

We understand that failure to comply with the purpose stated herein represents a false declaration offence, provided and punished by Article 292 of the Criminal Code.

(first name and last name of the representative authorized by the buyer)

(date)

(position) (signature)

ANNEX 6

REGISTER

for recording the daily movements of precursors carried out by operators

Date	Name of the	No of the	e Quantity–entry,	Operator from which	Observation
	substance	entry/exit	exit, balance	the product was	S
		document	(MU - g, l)	received or to which it	
				was delivered	

ANNEX 7

SPECIAL REGIME

Trading company, with the registered office in....., No of the special licence for the activity involving precursors street No, county/district

of the transport operator

TRANSPORT ORDER

No of

Unit Manager,

Person in charge of precursors,