

1 Under what circumstances may a parent lawfully remove the child to another state without the other parent's consent?

According to Article 30(1)(c) of Law No 248/2005 on the free movement of Romanian citizens abroad, a minor who is a holder of an individual travel document or, where appropriate, an identity card, simple identity card or electronic identity card, and who travels abroad with one of the parents, may leave Romania without the need for a declaration of consent by the other parent, provided that the accompanying parent proves that the child has been entrusted to him/her under a final and irrevocable court judgment or that he/she exercises sole parental authority under a final and/or irrevocable court judgment, for cases which began on 15 February 2013.

A declaration of consent is also not required if the other parent has been deprived of his/her parental rights or, as the case may be, has been declared missing in accordance with the law, if the accompanying parent provides proof in this regard.

Likewise, according to Article 30(6) indent 1 of Law No 248/2005, the declaration of the other parent, of both parents or, as the case may be, of the parent who was entrusted with the minor, the parent who exercises sole parental authority, the surviving parent or his/her legal representative, consenting to the child leaving Romania is not necessary when a Romanian minor domiciled or resident in the country of destination travels there accompanied, as defined by Law No 248/2005.

The border police will allow accompanied minors to leave Romania if the accompanying parent justifies the need to travel abroad with the fact that the minor child is to receive medical treatment that is unavailable in Romania, without which his/her life or health is seriously endangered, provided that they present evidence to that effect, issued or endorsed by the Romanian healthcare authorities, and stating the period and the state(s) where that medical treatment is to be given, even if consent has not been given by both parents, the other parent, the surviving parent or the legal representative. Likewise, the border police will allow accompanied minors to exit Romania if the accompanying parent provides proof that the minor child is travelling for study or official competitions, by presenting appropriate documents indicating the period and state(s) where those studies are to be conducted or competitions are to be held, even if only one of the parents has given their consent.

2 Under what circumstances is the other parent's consent necessary for the child's removal to another state?

The other parent's consent is required in order to remove a child to another Member State, where parental authority is exercised jointly by both parents.

The parents thus exercise parental responsibility jointly and equally, regardless of whether the minor is born in or out of wedlock (Article 503(1) of the Civil Code).

In the event of dissolution of the marriage through divorce, both parents jointly exercise parental authority, unless the court decides otherwise. If there are reasonable grounds, having regard to the best interests of the child, the court decides that parental authority shall only be exercised by one of the parents (Articles 397 and 398(1) of the Civil Code).

In accordance with Article 30(1)(b) of Law No 248/2005, in order to take a Romanian minor out of the country, the accompanying parent must submit to the border police authorities a declaration of the other parent's consent for the minor to travel abroad, for a period not exceeding 3 years from the date on which it was drawn up.

The declaration must be authenticated by a notary public in Romania, and abroad by the Romanian diplomatic missions or consular posts. Alternatively, if it has been presented to foreign authorities, the declaration must fulfil the conditions for supralegalisation laid down by law or have an apostille application in accordance with the Convention abolishing the requirement of legalisation of foreign official documents, adopted at The Hague on 5 October 1961, with the exception of those originating from a State with which Romania has concluded treaties, conventions or agreements relating to legal assistance, in civil or family matters, which provide for an exemption from supralegalisation. The declaration must be issued to the parties in two copies, one of which shall be kept by the accompanying person and the second shall accompany the minor's passport.

3 If the other parent does not consent to the child's removal to another state, though it is necessary, how can the child be removed lawfully to another state?

Whenever there is disagreement between the parents regarding the exercise of rights or the performance of parental duties, the family court, after hearing the parents and taking into account the conclusions of the report on the psychosocial investigation, shall decide in accordance with the best interests of the child (Article 486 of the Civil Code). Therefore, the other parent's consent to the child travelling abroad may be substituted by the court judgment.

4 Do the same rules apply to temporary removal (e.g. holiday, healthcare etc.) and permanent removal? If applicable, please provide relevant consent forms.

The consent of the other parent is required if the purpose of travelling abroad with the child is to change the child's place of residence, unless the parent wishing to move exercises sole parental authority.

Thus the Civil Code provides that, if the exercise of authority or parental rights is affected, the child's change of residence, together with the parent with whom he or she lives, may take place only with the prior consent of the other parent. The family court shall decide if there is a disagreement between the parents (Article 497 of the Civil Code).

Law No 248/2005 makes no distinction between temporary and permanent movement abroad.

In accordance with Article 34 of Government Decision No 94/2006 approving the implementing rules for Law No 248/2005, the model of the declarations required for the minor's departure from the country shall be established by provision of the Inspector General of the General Inspectorate of the Border Police.

The text of Law No 248/2005 can be found [here](#).

Relevant files

[Model Statement Form for Parents' Consent to the Minor Child's Leaving the Country Accompanied by the Other Parent](#)  (100 Kb) 

[Model Statement Form for Parents' Consent to the Minor Child's Leaving the Country Accompanied by Another Adult](#)  (194 Kb) 

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