

**Parliament of Romania**

Chamber of Deputies

The Senate

**LAW no 122/2006**

**on asylum in Romania**

The Parliament of Romania adopts the present law

**Chapter 1**

General Provisions

**Article 1**

**Object of regulation**

The present law establishes the legal status of aliens who are applying for a form of protection in Romania, the legal status of aliens who are beneficiaries of a form of protection in Romania, the granting, cessation and cancellation of a form of protection in Romania, as well as the procedure of establishing the member state responsible for the analysis of the asylum application.

**Article 2**

**Definition of terms**

In the sense of the present law, the terms and expressions below have the following meaning:

- a) *form of protection* – any form of protection granted by the Romanian state, namely: refugee status, subsidiary protection, temporary protection or temporary humanitarian protection;
- b) *applicant* or *asylum-seeker* – the alien or stateless person who has expressed the wish to obtain a form of protection in Romania, as long as an irrevocable decision on the asylum application was not taken;
- c) *alien* – a foreign citizen or stateless person;
- d) *application for the granting of a form of protection* or *asylum application* – application made by a foreign citizen or a stateless person, so as to obtain protection from the Romanian state;
- e) *country of origin* – in the case of a person who holds more than one nationality, the term *country of origin* shall mean each of the countries of which she or he is a national, and in the case of a stateless person, the country where that person is domiciled;
- f) *asylum procedure* – all the documents and formalities that were fulfilled, as well as the activities performed by the competent authorities to recognize refugee status, or, by case, grant subsidiary protection;

- g) *refugee status* – a form of protection recognized by the Romanian state for the foreign citizen or the stateless person who fulfill the conditions stipulated in the Convention on Status of Refugees, signed in Geneva on July 28, 1951, herein known as the *Geneva Convention*, to which Romania acceded by the Law no. 46/1991 for Romania's accession to the Convention on Status of Refugees, as well as to the Protocol on Status of Refugees;
- h) *subsidiary protection* – form of protection granted by the Romanian State to a foreign citizen or a stateless person for reasons other than those named in the Geneva Convention;
- i) *temporary protection* – exceptional procedure meant to ensure, in the case of a massive influx or imminently massive influx of persons displaced from third countries who cannot return to their country of origin, immediate and temporary protection for such persons, especially if there is a risk that the asylum system cannot process this influx without negative side effects to its efficient operation, in the interest of the aforementioned persons and of other persons in need of protection;
- j) *family members* - if, on the date of submitting the application by the main applicant, his/her family are in the country of origin, the next family members of the beneficiary of refugee status or of subsidiary protection;
  - i. *husband* or, by case, *wife* of the beneficiary of refugee status or of subsidiary protection;
  - ii. *minor children* of the beneficiary of refugee status or of subsidiary protection who are supported by the latter, as long as they are unmarried, no matter whether they are from a marriage or outside of one or adopted according to the national legislation of the country of origin;
- k) *unaccompanied minor* – a minor, foreign citizen or stateless person, who has arrived in Romania unaccompanied by either parents or a legal representative or who is not in the care of another person, according to law, as well as the minor who is left unaccompanied after entering Romanian territory;
- l) *displaced persons* – citizens of third countries or stateless persons who have been forced to leave their countries or regions of origin or were evacuated, especially as an answer to the appeal of international organizations, and who cannot return in safety due to the situation which persists in that country, which can fall under the field of application of article 1 A of the Geneva Convention or other national or international instruments, which Romania is forced to abide by, through which international protection is especially granted:
  - i. people who have left areas of armed conflict or generalized violence;
  - ii. people exposed to major risks or who have been victims of systematic or generalized breaching of their rights;
- m) *massive influx* – arrival of a large number of displaced persons in the European Union who come from a specific country or geographic area, no matter whether their arrival in the European Union was spontaneous or assisted;
- n) *transit area* – area found at the frontier of a state or nearby it, used for people, goods and modes of transport which have not received approval to enter the country until such time as their legal status is established upon crossing the state border. In the case of international airports, the transit area is the area between the boarding/debarkation area and the areas used for checking when crossing the border;

- o) *accommodation centre* – any area used to for the collective accommodation of asylum-seekers.

### **Article 3** **The National Refugee Office**

- (1) The central authority responsible for the implementation of Romania's policies regarding asylum, as well as the application of the provisions of the present law is the National Refugee Office which is subordinate to the Ministry of Administration and the Interior, which:
- a. Has a legal personality and its headquarters in the city of Bucharest;
  - b. Benefits from budgetary allotments from the budget of the Ministry of Administration and the Interior, its director having access to budgetary credits;
  - c. Can use, according to law, funds or goods obtained from donations and sponsorships or obtained on the basis of domestic or international agreements;
  - d. Is composed by central and territorial structures;
  - e. Can sign agreements with similar institutions abroad, as well as with international organizations, according to law.
- (2) For the application of the provisions of the present law, by order of the Minister of Administration and the Interior, regional centres for processing of the asylum applications and for accommodation of asylum-seekers and people who have been granted a form of protection in Romania can be established, subordinated to the National Refugee Office.
- (3) The amounts necessary to cover the expenses resulting from the founding, operation and maintenance of the centres stipulated in paragraph (2) will be covered from the budget of the Ministry of Administration and the Interior, according to the effective costs, within the limits of the funds allotted for such a purpose from the state budget.
- (4) The Ministry of Administration and the Interior, through the National Refugee Office, is responsible for Romania's voluntary contribution to the budget of the United Nations High Commissioner for Refugees (UNHCR).
- (5) The Ministry of Administration and the Interior, through the National Refugee Office, can propose that Romania accept refugees that are in other states, who have been recognized according to the Geneva Convention. The number and conditions of acceptance of these people will be established through a Government decision. These people will have the same rights and obligations in Romania as the refugees recognized by the Romanian State.

## **Chapter II** **Principles and procedural safeguards**

### **Article 4** **Access to the asylum procedure**

The competent authorities ensure access to the asylum procedure to any foreign citizen or stateless person who is on the Romanian territory or at the border, from the moment the desire is expressed, either in writing or orally, which states that the latter is requesting the protection of the Romanian state, except for the situations expressly provided by the present law.

## **Article 5 Indiscrimination**

The provisions of the present law are applied without discrimination, regardless of the race, nationality, ethnic group, language, social class, convictions, sex, sexual orientation, age, handicap, non-contagious chronic disease, HIV infection or belonging to a disadvantaged class, of material circumstances, status at birth or status gained or any other distinction.

## **Article 6 Nonrefoulement**

- (1) The asylum-seeker shall not be expelled, extradited or forcibly returned from the border or from the Romanian territory, except for the cases mentioned in article 44 of Law no. 535/2004 regarding the prevention and fight against terrorism.
- (2) The person who has been recognized as a refugee or who has been granted subsidiary protection is protected against expulsion, extradition or the return to the country of origin or any state in which one's life or liberty has been placed in danger or would be subjected to torture, inhuman or degrading treatment.
- (3) Without breaching the provisions of paragraph (2) and without affecting, automatically, the form of protection that one is the beneficiary of, the person who has been recognized as a refugee or who has been granted subsidiary protection can be removed from Romanian territory if:
  - a. There are founded reasons for the person in question to be considered a danger to the security of the Romanian state; or
  - b. The person in question, being convicted of a serious criminal offence by final decision, is to be considered a danger to public order in Romania.
- (4) In the sense of the present law, a *serious criminal offence* is considered any crime for which the law requires the punishment to deprivation of liberty with a special maximum sentence of over 5 years.

## **Article 7 Unity of the Family**

The Romanian authorities guarantee that the principle of family unity is abided by, according to the provisions of the present law.

## **Article 8 The Best Interest of the Child**

In the application of the present law, all decisions regarding minors are made in conformity with the best interest of the child.

## **Article 9 Period of granting a form of protection**

The status of refugee and subsidiary protection are granted on an indefinite time period. Temporary humanitarian protection is granted for a set period, which cannot exceed 2 years.

## **Article 10 Confidentiality**

All the data and information regarding the asylum application are confidential. All the authorities, organizations who are working in the field of asylum or third parties involved in the asylum procedure or who, accidentally, come into possession of such information are obligated to comply with the confidentiality clause.

## **Article 11 Causes that remove the criminal character of an offence**

Romanian authorities will not apply criminal sanctions for illegal entry or residence to asylum-seekers who enter or reside on the Romania's territory without authorization.

## **Article 12 Active role**

The authorities competent to resolve asylum applications can investigate, *ex officio*, any *de facto* or *de jure* circumstances which could lead to the resolution of the case, even if these circumstances have not been invoked or mentioned in the asylum application or appeal application.

## **Article 13 Examination of the asylum application**

- (1) The decision regarding the resolution of the asylum application is made after a suitable examination of the applicant's situation is made by the specially designated officials, who are qualified in the topic of asylum. The latter presumes:
  - a. An individual examination of each asylum application and the making of an objective and impartial decision; and
  - b. Consultation of information from the country of origin, obtained from different sources, necessary to evaluate the personal circumstances of the asylum-seeker.
- (2) Any asylum application is analyzed individually and successively from the perspective of refugee status and subsidiary protection under the conditions provided by the present law, except for the situation in which the procedure to grant temporary humanitarian protection is initiated.

## **Article 14 Decision made regarding asylum applications**

- (1) The decision through which the asylum application is resolved is drawn up and will necessarily contain *de facto* and *de jure* situation, as well as information regarding the appeal procedure that the asylum-seeker is entitled to, the deadline for the submission of an appeal, as well as the authority with whom the appeal against a negative decision is to be submitted.
- (2) In the case of asylum applications submitted by a legal representative for and on behalf of a number of persons, and which are based on the same alleged reasons for

the granting of a form of protection, the applications will be interlocked and a single decision will be made for the case.

### **Article 15**

#### **Benefit of the doubt**

When part of the reasons or all the reasons submitted in the asylum application, which would justify granting a form of protection, are not proven with documents or other evidence, then the benefit of the doubt is granted, if all of the following conditions are fulfilled:

- a) the applicant has done all in his power to support the asylum application;
- b) all the relevant elements that are at the disposal of the applicant have been presented, and the lack of such elements has been reasonably justified;
- c) the declarations of the applicant are considered coherent and plausible and are not contradicted by the country of origin information, relevant to the applicant's case;
- d) the applicant has submitted an asylum application as soon as possible and any delay is justified with sound reasons;
- e) the general credibility of the applicant has been established.

### **Article 16**

#### **Safeguards regarding unaccompanied minors seeking asylum**

- (1) The asylum application of an unaccompanied minor is analyzed with the highest priority.
- (2) The National Refugee Office takes steps to appoint, in the shortest period possible, a legal representative who will assist the unaccompanied minor seeking asylum, throughout the asylum procedure.
- (3) It is not necessary to name a legal representative for an unaccompanied minor seeking asylum who is to turn eighteen within 15 days from handing in the asylum application.
- (4) The National Refugee Office informs the legal representative and the unaccompanied minor seeking asylum, in a language the latter knows, regarding the possibility of carrying out a medical examination in order to establish age. This report must also contain details regarding the medical examination methods and the effects of a possible refusal of this medical examination.

## **Chapter III**

### **Rights and obligations**

#### **Section 1**

#### **Rights and obligations of asylum seekers**

### **Article 17**

#### **Rights**

- (1) Throughout the duration of the asylum procedure, the alien who is seeking a form of protection has the following rights:
  - a. The right to remain in Romania, until the expiry of 15 days from the finalization of the asylum procedure, except the case in which the asylum application has been rejected as a result of its resolution in an accelerated procedure or in a border procedure, case in which the alien must depart from Romanian territory

as soon as the asylum procedure has been finalized. In the case of the procedure to establish the member state responsible with the examination of the asylum application, the right to remain on Romanian territory expires from the date when the decision to reject access to the asylum procedure issued by the National Refugee Office has been communicated;

- b. The right to be assisted by a lawyer in any phase of the asylum procedure;
- c. The right to be ensured, free of charge, an interpreter in any phase of the asylum procedure;
- d. The right to contact and be assisted by an official of the United Nations High Commissioner for Refugees (UNHCR), in any phase of the asylum procedure;
- e. The right to be counseled and assisted by a representative of Romanian or foreign nongovernmental organizations in any phase of the asylum procedure;
- f. The right to be informed, in a language that one understands or is reasonably presumed that one knows, on the rights and obligations which one has throughout the asylum procedure;
- g. The right to the protection of personal information and any other details connected to one's application;
- h. The right to be issued a temporary identity document, whose validity shall be extended periodically by the National Refugee Office. In the absence of documents that certify the identity of the applicant, the declared identity will be mentioned in the temporary identity document. Such a document will not be issued to:
  - i. Aliens who have applied for asylum at a border crossing check point, as long as access to the territory has not been granted through a decision of the National Refugee Office;
  - ii. Aliens in public custody for reasons of national security and public order who are applying for asylum, as long as this measure is maintained;
- i. the right to participate in cultural adaptation activities;
- j. the right to receive, upon request, the necessary assistance for subsistence if one does not have the necessary material means at their disposal, the amounts granted for food, accommodation and other expenses being established by a Government decision and supplied from the state budget, through the budget of the Ministry of Administration and the Interior;
- k. the right to be housed in the reception and accommodation centres that are subordinated to the National Refugee Office, until the right to stay on Romanian territory expires, for the asylum-seeker who does not dispose of the necessary material means for subsistence;
- l. the asylum-seekers that have special needs will benefit from the adaptation of the accommodation and assistance to suit their special needs in the accommodation centres;
- m. the right to receive for free primary medical aid and emergency hospital aid, as well as medical aid and free treatment, in the case of acute or chronic illnesses that imminently endanger one's life;
- n. the right of asylum-seekers with special needs to receive adequate medical aid;
- o. the right to receive access to the labor market under the conditions stipulated by law for Romanian citizens, after the completion of one year from the submission of the asylum application, if the asylum-seeker is still in the asylum procedure;
- p. the right of minor asylum seekers to gain access to compulsory education, under the same conditions as Romanian minor citizens.

- (2) If the asylum-seeker is accommodated in the reception and accommodation centres of the Ministry of Administration and the Interior, then the amount provided in paragraph (1) letter j) regarding accommodation is not granted.
- (3) The monetary funds necessary to ensure the rights stipulated in paragraph (1) letters c), f), g) h), i), k), l), m) and n) are covered by the budget of the Ministry of Administration and the Interior.
- (4) Unaccompanied minors are granted the same protection offered, under the conditions of the law, to minor Romanians who are in difficult situations.
- (5) If the applicant does not dispose of the material means, the National Refugee Office can establish a place of residency and ensures material assistance necessary for subsistence, throughout the duration of the whole asylum procedure.
- (6) For justified reasons of public interest, national security, order, health and public morals, protection of the rights and freedom of other people – even if the alien has the material means necessary for subsistence – the National Refugee Office can establish a place of residency and can arrange transportation with a companion to that place for the entire duration of the asylum procedure, at the request of the qualified authorities.
- (7) The asylum procedure stipulated at paragraph (1) is finalized, except for applications resolved according to an accelerated procedure or in a border procedure when the asylum procedure is finalized immediately, within 7 days from when the decision to close the file is communicated, from the date when the decision of the National Refugee Office's decision is communicated through which refugee status has been granted, from the date of the expiry of the legal deadline to submit an appeal or, by case, a second appeal or from the date when the decision of the appeal court is pronounced.

### **Article 18**

#### **Access to education of minor asylum seekers**

- (1) In order to facilitate access to the Romanian education system, minor asylum seekers benefit, for free, of a preparation course, that lasts one school year, for enrollment in the national education system.
- (2) The preparation course stipulated at paragraph (1) is organized by the Ministry of Education and Research, in partnership with the National Refugee Office.
- (3) The minor asylum seeker is enrolled in the preparation course within three months from the submission of the asylum application.
- (4) At the end of the initiation course into the Romanian language, an evaluation committee, whose composition and operation are established by an order of the Minister of Education and Research, assesses the level of knowledge of the Romanian language and establishes the enrollment of minors, who have been granted a form of protection in Romania, in the appropriate year of study.

### **Article 19**

#### **Obligations**

Throughout the asylum procedure, the alien who applies to receive a form of protection has the following obligations:

- a) the obligation to present to territorial authorities of the Ministry of Administration and the Interior, in writing, the motivated application including all the data that the authority to which it is being submitted has requested, as well as to be photographed and

- fingerprinted. Fingerprinting is not carried out for aliens who have not yet turned 14 years of age;
- b) the obligation to present to the competent authorities complete and real information regarding his person and the asylum application;
  - c) the obligation to submit all the documents at his disposal and which are relevant to his personal circumstances;
  - d) the obligation to hand in the document for crossing the border, subsequently to receive the document stipulated in article 17, paragraph (1) letter h;
  - e) the obligation to follow the stage of the procedure and to inform the qualified authorities regarding any change of residency;
  - f) the obligation to respond to the requests of the authorities that have responsibilities in the field of asylum;
  - g) the obligation not to leave the city of residence, without the authorization of the National Refugee Office. The authorization will be issued by the National Refugee Office after an individual, objective and impartial analysis, and in the case it is not granted, the reasons must be communicated;
  - h) the obligation to present oneself for medical examinations that are arranged;
  - i) the obligation to abide by the laws of the Romanian state, as well as the measures established by the qualified Romanian authorities in matters of asylum;
  - j) the obligation to leave Romanian territory, within 15 days from the finalization of the asylum procedure, if the applicant was not granted the form of protection requested, with the exception of the situation in which the asylum application was rejected as manifestly unfounded by decision taken in the accelerated procedure, case in which the alien must leave Romanian territory as soon as the asylum procedure has been finalized.

## **Section 2**

### **The rights and obligations of the beneficiaries of a form of protection**

#### **Article 20**

##### **The rights of the beneficiaries of a form of protection**

- (1) Acknowledging refugee status or granting subsidiary protection offers the beneficiary the following rights:
  - a. To remain on Romanian territory and obtain the appropriate documents to prove identity and to cross the state borders;
  - b. To freely choose the place of residence and to travel freely, under the conditions set by law for aliens;
  - c. To be employed by natural or legal persons, to exercise unpaid activities, to exercise freelance professions and to carry out legal activities, to perform commercial acts and deeds, including economical activities independently, under the same conditions as Romanian citizens;
  - d. To transfer their assets that they brought into Romania to the territory of another country, with the purpose of resettlement;
  - e. To benefit of the best treatment stipulated by law for foreign citizens, regarding acquirement of movable and immovable property;
  - f. To benefit from the protection of intellectual property, under the conditions stipulated by law;

- g. To benefit from social insurance, measures of social assistance and social health insurance, under the conditions stipulated by law for Romanian citizens;
  - h. Access to all types of education, under the conditions stipulated by law for Romanian citizens;
  - i. To benefit from treatment equal to that granted to Romanian citizens, in terms of freedom of practicing one's own religion and the religious education of one's children;
  - j. To benefit from the right of protecting one's personal information and any other details connected to one's case;
  - k. To benefit from the right of association with regards to apolitical and non-lucrative associations and professional unions, under the conditions stipulated by law for Romanian citizens;
  - l. To have free access to courts and administrative assistance;
  - m. To receive, upon request, within the boundaries of the disposable finances of the state, reimbursable aid, set at the level of the minimum gross salary for the country, for a period of maximum 6 months if, due to objective reasons, one does not have the necessary means of existence. For well founded reasons, this aid can be extended for another period of maximum 3 months;
  - n. To participate, upon request, in the integration programs and to live in the National Refugee Office's centres, under the conditions stipulated by law;
  - o. To establish one's legal residence in Romania, according to the legislation regarding the legal status of aliens;
  - p. Can benefit, upon request, from assistance for voluntary repatriation;
- (2) Unaccompanied minors can benefit from the same protection offered to Romanian minors who are in a difficult situation, under the conditions of the law.
  - (3) The person whose refugee status has been recognized or who has been granted subsidiary protection becomes a beneficiary of the form of protection from the date of issue or, by case, from the date when the decision to finalize the asylum procedure has been announced.
  - (4) The person who has been granted a form of protection will benefit from the rights stipulated in paragraph (1), within 5 days from the communication of the decision of the National Refugee Office through which refugee status has been granted, from the expiry of the deadline for the submission of the appeal against the decision of the National Refugee Office through which subsidiary protection was granted or, by case, the pronouncement of the court's decision through which the asylum procedure was finalized.
  - (5) The monetary funds necessary to grant the reimbursable aid stipulated in paragraph (1), letter m) are ensured from the budget of the Ministry of Labor, Social Solidarity and Family.
  - (6) The identity documents stipulated in paragraph (1), letter a) are issued for a period of 3 years, with possibility of extension in the case of people whose refugee status has been recognized, respectively for a one-year period, with the possibility of extension for people who have been granted subsidiary protection. The travel documents mentioned in paragraph (1), letter a) are issued to the beneficiaries of refugee status or subsidiary protection for a one-year period, with the possibility of extension. In the case of the beneficiaries of a form of protection to whom the provisions of article 6, paragraph (3) apply, the temporary residence pass will not be issued or its validity will cease or, by case, not be extended.

**Article 21**  
**Obligations of the beneficiaries of a form of protection**

- (1) The beneficiary of a form of protection has the following obligations:
  - a. To respect the Romanian Constitution, the laws and other normative acts issued by the Romanian authorities;
  - b. To have correct and civilized conduct, to abide by the measures established by the qualified Romanian authorities in matters of refugees and to answer their requests;
  - c. To respect the interior regulations of the National Refugee Office, if one has accommodation in such a center;
  - d. To avoid the provocation of any conflicts or incidents with the population or committing any deeds that can be prosecuted under criminal law;
  - e. To abide by the rules regarding the legal status of aliens, as long as the law does not stipulate any differently.
- (2) The person who gained a form of protection has the obligation to reimburse the aid received according to article 20, paragraph (1), letter m), if one has obtained an income to allow the latter, without affecting his/her upkeep or that of his/her family. The amounts reimbursed are considered an income to the state budget.

**Chapter IV**  
**Forms of protection**

**Article 22**  
**Forms of protection**

Under the conditions of the present law, aliens:

- a) have their refugee status recognized; or
- b) are granted subsidiary protection; or
- c) are granted temporary protection, respectively temporary humanitarian protection.

**Article 23**  
**Refugee status**

- (1) Refugee status is recognized, upon request, for the foreign citizen who, as the result of a well founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership to a particular social group, is outside of the country of origin and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, as well as the stateless person who, being outside of the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.
- (2) The provisions of paragraph (1) do not apply to aliens who are beneficiaries of protection or assistance from an organism or institution of the United Nations, a different one than the United Nations High Commissioner for Refugees. When this protection or assistance has ceased for a certain reason or other, without the situation of these people being definitively settled, in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall *ipso facto* be entitle to the benefits of this Convention.

**Article 24**  
**Acknowledging refugee status for family members**

- (1) Refugee status is also granted, by request, to family members stipulated in article 2 letter j) who are on Romanian territory, except for the cases in which the respective people are found in one of the situations mentioned in article 25.
- (2) In the case of the husband or, respectively, of the wife, the provisions of paragraph (1) are applied only if the person whose refugee status was recognized on the basis of article 23 was married before entering Romania.
- (3) In the situation in which the family member does not fulfill the conditions stipulated in paragraph (1) and, by case, paragraph (2), the latter's asylum application will be analyzed according to the provisions of article 23 and article 26.

**Article 25**  
**Causes for exclusion from refugee status recognition**  
**(Exclusion clauses)**

- (1) Refugee status shall not be granted to foreign citizens and stateless persons, in respect to whom there are serious reasons for considering that:
  - a. have committed a crime against peace and humanity, a war crime or another offence defined according to the relevant international treaties to which Romania is a party or another international document which Romania is obliged to abide by;
  - b. Have committed a serious common law offence outside Romania, before being admitted to Romanian territory;
  - c. Have committed deeds which are contrary to the goals and principles, as they are mentioned in the Preamble and article 1 and article 2 of the United Nations Organization Charter;
  - d. Have instigated or were accomplices to committing the deeds stipulated at letters a) – c).
- (2) Also, refugee status is not recognized for foreign citizens or stateless persons who planned, facilitated or took part in committing terrorist acts, as they are defined in the international instruments to which Romania is a party.

**Article 26**  
**Subsidiary protection**

- (1) Subsidiary protection can be granted to the foreign citizen or to the stateless person who does not fulfill the conditions to have refugee status recognized and regarding whom there are well founded reasons to believe that, in the case of returning to the country of origin, respectively to the country where he has his habitual residence, will be exposed to a serious risk, in the sense of the provisions of paragraph (2), and who cannot or, due to this risk, does not wish the protection of that country.
- (2) The definition of a *serious risk*, in the sense of paragraph (1), is:
  1. conviction to a death sentence or the execution of such a sentence; or
  2. torture, inhuman or degrading treatments or punishment; or

3. a serious, individual threat to one's life or integrity, as a result of generalized violence in situations of internal or international armed conflict, if the applicant is part of the civilian population.

### **Article 27**

#### **Granting subsidiary protection to family members**

- (1) Subsidiary protection is also granted, by request, to family members stipulated in article 2 letter j) who are on Romanian territory, except for the cases in which the respective people are found in one of the situations mentioned in article 28.
- (2) In the case of the husband or, respectively, of the wife, the provisions of paragraph (1) are applied only if the person who was granted subsidiary protection on the basis of article 26 was married before entering Romania.
- (3) In the situation in which the family member does not fulfill the conditions stipulated in paragraph (1) and, by case, paragraph (2), the latter's asylum application will be analyzed according to the provisions of article 23 and article 26.

### **Article 28**

#### **Causes for exclusion from granting subsidiary protection**

- (1) Subsidiary protection is not granted to foreign citizen and stateless persons of who there are serious reasons to believe that:
  - a. Have committed a crime against peace and humanity, a war crime or another offence defined according to the relevant international treaties to which Romania is a party or another international document which Romania is obliged to abide by;
  - b. Have committed a serious common law offence outside Romania, before being admitted to Romanian territory;
  - c. Have committed deeds which are contrary to the goals and principles, as they are mentioned in the Preamble and article 1 and article 2 of the United Nations Organization Charter;
  - d. Are a danger to Romania's public order and national security;
  - e. Have instigated or were accomplices to committing the deeds stipulated at letters a) – d).
- (2) Also, subsidiary protection is not granted to aliens or stateless persons who planned, facilitated or took part in committing terrorist acts, as they are defined in the international instruments to which Romania is a party.

### **Article 29**

#### **Temporary humanitarian protection**

In times of armed conflict, in which Romania is not involved, temporary humanitarian protection can be granted to people who come from the areas of conflict.

### **Article 30**

#### **The procedure for granting temporary humanitarian protection**

- (1) In the situations stipulated in article 29, until the measures and the duration for which protection is granted are established, the National Refugee Office can decide the

suspension of the asylum procedure for people who come from the conflict zone and are to benefit from temporary humanitarian protection.

- (2) Until the measures and the duration for which temporary humanitarian protection is granted are established, the person who comes from the conflict zone has the rights and obligations stipulated in articles 17-19.
- (3) Temporary humanitarian protection is granted through a Government decision, drafted by the Ministry of Administration and the Interior, at the suggestion of the National Refugee Office, in the situation in which it is ascertained or there is information that there is to be a massive and spontaneous influx of people who need protection from the conflict zone.
- (4) The definition of *person in need of protection* is any person who is part of the civilian population and has left his/her country of origin, as a result of an armed conflict and cannot return in conditions of safety and dignity to the country of origin.
- (5) The definition of *massive and spontaneous influx of people in need of protection* is the displacement to Romanian territory of a significant number of people that exceeds the National Refugee Office's capacity to resolve the individual applications, under the conditions and terms stipulated by the present law.
- (6) Temporary humanitarian protection is granted for a set period, which cannot exceed 2 years.
- (7) People who benefit from temporary humanitarian protection can submit, individually, an asylum application only after this form of protection ceases.

### **Article 31**

#### **The rights of the beneficiaries of temporary humanitarian protection**

- (1) By the Government decision stipulated in article 30 paragraph (3), the measures and period for which temporary humanitarian protection is granted are established, as well as the source of financing the expenses resulted from ensuring temporary protection.
- (2) The treatment granted, by Government decision, to people who enjoy temporary humanitarian protection cannot be less favorable than that ensured for the recognition of the following rights:
  - a. The right to be informed, in a language that it is presumed they understand, of the rights they have throughout the period in which they benefit from temporary humanitarian protection;
  - b. To be employed by natural or legal persons, to exercise unpaid activities, to exercise freelance professions and to carry out legal activities, to perform commercial acts and deeds, including economical activities independently, under the conditions of the legal status of aliens in Romania;
  - c. To have access to appropriate accommodation or, if it is necessary, to receive material means to obtain accommodation;
  - d. The right to assistance necessary for upkeep, under the conditions established through a Government decision;
  - e. the right to receive for free primary medical aid and emergency hospital aid, as well as medical aid and free treatment, in the case of acute or chronic illnesses that imminently endanger one's life;
  - f. the right of people with special needs to benefit from the adaptation of accommodation and assistance in accommodation areas established by a Government decision;

- g. the right for minors who have temporary humanitarian protection to gain access to compulsory education, under the same conditions as Romanian minor citizens.

### **Article 32**

#### **Maintaining family unity for beneficiaries of temporary humanitarian protection**

- (1) Temporary humanitarian protection is also granted, on request, to the family members of the beneficiaries of such forms of protection, stipulated in article 2 letter j) who are on Romanian territory.
- (2) The stipulations of paragraph (1) are not applied in the case in which the family members are in one of the situations stipulated in article 33.

### **Article 33**

#### **Causes for exclusion from granting temporary humanitarian protection**

Aliens and stateless persons who are in the situations stipulated in article 28 will be excluded from being granted temporary humanitarian protection.

## **Chapter V**

### **Asylum procedure**

#### **Section 1**

#### **Ordinary procedure**

### **Article 34**

#### **Beginning the procedure**

- (1) A person is considered an asylum-seeker from the moment when the will is manifested, expressed either in writing or orally, before the qualified authorities, from which it is understood that he/she is requesting the protection of the Romanian state.
- (2) From the moment the will is manifested, expressed under the conditions in paragraph (1), the asylum-seeker has the rights and obligations stipulated in articles 17-19.

### **Article 35**

#### **Qualification to receive asylum applications**

The following authorities are qualified to receive an asylum application:

- a) National Refugee Office and its territorial units;
- b) The structures of the Romanian Border Police;
- c) The structures of the Aliens Authority;
- d) The structures of the Romanian Police;
- e) The structures of the National Administration of Penitentiaries within the Ministry of Justice.

### **Article 36**

#### **The moment of submission of the asylum application**

- (1) The asylum application is submitted as soon as:
  - a. The applicant has presented himself/herself at a checkpoint to cross the state border;
  - b. The applicant has entered Romanian territory;
  - c. Events have taken place in the country of origin of the applicant which causes him/her to request protection for the alien with the right of residency in Romania.
- (2) Asylum applications submitted outside of Romanian territory are not admitted.
- (3) Qualified authorities may not refuse the reception of an application claiming that it was submitted late.

**Article 37**  
**The asylum application**

- (1) The asylum application is individual and is submitted by the applicant personally or, by case, by the curator or legal representative.
- (2) The asylum application is filled out in Romanian or in a language that the applicant knows.
- (3) Collective asylum applications are not accepted.

**Article 38**  
**The asylum request submitted to the territorial structures of the Ministry of Administration and the Interior**

- (1) If the asylum application is submitted to the territorial authorities of the structures of the Ministry of Administration and the Interior, stipulated in article 35, the applicant is informed regarding the fact that he/she must present themselves at the National Refugee Office or, by case, at a territorial structure of the latter.
- (2) If the asylum application was submitted to the territorial organizations of the Romanian Border Police from a checkpoint on the country's border, the applicant, who received access to the territory through a decision of the National Refugee Office, is informed regarding the fact that they have to present themselves at the National Refugee Office or, by case, at a territorial structure of the latter.
- (3) The asylum-seeker is responsible for the expenses resulted from the transport to the National Refugee Office or, by case, to a territorial structure of the latter. If the asylum-seeker does not have the necessary amount to cover transport costs, this amount will be paid by the National Refugee Office.
- (4) In the situations stipulated in paragraphs (1) and (2), for reasons justified by public interest, national security, public order, protection of public health and morality, protection of the rights and liberties of other people, the National Refugee Office ensures the transport of the asylum-seekers to one of its territorial units.
- (5) The asylum-seeker, submitted at a border checkpoint, with the Aliens Authority and those submitted with the authorities of the National Administration of Penitentiaries within the Ministry of Justice are registered in special registry books.

**Article 39**  
**Submission of an application by a minor**

- (1) The interests of minor aliens are protected by his/her legal representative.

- (2) The minor alien submits an asylum application through the legal representative, and in the case of minors who have turned 14 years of age, the asylum application can be submitted personally.
- (3) In the case of an unaccompanied minor alien who has expressed the will to obtain asylum, in writing or orally, before the competent authorities, the minor will be registered as an asylum-seeker, subsequently the asylum application will be submitted at the moment a legal representative will be named.
- (4) If the unaccompanied minor alien has expressed the will to obtain asylum, in writing or orally, before the competent authorities, other than the National Refugee Office, the territorial organization of the specialized system of the Ministry of Administration and the Interior or the Ministry of Justice which was informed will immediately notify the National Refugee Office, which will ensure the transport of the applicant to the structure qualified to analyze the application.

#### **Article 40**

##### **Naming a legal representative**

- (1) After registering the unaccompanied minor alien as an asylum-seeker, the National Refugee Office will immediately notify the qualified child protection authority within whose territorial jurisdiction the accommodation center is found where the asylum application will be submitted, in order to begin the procedure of naming a legal representative.
- (2) In the case of the unaccompanied minor asylum-seeker, the asylum procedure is suspended until a legal representative is named. Throughout the suspension period of the asylum application the minor has the rights stipulated in article 17 and article 18.

#### **Article 41**

##### **Establishing the age of the minor asylum-seeker**

- (1) If the asylum-seeker declares that he/she is a minor and there are no serious doubts regarding his/her minority, the latter will be considered a minor.
- (2) In the situation in which the unaccompanied minor cannot prove his/her age and there are serious doubts regarding his/her minority, the National Refugee Office will request a forensic examination to evaluate the age of the applicant, with the prior written approval of the minor and his/her legal representative.
- (3) If the asylum –seeker and/or the legal representative refuse to have the forensic examination done to evaluate the age and conclusive proof is not supplied, the asylum-seeker will be considered an adult.
- (4) In the situation stipulated in paragraph (3) it will be considered that the person has turned 18 years of age on the date of submission of the asylum application.
- (5) The provisions of paragraph (3) are not applied in the case in which, at the basis of the refusal to have the forensic examination to determine age carried out, there are well founded reasons, discovered after evaluation by a psychologist within the National Refugee Office.

#### **Article 42**

##### **Naming of the curator**

- (1) In the situation in which there are serious doubts regarding the judgment of the adult asylum-seeker, the specialized personnel from within the National Refugee Office will request a forensic examination in this sense.
- (2) If, after a forensic examination, the lack of judgment of the asylum-seeker is discovered, the official stipulated in article 48, paragraph (2) responsible for the case requests the naming of a curator, in the same conditions stipulated by law for Romanian citizens.
- (3) The resolution procedure of the asylum application is suspended until such time as a curator is named. Throughout the suspension of the procedure of granting a form of protection, the applicant is entitled to the rights stipulated in article 17 and article 18.
- (4) The application of the asylum-seeker with a lack of judgment is submitted by the curator, after he/she is named.
- (5) When it is possible to take an interview to determine refugee status, the curator will inform the asylum applicant regarding the purpose and the possible consequences of the personal interview and will undertake the necessary steps to prepare the applicant to take the interview.

### **Article 43 Questionnaire**

After registering the asylum application with the National Refugee Office or with its territorial units, the applicant will fill out a questionnaire, in order to establish his/her personal information and that of the family members, the route traveled from the country of origin to Romania, the data regarding any possible asylum applications submitted in third countries or in a member state of the European Union, as well as the identification or travel documents that are in his/her possession.

### **Article 44 Fingerprinting asylum-seekers**

- (1) Upon submission of the asylum application, the National Refugee Office or other qualified authorities stipulated in article 35 will gather the fingerprints of all the asylum-seekers who, according to their declarations have turned 14 years of age, subsequently this data will be sent and stored on paper in the filing cabinets of the National Refugee Office and on electronic format in the national AFIS (Automated Fingerprint Identification System) database.
- (2) The transmission and gathering of the fingerprints of the asylum-seekers is done according to the stipulation regarding the principle of confidentiality and protection of personal information, subsequently the person in question will be informed in writing regarding this fact.
- (3) Beginning with the date of Romania's accession to the European Union, the fingerprints gathered under the conditions stipulated in paragraph (1) are also sent and stored in the EURODAC (European Automated Fingerprint Identification System) European database.

### **Article 45 Interview to determine a form of protection**

- (1) The interview to determine a form of protection is made up of a hearing of the asylum-seeker by an official of the National Refugee Office, specially named on the basis of article 48 paragraph (2).
- (2) Interviewing the asylum-seekers is not obligatory in the following situations:
  - a. The National Refugee Office can make a favorable decision on the basis of the existent evidence in the applicant's file;
  - b. When it is found that the asylum-seeker is in one of the situations stipulated in article 42. In this situation, supplementary efforts will be made to obtain as much information as possible to resolve the case.
- (3) The interview is recorded in writing and will clarify the aspects necessary to analyze the asylum application, as follows: the identification data of the applicant, the name of the official specially designated to carry out the interview, the name of the interpreter and, by case, of the legal representative, curator and/or lawyer who is assisting the applicant, the language in which the interview is taking place, the reasons for asylum, the applicant's declaration, from which should result that all the information and data presented in the interview is real.
- (4) Where it is reasonably presumed that the asylum-seeker knows another language in which he/she is capable of communicating the interview may be conducted in that language.
- (5) The asylum applicant cannot refuse to have the interview conducted on the basis of the absence of the lawyer. Rescheduling the interview as the result of the lawyer's absence is possible only once and only if there are well founded reasons to justify this absence.
- (6) If the applicant refuses to sign the interview note, the reasons of refusal will also be recorded.
- (7) The refusal of the applicant to sign does not hinder the National Refugee Office in making a decision regarding the asylum application.
- (8) Where it is necessary, the official of the National Refugee Office who is handling the case can conduct a new interview.
- (9) If the applicant does not attend the interview on the scheduled date, without giving well founded reasons until this date for his/her absence, the official of the National Refugee Office responsible for the case will compile an ascertainment report.
- (10) A copy of the interview note is placed at the disposal of the applicant at the time when the decision of the National Refugee Office to reject the asylum application is communicated.

#### **Article 46**

#### **Interviewing asylum-seekers with special needs**

Interviews with asylum-seekers with special needs will be conducted by the officials of the National Refugee Office who are specialized in this sense, and who will take into consideration the special situation of these persons.

#### **Article 47**

#### **Interviewing minor asylum-seekers**

- (1) Interviews with minor asylum-seekers will be conducted in the presence of their legal representatives.

- (2) The legal representative will inform the minor asylum-seeker regarding the purpose and possible consequences of the personal interview and will undertake the necessary steps to prepare the minor to take the interview.
- (3) Interviewing minor asylum-seekers and unaccompanied minor asylum-seekers is done in all the cases where it is possible, according to their psychic development.
- (4) In the interview with the minor asylum-seeker the degree of intellectual development as well as maturity has to be taken into consideration.

#### **Article 48**

##### **The qualification to resolve asylum applications**

- (1) Interviewing, analyzing the reasons invoked and the decision regarding asylum applications fall under the competence of the National Refugee Office.
- (2) These activities are carried out by officials of the National Refugee Office specially designated for this purpose.
- (3) The officials are appointed by a disposition of the General Director of the National Refugee Office.

#### **Article 49**

##### **Collecting the relevant information to resolve the asylum application**

- (1) In the decisional process, the officials stipulated in article 48, paragraph (2) have the right to demand examinations and to consult experts.
- (2) The National Refugee Office can request of any public institution, agency or organization that operates on Romanian territory any documents necessary to analyze the situation of the asylum seeker and to resolve the asylum application of the latter, but the confidentiality clause must be abided by under the conditions stipulated in article 10. In these cases it is not necessary to obtain the agreement of the applicant.
- (3) The Ministry of Foreign Affairs periodically supplies summary reports regarding the situation in the countries of origin of the asylum-seekers, as well as answers to the precise requests of the National Refugee Office, necessary to resolve the asylum applications.
- (4) The National Refugee Office will consult the Ministry of Foreign Affairs regarding establishing safe countries of origin and safe third countries.

#### **Article 50**

##### **Resolution of the asylum application**

- (1) The asylum application is resolved on the basis of existing documents that are in the applicant's file and the reasons presented by the applicant, which are analyzed in relation to the concrete situation in the country of origin and in relation to the credibility of the applicant.
- (2) In the resolution of the applications of minor asylum-seekers their degree of intellectual development as well as their maturity will be taken into consideration.
- (3) In the resolution of the applications of adult asylum-seekers who are lacking in judgment, their declarations are valued with consideration given for the degree in which their judgment is impaired.
- (4) In the cases stipulated in article 45, paragraphs (2) and (9), the asylum application is resolved on the basis of existing elements that are on file.

## **Article 51**

### **Withdrawing the asylum application in the administrative phase**

- (1) If the asylum-seeker deliberately withdraws his/her application in the administrative phase, the applicant is informed of the consequences of the act of relinquishment.
- (2) In the situation stipulated in paragraph (1), the official stipulated in article 48 paragraph (2) issues a decision to close the file.
- (3) The applicant is informed of the decision to close the file immediately, in writing, through direct communication by the representatives of the National Refugee Office or by post to the last declared residence of the former.
- (4) The decision to close the file stipulated in paragraph (2) cannot be overturned.
- (5) The applicant has the rights and obligations stipulated in articles 17-19 until the expiry of the 7 days from when the decision to close the file is communicated.
- (6) If the applicant withdraws the asylum application in the administrative phase, he/she is obliged to leave Romanian territory upon the expiry of 15 days from the finalization of the asylum procedure
- (7) The provisions of paragraph (6) do not apply if the applicant has a right of residence regulated according the legal status of aliens.

## **Article 52**

### **The deadline for the resolution of asylum applications**

- (1) The official stipulated in article 48, paragraph (2) conducts the interview, analyses the reasons presented by the applicant and makes a decision regarding the request of the applicant within 30 days from taking on the case.
- (2) If the resolution of the asylum application requires supplementary research, the deadline stipulated in paragraph (1) is extended by 30 days at most.
- (3) The deadline stipulated in paragraph (1) is suspended for the duration of the procedure to determine the member state responsible with the analysis of an asylum application or, by case, for the duration of the procedure of the third safe country.
- (4) In the case of unaccompanied minor asylum-seekers, the deadline stipulated in paragraph (1) is suspended until such time as a legal representative is named.

## **Article 53**

### **The decision to resolve the asylum application**

- (1) The official stipulated in article 48, paragraph (2) issues a decision through which he/she:
  - a. Recognizes refugee status; or
  - b. Grants subsidiary protection; or
  - c. Rejects the asylum application.
- (2) The decision to grant subsidiary protection also includes the reasons for which refugee status was not granted.
- (3) The decision to reject the asylum application includes the appropriate reasons for each form of protection stipulated in articles 23 and 24, article 26 or article 27, as well as a mention of the obligation to leave Romanian territory. The alien is obligated to leave Romanian territory within 15 days from when the asylum procedure is finalized, except

for the case in which the asylum application was rejected as being manifestly unfounded as a result of its resolution in accelerated procedures, case in which the alien is obligated to leave Romanian territory as soon as the asylum procedure has been finalized.

#### **Article 54**

##### **Communication of the resolution decision of the asylum application**

- (1) Acceptance or rejection of the asylum application is done through a decision, which is immediately communicated in writing to the applicant by the representatives of the National Refugee Office or via post sent to the applicant's latest declared residence.
- (2) In the situation in which the applicant was evicted from an accommodation center which is subordinate to the National Refugee Office and did not supply the new address, the decision is considered to have been communicated from the date when it is ascertained, in a report compiled by the official stipulated in article 48, paragraph (2) that the alien is no longer found at the latest declared address.
- (3) The reasons for granting a form of protection are not communicated.

#### **Article 55**

##### **Deadline for submission of an appeal**

- (1) An appeal can be lodged against the decision stipulated in article 53 paragraph (1), letters b) and c), within 10 days from the date of reception of the proof of communication or of the document through which it is ascertained that the applicant is no longer to be found at the latest declared residence.
- (2) In the case in which the appeal was submitted within the deadline stipulated in paragraph (1), the applicant has the right to remain on Romanian territory for the duration of the resolution of the appeal.

#### **Article 56**

##### **Submitting the appeal**

- (1) The motivated appeal is submitted only with the National Refugee Office or, by case, with its territorial structure which issued the rejection decision and will be accompanied by a copy of the decision of rejection of the asylum application, the reasons for the appeal and the certificated or any other elements that support the appeal. The appeal is immediately forwarded to the qualified courts.
- (2) In the case of minors, the appeal is submitted by the legal representative. The minor who has turned 16 years of age can submit an appeal in his/her own name.
- (3) In the case of an alien lacking in judgment, the appeal is submitted by the curator.

#### **Article 57**

##### **The content of the appeal**

- (1) The appeal must include:
  - a. The name and residence of the appellant, the name and headquarters of the qualified structure which resolved the application according to an administrative procedure;
  - b. The object of the application;

- c. Presentation of the reasons by fact and by right on which the appeal is grounded;
  - d. Indication of the evidence on which the appeal is based;
  - e. The signature.
- (2) When proof is made with documents, a copy for the plaintiff and one for the court will be included with the appeal. The copies will be certified by the appellant that they are in conformity with the original.

### **Article 58**

#### **Confidentiality in the court procedure**

- (1) In the judicial phase of the resolution of the asylum application, the debates take place in camera.
- (2) In the judicial phase, the asylum procedure is carried out in accordance with the confidentiality principle.

### **Article 59**

#### **Exercise of procedural rights**

Exercising procedural rights is only done personally or with the assistance of a defender.

### **Article 60**

#### **The parties**

In the definition of the present law, the parties are:

- a) the National Refugee Office;
- b) the asylum-seeker whose application was rejected totally or partially.

### **Article 61**

#### **The contestation**

The contestation will include:

- 1. the procedural exceptions that the defendant raises against the appeal submitted by the appellant;
- 2. the answer to all the claims by fact and by right of the appeal;
- 3. the proof with which one defends against each accusation of the appeal. When the defendant requires proof with witnesses, the former will supply their names and addresses or, by case, their residence;
- 4. the signature.

### **Article 62**

#### **Hearings and debates**

- (1) The cases that have asylum applications as an object will be tried with priority before other civil cases, within 30 days.
- (2) The court will be able to grant a single delay for lack of defence, with well-founded reasons.

### **Article 63**

#### **Hearing**

The court can demand that the asylum-seeker take the stand when it is considered that the declarations are useful to the resolution of the case.

### **Article 64**

#### **Resolution of the appeal**

- (1) The appeal is resolved by the court within whose territorial jurisdiction the qualified structure of the National Refugee Office, which issued the decision, is found.
- (2) The court is to resolve the appeal within 30 days from receiving the latter.
- (3) The court will motivate the decision it made within 5 days from when it is pronounced.

### **Article 65**

#### **Legal expenses**

The appeal, as well as the other procedural acts regarding the resolution of the former, is exempted from legal taxes and no legal expenses can be demanded.

### **Article 66**

#### **The deadline to submit a second appeal**

- (1) The appellant or the National Refugee Office can declare a second appeal against the decision of the court within 5 days from when it is pronounced.
- (2) In the case of minors, the second appeal is declared by the legal representative. The minor who has turned 16 years of age can submit a second appeal in his/her own name.
- (3) In the case of an alien lacking in judgment, the second appeal is submitted by the curator.
- (4) In the case in which the second appeal was declared within the time limit set in paragraph (1), the applicant has the right to remain on Romanian territory for the duration of the resolution of the second appeal.
- (5) The deadline to motivate the second appeal is 10 days from the date when the decision of the first court instance is communicated.

### **Article 67**

#### **Resolution of the second appeal**

The second appeal is tried within 30 days from it being registered by the tribunal – the administrative contentious department – under whose circumscription the court, which issued the decision that is being attacked, is found.

### **Article 68**

#### **Relinquishing the trial**

- (1) The appellant can relinquish the trial at any time, either verbally in a hearing, or in a written request.

- (2) Relinquishment is ascertained by the court through a decision with the right of second appeal, within 5 days from when it is pronounced.

**Article 69**  
**Exercising means of appeal outside the legal deadline**

- (1) In the case in which the appeal or the second appeal, respectively, is submitted outside the legal deadline, the applicant can request the suspension of the enforcement of the disposition to leave Romanian territory. The suspension request is resolved within 7 days from it being registered by the qualified court of law, which will be pronounced in the Council Chamber, without subpoenaing the parties, through an irrevocable conclusion.
- (2) Until the moment the request to suspend the disposition to leave Romanian territory is resolved, the alien cannot be removed from the territory of the Romanian state.
- (3) In the case in which the court accepts the request to suspend the disposition to leave Romanian territory, the suspending effect is granted until the moment a decision is made regarding the request to restore the disposition.
- (4) The alien will benefit from all the rights stipulated in article 17 and article 18 from the moment when the request to restore the disposition is admitted.

**Article 70**  
**The disposition to leave Romanian territory**

- (1) When the alien has not obtained any form of protection as a result of the finalization of the asylum procedure, the Aliens Authority, on the basis of the provisions of article 53, paragraph (3), respectively article 51 paragraph (6), issues and applies the disposition to leave Romanian territory.
- (2) In the sense of paragraph (1), the asylum procedure is to be finalized within 7 days from the moment when the decision to close the case has been communicated, from the date when the legal deadline to submit an appeal or, by case, a second appeal has expired or from the date when the decision to reject the second appeal is made known by the Court of Appeals.
- (3) In the case in which, for objective reasons, the alien cannot leave Romanian territory before the deadline stipulated in article 53 paragraph (3) or, by case, in article 51 paragraph (6), the qualified authorities grant the aforementioned the permission to stay on Romanian territory under the conditions stipulated by the legal regulations regarding the status of aliens in Romania.

**Section 2**  
**Family reunification**

**Article 71**  
**Family reunification**

- (1) The person who has been recognized a form of protection under the conditions of article 23 and article 26 can submit an asylum application for the members of his/her family stipulated in article 2 letter j), if they are not on Romanian territory.

- (2) These applications are submitted with the National Refugee Office or with its territorial structures.
- (3) In the case in which the official stipulated in article 48 paragraph (2) considers that proof of the family connection has been made by the beneficiary of the form of protection or, by case, a marriage made before entry into Romania, will request of the Ministry of Foreign Affairs the granting of a visa and the release of a travel document for the family members stipulated in paragraph (1).
- (4) After the family members enter onto Romanian territory, in the case in which their approval regarding the asylum application exists, the resolution of the application will be done according to the provisions of the present law.

#### **Article 72**

#### **Family reunification in the case of unaccompanied minors**

- (1) Family reunification in the case of unaccompanied minors who are the beneficiaries of a form of protection is done according to the best interests of the child.
- (2) The National Refugee Office will automatically begin the family reunification procedure. When the procedure to reunite the family is begun automatically, the agreement of the legal representative is requested or, by case, of the unaccompanied minor as well. In all cases the opinion of the unaccompanied minor will be taken into consideration and given the appropriate importance.
- (3) In the case in which the family of the unaccompanied minor has been found, the official stipulated in article 48, paragraph (2) will analyze the possibility and conditions to carry out the reunification and issue a decision that is motivated in this sense.
- (4) The decision stipulated in paragraph (3) is subject to means of appeal under the conditions of articles 58 – 69.

#### **Article 73**

#### **Family tracing in the case of unaccompanied minor asylum-seekers**

- (1) The National Refugee Office will take measures as soon as possible to locate the family of unaccompanied minor asylum-seekers.
- (2) The opinion of the unaccompanied minor asylum-seeker regarding the location of his/her family will be taken into consideration and granted the appropriate importance, in accordance to age and degree of maturity.

#### **Article 74**

#### **Family reunification in the case of beneficiaries of temporary humanitarian protection**

- (1) The people who benefit from temporary humanitarian protection can request the reunification of the family for the family members stipulated in article 2, letter j), if the latter are not on Romanian territory.
- (2) The reunification application is resolved by the official stipulated in article 48 paragraph (2), who issues a motivated decision in this sense,
- (3) The decision stipulated in paragraph (2) is subject to means of appeal under the conditions of articles 58 – 69.

- (4) The family reunification in the case of unaccompanied minors who are the beneficiaries of temporary humanitarian protection is done under the conditions of article 72.

### **Section 3 Accelerated procedure**

#### **Article 75 Asylum applications that are the object of accelerated procedures**

- (1) The following are objects of accelerated procedures:
  - a. Manifestly unfounded applications;
  - b. Applications of people who, through their activity or membership to a certain group, are a threat to national security of public order in Romania;
  - c. Petitions of people who come from a safe country of origin.
- (2) Asylum applications of unaccompanied minors cannot be resolved under accelerated procedures.

#### **Article 76 Manifestly unfounded applications**

- (1) An asylum application is considered to be manifestly unfounded if the following are ascertained:
  - a. The lack of a foundation to claim a fear of persecution or exposure to a serious risk in the country of origin, under the conditions of article 23, paragraph (1) or of article 26;
  - b. Deliberately misleading of the bodies competent in refugee matters, or resorting to a procedure for granting refugee status abusively and in ill faith
- (2) The lack of a foundation to claim a fear of persecution or exposure to a serious risk in the country of origin exists in the following cases:
  - a. The applicant does not claim any fear of persecution in the sense of article 23, paragraph (1) or an exposure to a serious risk in the sense of article 26;
  - b. The applicant does not offer data or information, in the sense that he/she is exposed to a fear of persecution or a serious risk or his/her accounts do not contain circumstantial or personal details;
  - c. The application manifestly lacks credibility, in the sense that the account of the applicant is not coherent, is contradictory or flagrantly untrue regarding the situation in his/her country of origin;
  - d. The applicant had the possibility of internal flight, and this possibility is also recognised by the United Nations High Commissioner for Refugees.
- (3) Deliberately misleading of the bodies competent in refugee matters or abusively resorting to the asylum procedure exists in all the cases in which the applicant, without offering a plausible explanation, is in one of the following situations:
  - a. Has submitted an application under a false identity or has presented false or forged documents, claiming that they are authentic;

- b. After the submission of the application, deliberately presented false elements regarding the application;
  - c. Destroyed, deteriorated, threw away or alienated, in ill-faith, the border crossing document or a document relevant to his/her application, either to create a false identity to demand and receive refugee status, or to make the resolution of his/her application more difficult;
  - d. Deliberately hid the fact that he/she has previously submitted an asylum application in one or more countries, especially when using a false identity;
  - e. Submitted an application to receive refugee status, with the obvious purpose of hindering the imminent execution of a measure issued by the qualified authorities to remove from the country, extradite or expel, even though he/she had the possibility to submit such an application before the issuance of the measure;
  - f. Has flagrantly breached the obligations stipulated in article 19;
  - g. Has submitted an asylum application after previously such an application was rejected by a safe third country as a result of an examination that contains the appropriate procedural safeguards and in accordance with the provisions of the Geneva Convention.
- (4) The reasons named in paragraph (1), as well as the applications stipulated in article 75, paragraph (1), letters b) and c) cannot prevail over well founded fears of persecution, according to article 23, paragraph (1) or the exposure to a serious risk, in the sense of article 26.

### **Article 77**

#### **Safe countries of origin**

- (1) Safe countries of origin are considered to be member states of the European Union as well as other states established, at the proposal of the National Refugee Office, through an order of the Minister of Administration and the Interior, on the basis of the following criteria:
- a. The number of asylum applications submitted by the citizens of the country in question and the coefficients of granting a form of protection;
  - b. The situation regarding the observance of the fundamental human rights;
  - c. The functioning of democratic principles, political pluralism and free elections, as well as the existence of certain functional democratic institutions, which are to ensure the guarantee and the observance of the fundamental human rights;
  - d. The existence of factors of stability;
- (2) Other evaluation criteria can also be taken into consideration other than the ones stipulated in paragraph (1).
- (3) The application of the alien who comes from a safe country of origin is rejected as being manifestly unfounded, except for the case in which the situation in fact or the evidence presented by the applicant shows the existence of a well founded fear of persecution in the sense of article 23, paragraph (1). In this case, the applicant receives access to the ordinary procedure.

**Article 78**  
**The moment of initiating of the accelerated procedure**

The accelerated procedure can be initiated during the ordinary procedure on the date when the designated official ascertains the existence of one of the situations stipulated in article 75.

**Article 79**  
**The resolution of the applications that are the object of the accelerated procedure**

The official stipulated in article 48, paragraph (2), after conducting the interview and analyzing the reasons invoked in the support of the asylum application, pronounces within 3 days from when the accelerated procedure was begun.

**Article 80**  
**Means of appeal**

- (1) In the case in which a decision to reject the application as being manifestly unfounded has been pronounced, the deadline to submit an appeal is 2 days from communication. In the case in which the appeal is submitted within the legal timeframe, the applicant has the right to remain on Romanian territory for the duration of the resolution of the appeal.
- (2) The appeal falls under the jurisdiction of the court in whose territorial radius the qualified structure of the National Refugee Office which issued the decision is found.

**Article 81**  
**The decision of the court**

- (1) The court resolves the appeal within 10 days and pronounces a motivated decision, through which:
  - a. Accepts the appeal and retains the case in order for it to be resolved via ordinary procedure;
  - b. Maintains the decision of the National Refugee Office.
- (2) The decision of the court stipulated in paragraph (1) letter b) is irrevocable.
- (3) In the case in which the asylum application was rejected through an irrevocable decision the stipulations of article 70 are applied.

**Section 4**  
**The border procedure**

**Article 82**  
**The submission of an asylum application at the state border checkpoints**

The asylum application submitted with territorial organizations of the Romanian Border Police from a border crossing point is immediately forwarded to the competent structure of the

National Refugee Office, who analyses it and pronounces a decision within 3 days from its reception.

### **Article 83**

#### **The resolution of the asylum applications submitted at the state border checkpoints**

- (1) The official stipulated in article 48, paragraph (2), after conducting an interview and analyzing the alleged reasons to grant a form of protection, in relation to the data regarding the situation in the country of origin, decides:
  - a. The granting of a form of protection and access to the territory; or
  - b. The granting of access to the territory and to ordinary asylum procedure, if the application cannot be rejected due to one of the reasons stipulated in article 76, paragraph (1); or
  - c. The rejection of the application as manifestly unfounded.
- (2) In the situation stipulated in paragraph (1), letter b), the asylum application will be analyzed according to the provisions of the present law which regulate the ordinary procedure.

### **Article 84**

#### **Unaccompanied minor asylum-seekers**

- (1) The asylum applications submitted by unaccompanied minors are not the object of the border procedure.
- (2) Unaccompanied minor asylum-seekers are given access to the territory and the ordinary procedure.

### **Article 85**

#### **Means of appeal**

- (1) The alien can submit an appeal against the decision to reject the application within 2 days from when it is communicated.
- (2) The appeal is submitted with the structure of the National Refugee Office which issued the decision, which forwards it immediately to the court in whose territorial jurisdiction it is found.

### **Article 86**

#### **The decision of the court**

- (1) The court is to resolve the appeal within 5 days and pronounces a motivated decision, through which:
  - a. It accepts the appeal, granting access to the country and retains the case to resolve it in an ordinary procedure; or
  - b. Maintains the decision of the National Refugee Office.
- (2) The decision of the court stipulated in paragraph (1) letter b) is irrevocable.
- (3) In the case in which the asylum application was rejected through an irrevocable decision, the Romanian General Border Police Inspectorate will take measures to return the alien.

**Article 87**  
**Housing asylum-seekers at state border checkpoints**

- (1) The alien who is requesting a form of protection in Romania will remain in the transit area of the state border checkpoint until the reception of the decision to approve entry in Romania or, by case, until the decision to reject the asylum application remains irrevocable, but no longer than 20 days from the time of entry into the transit area.
- (2) The asylum-seeker can be accommodated in special reception and accommodation centres found in the vicinity of the state border checkpoints, which are established through an order of the Minister of Administration and the Interior and have the same legal status as the transit area.
- (3) The asylum-seekers, accommodated in the centres stipulated in paragraph (2) are offered food in kind, under the conditions established by a Government decision.
- (4) The dispositions of article 17, paragraph (1), letter j) referring to the monthly allowance amounts owed for food are not applied to people stipulated in paragraph (3).
- (5) After the deadline in paragraph (1) expires, if the application is not resolved through an irrevocable decision, the alien is permitted to enter the country.
- (6) Throughout the period in which the asylum-seeker is found at the state border checkpoints, he/she has the right to legal-social assistance and humanitarian aid from non-governmental organizations that have attributes in matters of refugees, as well as from the representation in Romania of the United Nations High Commissioner for Refugees (UNHCR) and, also has the rights and obligations stipulated in articles 17-19, except for those which contradict the provisions of this procedure.

**Section 5**

**The procedure to resolve the application to grant access to a new asylum procedure**

**Article 88**

**The conditions to submit an application to grant access to a new asylum procedure**

- (1) The application to grant access to a new asylum procedure can be submitted only if the following conditions are fulfilled cumulatively:
  - a. It must be submitted personally, the person should be on Romanian territory; and
  - b. The previous resolution procedure of the asylum application should have been finalized or, by case, the application of granting access to a new asylum application, without the alien having obtained a form of protection or the cancellation or cessation procedure being finalized as a result of which the form of protection was cancelled or withdrawn. The previous procedure will be finalized on the date when the decision to close the file is communicated, on the expiry of the legal deadline to submit an appeal against the decision of the National Refugee Office, at the expiry of the deadline to submit a second appeal or, by case, the moment when the decision is pronounced by the Court of Appeals.
- (2) Access to a new asylum procedure will be granted if the following conditions are fulfilled alternatively:
  - a. Throughout the previous asylum procedure or after the resolution of the previous application through an irrevocable decision or, by case, through a

decision to close the file, claims new elements that could not be presented previously due to reasons that were out of the control of the applicant, as long as these elements are not the result of actions provoked in order to obtain a form of protection from the Romanian state. The applicant is obliged to prove the existence of the new reasons claimed and the impossibility of presenting them until the date of submission of the application to grant access to a new asylum procedure;

- b. From the date of the finalization of the previous procedure, in the sense of paragraph (1), letter b), transformations of a political, social, military or legislative nature have taken place in the country of origin that could have serious consequences for the applicant.
- (3) The personal submission of the application will not be obligatory in the case of aliens that are taken into public custody by the Aliens Authority and its territorial structures, are in preventive custody or in the course of carrying out a sentence of imprisonment.
- (4) The applications to grant access to a new asylum procedure belonging to aliens found in the situations stipulated in paragraph (3) will be immediately sent to the National Refugee Office by the organizations in whose custody or, by case, in whose arrest or detention they are found.

#### **Article 89**

##### **Granting permission to remain on Romanian territory**

- (1) In the case of fulfilment of the conditions stipulated in article 88, paragraph (1), the alien has permission to remain on Romanian territory for a period of 5 days from the date of registration of the application to be granted a new asylum procedure.
- (2) The provisions of paragraph (1) are not applicable when it is ascertained from the documents on file that the submission of the application is done abusively, to hinder the removal of the alien from Romanian territory.
- (3) In the case stipulated in paragraph (2) a decision will be issued immediately, through which the denial of permission to remain on Romanian territory will be justified. This decision will be communicated directly to the alien, who was informed of the date when he/she has to be present at the headquarters of the National Refugee Office. In the case in which the alien does not attend on the date he/she was summoned and does not present motives to justify his/her absence, the official stipulated in article 48, paragraph (2) writes up an ascertainment report, which represent the proves of communication.
- (4) An appeal can be lodged against the decision stipulated in paragraph (3) within 2 days from communication.
- (5) The appeal falls within the jurisdiction of the court in whose territorial radius the qualified structure of the National Refugee Office which issued the decision is found.
- (6) The decision of the court stipulated in paragraph (5) is irrevocable.

#### **Article 90**

##### **Analysis of the application to grant access to a new procedure**

The decision on the application to grant access to a new asylum procedure, submitted in the conditions of article 88, falls under the tasks of the official stipulated in article 48, paragraph (2).

## **Article 91**

### **The decision on the application to grant access to a new procedure**

- (1) The decision is pronounced within 5 days from the date of registration of the application, on the basis of a motivated application, of the documentation presented by the alien and in connection with elements that exist in the personal file of the applicant. The decision is communicated in writing, personally or at the address indicated in the application to grant access to a new asylum procedure.
- (2) The official stipulated in article 90 issues a decision through which:
  - a. Grants access to a new asylum procedure; or
  - b. Rejects the application as inadmissible.
- (3) In the case in which the conditions stipulated in article 88, paragraph (1) are not fulfilled, the National Refugee Office will inform the alien, in writing, regarding the legal possibilities he/she has to submit an application to receive access to a new asylum procedure.

## **Article 92**

### **The effects of the decision to grant access to a new asylum procedure**

In the case in which the alien receives access to a new asylum procedure, he/she has the rights and obligations stipulated in articles 17 – 19.

## **Article 93**

### **Means of appeal**

- (1) An appeal can be lodged, against the decision through which the application to receive access to a new asylum procedure has been rejected as inadmissible, within 10 days from it being communicated.
- (2) The appeal falls under the jurisdiction of the court in whose territorial radius the competent structure of the National Refugee Office, which issued the decision, is found.
- (3) Exercising means of appeal against the decision of the National Refugee Office does not also imply granting permission to remain on Romanian territory.
- (4) In the case of the submission of an appeal, the alien can request permission to remain of Romanian territory. The application to grant permission to remain on the Romanian territory is to be urgently resolved by the qualified court which will pass judgment in the Council Chamber, without summoning the parties, through a motivated irrevocable resolution.
- (5) The alien has the right to remain on Romanian territory until the court passes a sentence regarding the application stipulated in paragraph (4).
- (6) The permission to remain on Romanian territory is granted until the moment the court makes a decision regarding the appeal.

## **Article 94**

### **Resolution of the appeal**

- (1) The court resolves the appeal, without a hearing of the alien, within 30 days and makes a motivated decision through which:
  - a. The appeal is rejected; or

- b. The appeal is accepted, granting access to a new asylum procedure and orders for the competent structure of the National Refugee Office that issued the decision to analyze the application in an ordinary procedure.
- (2) The decision of the court stipulated in paragraph (1) is irrevocable.

## **Section 6**

### **The procedure of the safe third country**

#### **Article 95**

#### **The beginning of the procedure**

- (1) In the case of the alien who has previously transited a safe third country and was already offered protection in that country or had the opportunity, at the border or on its territory, to contact the authorities to obtain protection, the National Refugee Office can decide to send the alien back to that country without analyzing his/her application in substance.
- (2) The National Refugee Office can analyze the application submitted by the alien even if the latter is in the situation stipulated in paragraph (1), with the expressed agreement of the applicant.
- (3) If the applicant is in the situation stipulated in paragraph (1) and the state found on the list of safe third countries agrees to accept the applicant back into its territory and to grant him access to the asylum procedure, then the National Refugee Office rejects access to the asylum procedure in Romania through a motivated decision, which it communicates to the applicant and demands that the qualified Romanian authorities send the applicant back to the third country.
- (4) After communicating the decision to reject access to the asylum procedure, the National Refugee Office will inform the authorities of the third state regarding the fact that the application was not analyzed in substance.
- (5) The applicant can lodge an appeal against the decision under the conditions stipulated in articles 58-69.
- (6) From the date when the decision of the National Refugee Office to reject access to the asylum procedure is passed and the answer of the third state regarding the acceptance of the applicant back onto its territory is given, the applicant has the rights and obligations stipulated in articles 17-19.
- (7) In the case in which the transfer of the applicant could not be made, or the acceptance of the third state does not exist or cannot be obtained to readmit the applicant, the National Refugee Office will grant the applicant access to the asylum procedure and will analyze the asylum application according to the procedures stipulated in the present law.
- (8) Until the authorities from the safe third country take over the alien or, by case, until the moment paragraph (6) is applied, the alien has the rights and obligations stipulated in articles 17-19.

**Article 96**  
**External requests to take over asylum-seekers according to the  
safe third country procedure**

According to the safe third country procedure, the National Refugee Office can decide to readmit aliens back onto its territory in the situations in which Romania is declared a safe third country for aliens by the requesting country.

**Article 97**  
**Safe third countries**

- (1) Member states of the European Union as well as other states established by an order of the Minister of Administration and the Interior, at the proposal of the National Refugee Office, are considered safe third countries so long as they fulfill the following conditions:
  - a. On their territory the life or freedom of the applicant is not and will not be threatened, in the sense of article 33 of the Geneva Convention;
  - b. On their territories, the alien is not under risk of being tortured or subjected to inhuman or degrading treatment;
  - c. In the respective countries, the alien is ensured effective protection against return to the country of origin, in the sense of the provisions of the Geneva Convention, as well as on the base of the reports made by the United Nations High Commissioner for Refugees (UNHCR) regarding the practice of applying the *non-refoulement* principle.
- (2) From the date of Romania's accession to the European Union, the procedure of the safe third country is no longer applied in the case of the member states of the European Union or other states that have settled through a special agreement to participate in the mechanism of establishing a responsible state, stipulated in Chapter VIII of the present law.

**Chapter VI**  
**The procedure for cessation or cancellation of a form of protection**

**Article 98**  
**Cessation of refugee status**

- (1) Refugee status recognized on the basis of article 23 or article 24 is ceased when its beneficiary:
  - a. Has voluntarily availed himself/herself back of the protection of the country that he/she is a citizen of; or
  - b. After losing citizenship, he/she voluntarily reacquired it; or
  - c. Acquired new citizenship and enjoys the protection of the state whose citizenship he/she gained; or
  - d. Has voluntarily resettled back in the country he/she left or outside which country he/she lived, as a result of the reasons for which refugee status was recognized;  
or

- e. Can no longer continue to refuse the protection of the country whose citizenship he/she has due to the fact that the circumstances as a result of which refugee status was recognized have ceased to exist and can no longer claim compelling reasons that refer to previous persecutions in order to motivate this refusal;
  - f. Being a person without citizenship is in the position to return to the country in which he/she habitually resided, the circumstances that resulted in acknowledgment of refugee status no longer existing.
- (2) The provisions of paragraph (1), letter e) shall not apply to a person whose refugee status was recognized and who, owing to compelling reasons that refer to previous persecutions, refuses the protection of the country whose citizen he/she is.
  - (3) The provisions under paragraph (1) (f) shall not apply to a person who has been granted a form of protection under the terms of Articles 2, 3 or 5 and who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his or her former habitual residence.
- (4) The provisions of paragraph (1), letter f) shall not apply to the person whose refugee status was recognized and who, owing to compelling reasons that refer to previous persecutions, refuses to return to the country of his/her habitual residence.

#### **Article 99**

#### **Cessation of subsidiary protection**

Subsidiary protection granted on the basis of article 26 or article 27 is ceased when the circumstances that led to the granting of a subsidiary form of protection have ceased to exist or have changed to such an extent that this form of protection is no longer necessary.

#### **Article 100**

#### **Cancellation of refugee status**

Refugee status is cancelled in the following situations:

- a) the person whose refugee status has been recognized has made false statements, omitted to present certain data or used false documents, which were decisive in the acknowledgment of the form of protection and there are no other reasons to lead to maintaining refugee status;
- b) after granting the form of protection it was discovered that the alien is in one of the situations stipulated in article 25.

#### **Article 101**

#### **Cancellation of subsidiary protection**

Subsidiary protection is cancelled in the following situations:

- a) in the case in which, after granting subsidiary protection, it is discovered that the alien is in one of the situations stipulated in article 28;
- b) when the person who was granted subsidiary protection has made false statements, omitted to present certain data or used false documents, which were decisive in granting the form of protection and there are no other reasons to lead to maintaining subsidiary protection;

**Article 102**  
**Initiation of the cessation or cancellation procedure**

The procedure to cease or cancel the forms of protection granted is begun by the National Refugee Office ex officio or at the suggestion of one of the institutions with attributions in the field of national security or public order.

**Article 103**  
**Reanalyzing the situation of people who have received a form of protection**

- (1) The official stipulated in article 48, paragraph (2) , responsible for the case, demands that the beneficiary of the form of protection arrive at the headquarters of the National Refugee Office or, by case, at the offices of its territorial structures, in order to conduct the interview to clarify his/her situation. The beneficiary of the form of protection will also be informed of the initiation of the cessation or, by case, to cancellation procedure, and in regards to the rights and obligations he/she has throughout the procedure.
- (2) Throughout the cessation or, by case, the cancellation procedure the person who was granted a form of protection has the right:
  - a. To be assisted by a lawyer in any stage of the procedure;
  - b. To be supplied, for free, with an interpreter, at any stage of the procedure;
  - c. To contact and be assisted by an official of the United Nations High Commissioner for Refugees (UNHCR), at any stage of the procedure;
  - d. To be counseled and assisted by a representative of Romanian or foreign non-governmental organizations at any stage of the procedure.
- (3) Conducting an interview will not be necessary in the case of the beneficiary of a form of protection found in the situation stipulated in article 98, paragraph (1), letter c), if the latter obtained Romanian citizenship.
- (4) In the situation in which the beneficiary of a form of protection does not come up for the interview, the official will resolve the case on the basis of the documents that exist in the personal file of the beneficiary.
- (5) The reanalysis of the case will be done in an ordinary or accelerated procedure. The official stipulated in article 48, paragraph (2) will decide regarding the reanalysis of the case in an accelerated procedure, in compliance with the conditions stipulated in article 75.

**Article 104**  
**The decision to cease or cancel a form of protection**

- (1) As a result of the analysis of the elements that are on file and, by case, of the reasons raised throughout the interview, the official stipulated in article 48, paragraph (2) will issue a motivated decision through which:
  - a. The form of protection granted is maintained; or
  - b. The cessation of the form of protection is ascertained; or
  - c. He/she orders the cancellation of the form of protection.
- (2) The ascertainment of the cessation or ordering the cancellation of the form of protection does not produce effects regarding the family members of the person regarding whom the decision stipulated in paragraph (1) was issued.

- (3) According to the reasons that the pronouncement of the decision to cease or cancel the form of protection was based upon, the official especially designated stipulated in article 48, paragraph (2) can mention, by case, the obligation to leave the territory.
- (4) When the decision stipulated in paragraph (3) mentions the obligation of the person to leave the territory of Romania, on the basis of this the Aliens Authority will issue and will enforce the disposition to leave Romanian territory.

### **Article 105** **Means of appeal**

An appeal can be lodged by the alien against the decisions stipulated in article 104, paragraph (1), letters b) and c), in compliance with the conditions stipulated by the present law.

### **Article 106** **The status of the person in the case of the cessation or cancellation of the form of protection**

- (1) If the person whose form of protection was ceased or cancelled remains on Romanian territory after the finalization of the procedure of cessation or, by case, cancellation of the form of protection, he/she is subject to the legal provisions regarding the legal status of aliens in Romania.
- (2) The legal status stipulated in paragraph (1) will not be applied to people whose form of protection was ceased as a result of acquiring Romanian citizenship.

## **Chapter VII** **The procedure of transfer of responsibility for refugee status**

### **Article 107** **The qualifications of applying the European Agreement on transfer of responsibility for refugees**

The Ministry of Administration and the Interior, through the National Refugee Office, is the authority qualified with the implementation of the provisions of the European Agreement on the transfer of responsibility for refugees, adopted in Strasbourg on October 16, 1980, herein known as *European Agreement*, ratified by Law no. 88/2000 for the ratification of the European Agreement on the transfer of responsibility for refugees, adopted in Strasbourg on October 16, 1980.

### **Article 108** **Initiation of the procedure**

The transfer procedure of responsibility for refugee status is initiated by the National Refugee Office in the following situations:

- a) from the moment of its notification through written request, by the alien or stateless person found on Romanian territory and whose status has been recognized by a member state of the European Agreement;

- b) ex officio, from the moment when the conditions regarding the taking over by another member state of the European Agreement of the responsibilities of refugee status in Romania have been met;
- c) from the moment of its notification by another member state of the European Agreement regarding the taking over of the responsibilities of refugee status by Romania.

**Article 109**  
**Submission of the application for approval of the transfer of responsibility**

- (1) The application for approval of the transfer of responsibility established in art. 108 letter a) is submitted personally at the National Refugee Office or at its regional structures, presenting, in writing, the reasons for the approval of the transfer of responsibilities for refugee status, as well as proof of the fact that refugee status has been recognized by a member state of the European Agreement.
- (2) The final decision regarding the granting of the refugee status, as well as the travel document released to refugees according to the provisions of the Geneva Convention, issued by the authorities of a member state of the European Agreement, represent proof of the recognition of refugee status.
- (3) In the situation in which the documents provided in paragraph (2), cannot be presented, supplementary verifications must be performed.

**Article 110**  
**Decision regarding the transfer of responsibility**

- (1) The specially appointed official from the National Refugee Office according to art. 48 paragraph (2) analyzes the application in compliance with the provisions of the European Agreement and within 30 days from receiving the request decides:
  - a) to approve the application regarding the transfer of responsibility;
  - or
  - b) to deny the application regarding the transfer of responsibility.
- (2) In the situation in which the application regarding the transfer of responsibilities over refugee status has been denied, the alien can make a appeal within 10 days from the communication of the decision.
- (3) In the case in which the application regarding the transfer of responsibilities has been approved, the National Refugee Office will inform the authorities of the member state of the European Agreement that the transfer of responsibilities for refugee status has taken place.

**Article 111**  
**Means of appeal**

- (1) The resolution of the appeal against the decision of denying the application belongs to the competence of the court in whose territorial radius the National Refugee Office is found or the regional structure which issued the decision.
- (2) The court provided in paragraph (1) analyzes the appeal and, within 30 days from registering the case, pronounces a motivated decision, through which it:

- a) approves the appeal and approves the transfer of responsibilities for refugee status;  
or
  - b) denies the appeal.
- (3) The decision of the court is final and irrevocable.

**Article 112**  
**The effects of the decision regarding the ascertainment  
of the transfer of responsibility**

- (1) In the case in which the application regarding the transfer of responsibility has been approved, the alien will have the rights and obligations provided in art. 20 and art. 21.
- (2) In the case in which the application regarding the transfer of responsibility is denied, the alien continues to benefit of the legal status of aliens in Romania.

**Article 113**  
**The transfer of responsibility  
in the case of refugees recognized in Romania**

- (1) In the situations provided in art 108 letter b), the specially appointed official according to art 48 paragraph (2) issues ex officio a decision asserting the fulfilling of the conditions regarding the transfer of responsibility provided by the European Agreement and the ceasing of the responsibility of the Romanian state regarding for the refugee status recognized by the Romanian authorities.
- (2) The decision provided at paragraph 1 will be issued within 30 days from the date of the ascertainment of the fulfillment of the conditions regarding the transfer of responsibility by a signatory state of the European Agreement.
- (3) Within 20 days from the issuance of the decision provided in paragraph (1), the National Refugee Office will inform the authorities of the signatory state of the European Agreement that the responsibility of the Romanian state for the refugee status has ceased.

**Article 114**  
**The readmission requirements regarding  
refugees recognized in Romania**

- (1) In order to establish Romania's responsibility to readmit to its territory an recognized refugee, as a result of the readmission applications addressed to the Romanian state in compliance with the provisions of the European Agreement, the National Refugee Office will be able to demand from the authorities of the signatory state of the European Agreement which filed the readmission request, supplementary information regarding the refugee for whom the readmission request has been made.
- (2) In the case in which it is established that the responsibility for refugee status belongs to the Romanian state in compliance with the provisions of the European Agreement, the National Refugee Office will inform the inquiring state that the refugee will be readmitted on Romania's territory.
- (3) In the case in which it is established that the responsibility for refugee status does not belong to the Romanian state in compliance with the provisions of the European Agreement, the National Refugee Office will inform the inquiring state that the refugee

will not be readmitted on Romania's territory. In the latter case, the National Refugee Office will issue a decision in compliance with the provisions of art. 108 letter b) and art 113 paragraph (1).

## **CHAPTER VIII**

### **Procedure of the responsible member state**

#### **Section 1**

#### **General provisions regarding the responsible member state**

#### **Article 115**

#### **Preeminence of the direct applicable documents**

- (1) Starting on the date of entry in force of the European Union Accession Treaty, Romania will apply the provisions of the conventions or of the directly applicable documents of the European Union, which establish the criteria and mechanisms for determining the member state responsible for the examination of the asylum application, submitted in one of the member states by a citizen of a third country.
- (2) Starting on the same date, Romania will apply the provisions of the directly EU applicable documents regarding the establishment of the EURODAC system, for comparison of fingerprints in order to efficiently implement conventions and documents mentioned in paragraph (1). The competence and attributes of the institutions involved in implementing the EURODAC system will be established through an order of the Ministry of Administration and Interior.

#### **Article 116**

#### **Access to the asylum procedure**

An asylum seeker can be denied access to the asylum procedure in Romania if, in compliance with the conventions or the directly applicable documents of the European Union, another state is responsible for the examination of the asylum request.

#### **Article 117**

#### **The coordinating authority**

The central authority responsible for the implementation of the provisions of the conventions or directly applicable documents of the European Union which establish the criteria and mechanisms for determining the member state responsible for the examination of the asylum application submitted in one of the member states by a citizen of a third country, and the coordination of the activities of other involved institutions, at national level, is the Ministry of Administration and Interior, through the National Refugee Office.

**Section 2**  
**Common provisions regarding the responsible member state**

**Article 118**  
**Obligation to inform**

On the date of submitting the asylum application with the National Refugee Office or with its regional units, the applicant will be informed, in writing, of the fact that the information on his application and his person, including his fingerprints, can be the object of information exchange between member states of the European Union or other states which have made a special agreement on participating in such a mechanism, with the exclusive goal of establishing the member state responsible for analyzing the application for asylum.

**Article 119**  
**Procedure of determining the state responsible for asylum seekers**

- (1) In the case in which there are proofs or circumstantial arguments which lead to establishing the responsibilities of another state, in compliance with the conventions or directly applicable documents of the European Union, the National Refugee Office takes the necessary steps for verifying the situation of the asylum seekers, after submittal of the asylum application, but not later than taking a decision in the national asylum procedure.
- (2) Until the asylum application is resolved in order to establish the member state responsible through an executory decision, the terms and procedures provided in the conventions or directly applicable documents of the European Union are applied.

**Article 120**  
**The decision for establishing the responsible state**

- (1) The analysis of the applications for establishing the member responsible state is made by the specially assigned officials, through the order of the director of the National Refugee Office.
- (2) As a result of analyzing the proof and circumstantial arguments found in the file and of the answer given by the requested state, the officials provided in paragraph (1) can decide:
  - a) Rejecting access to the asylum procedure in Romania and the transfer of the alien to the responsible state;
  - b) Approving access to the asylum procedure in Romania.
- (3) The decision of the National Refugee Office will be motivated, by fact and by right, in compliance with the provisions of the conventions or directly applicable documents of the European Union, establishing the criteria and mechanisms for determining the member state responsible for the examination of the asylum application submitted by a citizen of a third country.
- (4) The decision of rejection includes the reasons for which access to the asylum procedure in Romania is denied and the transfer disposition in the member state responsible for the analysis of the asylum application.
- (5) The decision is immediately communicated, in writing, to the applicant, through direct communication by the representatives of the National Refugee Office or via post, to the latest declared residence.

(6) The decision of the National Refugee Office is enforceable.

### **Article 121**

#### **Means of appeal**

- (1) An appeal can be lodged against the decision provided in art. 120 paragraph (3), within 2 days from receiving proof of communication or of the document through which it is established that the applicant is no longer to be found at the latest declared residence. Lodgement of the appeal within the mentioned time limit does not suspend the enforcement of the disposition of transfer to the responsible state member.
- (2) The appeal is submitted, personally, at the National Refugee Office and is accompanied by the copy of the decision through which access to the asylum procedure in Romania has been denied.
- (3) The appeal is forwarded, immediately, to the court in whose territorial radius the qualified structure of the National Refugee Office which issued the decision is found.
- (4) The court solves the appeal within 5 days and pronounces a motivated decision through which it:
  - a) rejects the appeal and maintains the decision of the National Refugee Office;
  - b) approves the appeal, cancels the transfer disposition to the responsible state and decides the approval of access to the asylum procedure in Romania.
- (5) The decision of the court is final and irrevocable.
- (6) In the case in which, through the decision of the court, the appeal is admitted and approval of access to the national asylum procedure is granted, and the asylum seeker has already been transferred to the responsible member state, the National Refugee Office will take the necessary steps, in order to readmit the applicant on Romania's territory.

### **Article 122**

#### **The procedure for determining the responsible state in case of foreign citizens**

- (1) The bodies of the Aliens Authority are obligated to inform, in writing, aliens illegally staying in the country who could have submitted an asylum application in another state, on the fact that information relating to their request and their person, including their fingerprints, can be the object of an information exchange between member states of the European Union or other states which have convened through a special agreement to participate in this mechanism, with the exclusive goal of establishing the member state responsible for analyzing their asylum application.
- (2) In order to verify if an alien discovered to be staying illegally on Romania's territory has before submitted an asylum application on the territory of another member state, the Aliens Authority or its territorial units can notify the specialized structure of the National Refugee Office, in order to begin the necessary procedures.
- (3) Notification of the National Refugee Office can be made in the case in which, following the checking of fingerprints, the alien has been identified in another member state or there is proof or circumstantial evidence which lead to establishing responsibilities to another state, in compliance with the conventions or directly applicable documents of the European Union.

- (4) The conditions to verify the fingerprints of an alien related to the prior submittal of an asylum application on the territory of another member state are fulfilled if:
  - a) the alien declares that he has submitted an application for asylum without indicating the concerned member state,
  - b) the alien does not apply for asylum, but refuses to return to the country of origin, claiming that he is in danger, or
  - c) the alien tries to hinder his removal, refusing to cooperate for the determination of his identity, especially by presenting false identity documents or not presenting any documents at all.
- (5) In the situation in which it is notified in compliance with the provisions of paragraph (3), the National Refugee Office carried out the necessary verifications in the member state presumed responsible for the respective alien.
- (6) After analyzing the proof and circumstantial arguments found in the file and the answer received from the requested state, the specially assigned officials can decide the transfer to the member state responsible with the analysis of the asylum request, through a motivated decision.
- (7) The decision is communicated, immediately, to the alien, in writing, through direct communication by the representatives of the National Refugee Office or via post to the latest declared residence.
- (8) The decision of the National Refugee Office is enforceable.
- (9) In the case in which the notified member state does not recognize the responsibility or the proofs or circumstantial arguments do not indicate the responsibility of a different state, the National Refugee Office informs, in writing, the Aliens Authority or its territorial unit, in order for it to take the necessary legal actions.

### **Article 123**

#### **Means of appeal**

- (1) An appeal can be lodged against the decision provided in art 122 paragraph (6) within 2 days from the moment of receiving proof of communication or of the document which asserts that the alien is no longer found at the latest declared residence. Submission of the appeal in the mentioned term does not suspend the execution of the stipulations of transfer to the responsible member state.
- (2) The appeal is submitted with the National Refugee Office and is to be accompanied by the copy of the decision ordering the departure from Romania's territory, for the transfer to the member state responsible for the analysis of the asylum application.
- (3) The appeal is forwarded, immediately, to the court in whose territorial radius the competent structure of the National Refugee Office which issued the decision is found.
- (4) The court resolves the appeal within 5 days and pronounces a motivated decision, through which it:
  - a) rejects the appeal and maintains the decision made by the National Refugee Office;
  - b) approves the appeal and cancels the stipulation of transfer to the responsible state.
- (5) The decision of the court is final and irrevocable.
- (6) In the case in which, through the decision of the court, the appeal is approved and the cancellation of the transfer stipulation to the responsible member state has been ordered and the alien has already been transferred to that state, the National Refugee

Office will start the necessary procedures, in order to readmit the alien on Romania's territory.

#### **Article 124**

#### **Requests addressed to Romania**

- (1) In the case of takeover or readmission requests addressed to Romania, the National Refugee Office's specially assigned officials examine the arguments by fact and by right included in the request from the point of view of the conventions or directly applicable documents of the European Union.
- (2) In order to establish Romania's responsibilities on taking over or readmitting an alien, the specially assigned officials will have the right to consult and check the information received from the requesting member state, found in the database of the Ministry of Administration and the Interior.
- (3) In the case in which the verifications indicate the fact that Romania is responsible in compliance with at least one of the criteria provided in the conventions or directly applicable documents of the European Union, specially assigned officials will issue a decision through which Romania will accept the responsibility and will include practical details regarding the subsequent transfer.
- (4) In the case in which the takeover or readmission request is not sufficiently supported by proof or circumstantial arguments, which should indicate Romania's responsibility, specially assigned officials will issue a decision not to accept the responsibility of analyzing the asylum application.
- (5) The decision will be communicated, immediately, to the requesting member state, in the timeframes provided in the conventions or directly applicable documents of the European Union.

#### **Article 125**

#### **Transfers**

- (1) The transfers of people who represent the object of the procedures provided in this chapter will be made in accordance with the conventions or directly applicable documents of the European Union, and the coordination at a national level of the implementation of transfers belongs to the Ministry of Administration and the Interior, through the National Refugee Office.
- (2) Based on the decision provided by art. 120 paragraph (2) letter a), art. 122 paragraph (6) and art 124 paragraph (3), the National Refugee Office enforces the transfer to and from the responsible member state.
- (3) For the transfer of people to the responsible member state, the National Refugee Office issues laissez- passer, referred to by the conventions or directly applicable documents of the European Union.
- (4) The amounts that are necessary for covering expenses incurred by internal and international transport of transferred people, their security and escorting while traveling, the issuance of the laissez – passer for crossing external borders, in the conditions provided by the conventions or directly applicable documents of the European Union, are covered from the budget of the Ministry of Administration and the

Interior, through the National Refugee Office, depending on the effective costs, within the limit of the funds allotted for such purposes from the state budget.

#### **Art 126**

#### **Electronic means of transmission – DubliNet**

- (1) The officials specially assigned for analyzing cases which make the object of the procedure of determining the responsible member state have the right to use safe electronic means of transmission, named DubliNet, referred to by the conventions or directly applicable documents of the European Union.
- (2) The authority responsible with the processing of received data, transmission of data, issuing certificates of reception for each data transmission and assuring the uninterrupted functioning of safe electronic means of transmission, named DubliNet, is the National Refugee Office.
- (3) The Ministry of Administration and the Interior, through the National Refugee Office, will cover, from the state budget, the necessary expenses to ensure the uninterrupted operation of the safe electronic means of transmission, the administration and maintenance of the DubliNet system and the renewal of digital certificates, for the using of electronic signature by the specially assigned officials and by the system administrator.

### **Section 3**

#### **Person's rights and obligations throughout the procedure of establishing the responsible member state**

#### **Article 127**

#### **Rights and obligations of asylum seekers**

The rights and obligations of the asylum seekers who represent the object of the procedure provided in the conventions or directly applicable documents of the European Union, establishing the criteria and mechanisms for determining the member state responsible for an asylum application submitted in one of the member states by a citizen of a third state are those provided in art 17-19.

#### **Article 128**

#### **Rights and obligations of foreign citizens**

The rights and obligations of foreign citizens who represent the object of the procedure provided by the conventions or directly applicable documents of the European Union are those provided by the law on the legal status of aliens on Romania's territory, throughout the entire procedure for establishing the responsible member state, provided in art. 122 and 123.

#### **Article 129**

#### **Protection against return**

Measures of expulsion or forced return from Romania's territory cannot be taken against aliens under the procedure of establishing the responsible member state, from the moment of notification provided in art. 122 paragraph (3) and up to the communication provided in art. 122 paragraph (9).

## **Chapter IX Temporary protection**

### **Article 130 The duration of temporary protection**

- (1) Without infringing art. 132, the duration of temporary protection lasts one year. In the case in which it does not cease in the sense of art 132. letter b), temporary protection can be automatically extended by periods of 6 months, for maximum one year.
- (2) Where reasons for temporary protection persist, the Government of Romania, at the proposal of the National Refugee Office, can send the European Commission a proposal addressing the Council of the European Union for the extension of temporary protection up to one year.

### **Article 131 Granting of temporary protection**

- (1) The existence of a massive influx of displaced persons is established by a decision of the Council of the European Union.
- (2) Romania can propose that the Council issue a decision, through which it can ascertain the existence of a massive influx of displaced persons. The proposal will include a description of the specific groups of people for whom temporary protection will be applied, the date when temporary protection starts as well as an estimation of the scale of movement of displaced persons.
- (3) Aliens who were granted temporary protection will enjoy this form of protection starting from the date provided in the decision of the Council of the European Union.
- (4) In case temporary protection is granted through the decision of the Council of the European Union, the Government of Romania, at the proposal of the National Refugee Office, issues a decision in which specific conditions for the ensurance of temporary protection for displaced people on Romanian territory will be provided, as well as the financial source for the expenses incurred by the provision of temporary protection.

### **Article 132 Ceasing of temporary protection**

Temporary protection ceases:

- a) when the maximum limit of the period is reached; or
- b) at any moment, through a decision of the Council of the European Union, adopted to this effect.

**Article 133**  
**The rights of the beneficiaries of temporary protection**

- (1) Throughout the whole period of temporary protection, the beneficiaries of this form of protection are granted the following rights:
  - a) to be issued a document through which they are granted permission to remain on Romania's territory;
  - b) to be informed, in writing, in a language which they are presumed to understand, on the provisions concerning temporary protection;
  - c) to be employed in work by natural or legal persons, to carry out independent activities, abiding to the rules applicable to the profession, as well as activities such as education opportunities for adults, vocational training and practical work experience as stipulated by law;
  - d) to benefit, if requested, of the necessary assistance for their upkeep, in case they do not have the necessary material resources;
  - e) to receive free primary medical assistance and emergency hospitalization, as well as medical assistance and free treatment in case of acute and chronic illnesses that put their life in imminent danger;
  - f) beneficiaries of temporary protection with special needs should receive adequate medical assistance;
  - g) access to the state education system state in the conditions provided by law for Romanian citizens, in the case of beneficiaries of temporary protection who have not turned 18 years of age.
- (2) The amounts granted for food, accommodation, medical assistance, rights provided in paragraph (1) letter f), as well as other expenses established through government decision which will be issued in the conditions of art 131 paragraph (4) and covered from the state budget, through the budget of the Ministry of Administration and Interior and/or from the European Union funds.
- (3) Where necessary, persons who are to be admitted on Romania's territory for temporary protection will benefit from any facilities for obtaining the necessary visa, including the transit visa. To this purpose, the National Refugee Office will request that the Ministry of Foreign Affairs issue an entrance visa in the shortest delay because of the emergency status of the situation. The visa must be for free or its cost must be reduced to a minimum.
- (4) In the situation provided in paragraph (1) letter c), because of the labor market policies, priority can be given to citizens of the European Union and to citizens of the states obligated through the Agreement on the European Economic Space and, alike, to the citizens of third countries residing legally and receiving unemployment benefits.

**Article 134**  
**Registering**

The National Refugee Office registers personal data of the beneficiaries of temporary protection on the territory of Romania.

## **Article 135**

### **Family reunification**

In the sense of the present article, in the cases where families were already formed in the country of origin and have been separated owing to the circumstances during the massive influx, the following persons shall be considered family members of the beneficiary of temporary protection:

- a) the wife/ husband;
  - b) the unmarried minor of the beneficiary or of the husband/ wife, without distinction on whether the minor is born inside or outside of the marriage or has been adopted.
- (2) In the cases in which the members of the separated family have been granted temporary protection in different member states, the family members will be reunited, their wish being taken into consideration.
- (3) When one or some of the family members of the beneficiary of temporary protection are not yet found in Romania, the family reunification will take place, if it is asserted that they need protection, and do not find themselves in one of the cases provided in art 141.
- (4) In order to establish the state where the family reunification will take place, the National Refugee Office cooperates with similar institutions in the responsible member states.
- (5) In the case where the family reunification takes place in Romania, the family members of the beneficiary of temporary protection are issued documents through which they are granted the permission to remain on Romania's territory.
- (6) In the case where the family reunification does not take place in Romania, at the time of making the transfer of the family members to the member state's territory for reunification, the documents issued as per art. 133 paragraph (1) letter a) are withdrawn and the obligations of the Romanian state relating to the temporary protection of the concerned persons cease.
- (7) In order to apply the provisions of the present article, the National Refugee Office can cooperate with the concerned international organizations.
- (8) The National Refugee Office, at the request of similar institutions in other member states, shares information regarding a beneficiary of temporary protection in the case in which the information are necessary for the application of the provisions of the present article.

## **Article 136**

### **Unaccompanied minors, beneficiaries of temporary protection**

- (1) In the case of unaccompanied minors who enjoy temporary protection, the National Refugee Office will request the competent authorities to name a legal representative as soon as possible.
- (2) Throughout the period of temporary protection, the unaccompanied minor can be accommodated :
  - a) with adult relatives;
  - b) by a hosting family;
  - c) in reception centres with special facilities for minors or other forms of accommodation suitable for minors;
  - d) With the person who took care of the child when he/she left the country of origin.

(3) In order to apply the provisions of paragraph (2), it is necessary to obtain the approval of the adult person or of the concerned persons. The opinion of the minor will be taken into consideration, according to age and maturity.

### **Article 137**

#### **The asylum application**

- (1) Beneficiaries of temporary protection can submit an application for asylum at any moment.
- (2) The examination of any unresolved asylum application before the expiry of the period of temporary protection will be finished when that period ceases.
- (3) Temporary protection is not granted simultaneously with the status of asylum seeker so long as the applications are under examination.
- (4) In the case in which, following the resolution of the asylum application, refugee status or any subsidiary protection is not granted to person eligible for temporary protection, the latter will benefit or, depending on the case, will continue to benefit from temporary protection until the expiration of the period for which this protection has been granted.
- (5) The provisions of paragraph (4) are to be applied without infringing the provisions of art. 141.

### **Article 138**

#### **Voluntary repatriation**

- (1) Persons enjoying or having enjoyed temporary protection who request to return are assisted in this sense by the authorities of the Romanian state. The return of these persons takes place in circumstances of respect to human dignity. Persons who request to return are informed on the consequences of their application.
- (2) So long as the period of temporary protection has not expired and, based on the circumstances still prevailing in the country of origin, temporary protection beneficiaries who have exerted their right of voluntary repatriation can apply for readmission on Romania's territory. In the case in which these applications are approved, persons who are readmitted in Romania will benefit from temporary protection, until the expiry of the period for which this form of protection has been granted to them.

### **Article 139**

#### **European Funds**

In order to apply the measures provided in the present chapter, at the proposal of the National Refugee Office, the Ministry of Administration and Interior notifies the Government, for it to notify the European Commission for raising funds from the European Refugee Fund, in the conditions provided by the relevant Community documents.

**Article 140**  
**Transfer of the beneficiaries of temporary protection**

- (1) Throughout the period of temporary protection, Romania cooperates in order to make the transfer of beneficiaries of temporary protection in Romania or in another state, according to the provisions of the present law. The transfer of temporary protection beneficiaries will take place only with the consent of the respective people.
- (2) Romania communicates the transfer applications to other member states and notifies the European Commission and the United Nations High Commissioner for Refugees (UNHCR).
- (3) In the case of transfer requests addressed by other member states to Romania, the Romanian state informs the requesting member state on its capacity to receiving such transfers.
- (4) The National Refugee Office, at the request of similar institutions from other member states, shares information referring to a beneficiary of temporary protection, in case the information are necessary for the application of the provisions of the present article.
- (5) At the time the transfer of a beneficiary of temporary protection to another state takes place, the documents issued according to art. 133 paragraph (1) letter a) are withdrawn and the temporary protection related obligations of the Romanian state towards the concerned persons cease.
- (6) In the case in which a beneficiary of temporary protection is transferred to Romania's territory, for family reunification, the Romanian state will offer temporary protection to the respective person.
- (7) In order to carry out the transfer provided at paragraph (5), the National Refugee Office issues a document to the beneficiary of temporary protection, according to Community regulations.

**Article 141**  
**Exclusion reasons**

- (1) An alien is excluded from the granting of temporary protection, if :
  - a) there are serious reasons to believe that:
    - (i) he has committed a serious crime against peace, a crime of war or against humanity, as they are defined in the international instruments established for regulating such crimes;
    - (ii) he has committed a serious crime, other than those provided at point (i), outside of Romania, before being admitted in the Romanian state as a temporary protection beneficiary;
    - (iii) they are guilty of acts against the goals and principles of the United Nations;
  - b) there are well founded reasons to consider him as a danger to Romania's security or, him being sentenced through a final decision for committing a highly serious crime, the alien represents a danger to Romania's public order.
- (2) The exclusion reasons referred to in paragraph (1) will be based only on the individual behavior of the concerned person. The exclusion decisions will be based on the principle of proportionality.

**Article 142**  
**Means of appeal**

- (1) Aliens who have been excluded from being granted temporary protection or from family reunification can lodge an appeal against the rejection decision issued by the National Refugee Office.
- (2) The decision provided at paragraph (1) is immediately communicated, in writing, to the applicant, by direct communication of the representatives of the National Refugee Office or via post to the former's latest declared residence.
- (3) The term for lodging an appeal is of 10 days starting from the communication of the decision.
- (4) The appeal is ruled by the court in whose territorial radius is found the qualified structure of the National Refugee Office.
- (5) The court pronounces a motivated decision, within 30 days.
- (6) The decision stipulated in paragraph (5) is irrevocable.
- (7) Throughout the duration of the appeal, aliens are allowed to remain on the territory of Romania.

**CHAPTER X**  
**Transitory and final dispositions**

**Article 143**  
**Issue of documents**

The competence for issuing the documents provided in art. 17 paragraph (1) letter h), art. 20 paragraph (1) letter a) and art. 125 paragraph (4) belongs to the National Refugee Office.

**Article 144**  
**The principle of the responsible member state**

As of Romania's accession to the European Union, in the case of asylum applications submitted at a border crossing check point, the applicant will be informed, in writing, by the Romanian Border Police, in a language he is reasonably presumed to understand, about the fact that information pertaining to application request and person, including his fingerprints, can be the object of information exchanges between the member states of the European Union or other states which have convened through a special agreement that they will participate in this mechanism, with the exclusive purpose of establishing the member state responsible for the examination of an application for asylum.

**Article 145**  
**Personal status**

- (1) The personal status of the alien who has obtained a form of protection on the basis of the provisions of the present law is regulated by the law of his country of origin.
- (2) Rights deriving from his personal status, obtained before the alien was granted a form of protection on the basis of the provisions of the present law, are recognized by the Romanian state, as established by law.

**Article 146**  
**Establishing residence in Romania**

The Ministry of Administration and the Interior, through the Aliens Authority, can grant to the beneficiary of refugee status or subsidiary protection, during his stay on Romania's territory, according to the degree of his integration in society, the right to establish his residence in the country, in the conditions of legal regulations on the status of aliens in Romania.

**Article 147**  
**Application of the law in time**

- (1) The applications submitted before the present law takes effect continue to be subject to the provisions of the Government Ordinance No. 102/2000 on the status and regime of refugees in Romania, republished.
- (2) Aliens, who benefit from temporary humanitarian protection at the time of Romania's accession to the European Union, continue to be subject to the provisions of art. 29-33 and art. 74.

**Article 148**  
**Replacement of certain terms**

As of when the present law takes effect, the following terms, stipulated in the legislation related to the field of asylum, will be replaced as follows:

- a) *Application for the granting of refugee status by application for asylum;*
- b) *Applicant for refugee status by asylum seeker;*
- c) *procedure for the granting of refugee status by asylum procedure;*
- d) *conditioned humanitarian protection by subsidiary protection;*

**Article 149**  
**Legal status of the norm of referral**

Each time a special law or a previous legal norm refers to Government Ordinance no 102/2000 on the status and regime of refugees in Romania, republished, the reference will be considered to be made to the corresponding provisions of the present law.

**Article 150**  
**Drafting of methodological rules**

For the application of the present law, the Ministry of Administration and the Interior will draft methodological norms, which will be approved through a Government decision, within 90 days from the date the present law was published in Romania's Official Monitor, Part I.

**Article 151**  
**Applicable provisions as of the date of Romania's  
accession to the European Union**

- (1) The provisions of art. 115-129 and of art. 130-142 of the present law will take effect starting with the date of Romania's accession to the European Union.
- (2) The provisions of art. 29-33 and art. 74 of the present law will be abrogated on the date of Romania's accession to the European Union.

**Article 152**  
**Entry into force**

- (1) The present law will take effect 90 days after its publishing in Romania's Official Monitor, Part I.
- (2) On the date the present law enters into force, Government Ordinance No. 102/2000 on the status and regime of refugees in Romania, approved with amendments through Law No. 323/2001, republished in Romania's Official Monitor, Part I No. 1.136 of 1 December 2004 and Government Decision No. 622/2001 on the approval of the Methodological Norms for the application of Government Ordinance No. 102/2000 on the status and regime of refugees in Romania, republished in Romania's Official Monitor, Part I No. 198 of 9 March 2005, as well as any other contrary provisions are abrogated.

The present law transposes:

- The Directive of the Council 2001/55/EC on minimum standards of temporary protection in case of a massive influx of displaced people and the measures for promoting the burden sharing between member states for the reception of such persons and assuming of consequences;
- The Directive of the Council 2003/9/EC of 27 January 2003 on the minimum standards for the reception of asylum seekers;
- The Directive of the Council 2003/86/EC of 22 September 2003 on the right to family reunification;
- The Directive of the Council 2004/83/EC of 29 April 2004 on minimum standards of eligibility and the status of citizens of third countries or the status of stateless persons as refugees or persons in need of international protection and the contents of the granted protection .

This law has been adopted by the Parliament of Romania, duly abiding of the provisions of article 75 and article 76 paragraph (2) of Romania's Constitution, republished.

CHAIRMAN OF  
DEPUTIES CHAMBER

Bogdan Olteanu

CHAIRMAN OF  
SENATE

Nicolae Vacaroiu