



Romania – Researched and compiled by the Refugee Documentation Centre of Ireland on 14 July 2010

Information on the asylum system in Romania; entitlements and rights of asylum seekers and refugees; societal attitudes towards asylum seekers and refugees; conditions of reception centres; whether there is administrative detention; access to counselling and advice; integration of refugees into society.

In a section titled “Asylum Procedure” (section 6) an *International Organization for Migration* fact sheet states:

“Asylum seekers in Romania are entitled to:

- legal support and interpreter
- counselling and NGO assistance
- daily subsistence allowance, on demand
- shelter accommodation for those who cannot afford self-accommodation
- medical and emergency care
- right to work after 1 year if the asylum procedure is still ongoing

Recognised refugees are entitled to employment, social welfare and medical insurance as well as accommodation for maximum one year. They are also entitled to family reunification (married spouses and unmarried minor children).”

(International Organization for Migration (undated) *Romania Fact Sheet*, p.9)

In a section titled “Protection of Refugees, and Stateless Persons” the 2010 *US Department of State* country report for Romania states:

“The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. Its laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.” (US Department of State (11 March 2010) *2009 Human Rights Report: Romania*)

This section of the report also states:

“Under the law, refugees and those granted subsidiary protection enjoy equal access to employment, basic services, education, police and courts with citizens. According to an amendment to the citizenship law, those receiving subsidiary protection have to wait for a longer period of time than refugees to acquire citizenship, a provision viewed as discriminatory by the former.” (ibid)

In a section titled “The asylum regime and the protection of refugees” (Paragraph 54) a *UN Human Rights Council* report states:

“The Asylum Law prevails over the Aliens’ Law, except if reasons of national security or public order justify the removal of an alien from the Romanian territory, in accordance with article 147 of the Aliens’ Law. In articles 82–87, an accelerated procedure at border points is established. During the border procedure, asylum-seekers may be confined to the transit zone for a maximum period of 20 days, thereafter the asylum-seeker is granted access to Romanian territory, irrespective of the stage of the refugee status determination procedure. Safeguards against refoulement include article 17 (1) (a) of the Asylum Law, which recognizes the right of asylum-seekers to remain on the territory throughout the duration of the refugee status determination.” (UN Human Rights Council (17 March 2010) *Report of the Special Rapporteur on the human rights of migrants, Jorge Bustamante – Addendum: Mission to Romania*, p.12)

Paragraph 56 of this report states:

“Romania has established five refugee reception centres administered by the Romanian Immigration Office, which are open centres with a total accommodation capacity of nearly 1,300 places. They accommodate asylum-seekers, refugees and persons with subsidiary protection (such as refused refugees who cannot be returned to their countries because of internal conflict, the threat of torture or death penalty) and are located in Bucharest, Timisoara, Galati, Radauti and Somcuta Mare.” (ibid, p.12)

In a section titled “Reception and status of non-citizens - Refugees and asylum seekers” (Paragraph 88) a report from the *European Commission against Racism and Intolerance* states:

“ECRI notes that two new reception centres for asylum seekers have been opened, one near the eastern border (at Galez) and the other in the area of the western border (at Timisoara).” (European Commission against Racism and Intolerance (21 February 2006) *Third report on Romania*, p.23)

In paragraph 89 this report comments on the provision of legal aid to asylum seekers, stating:

“Problems nevertheless remain in terms of the legislation on asylum seekers and refugees and its application. For example, although the definition of a refugee is now, as indicated above, consistent with the Geneva Convention, that of the family is very restricted. Only legally married spouses and single minor children are regarded as members of a family for the purposes of family reunification. ECRI also notes that persons who have received ‘humanitarian’ status are not entitled to family reunification. The legislation contains a few contradictory provisions, since a parent who has received refugee status is entitled to be joined by his or her children, while an unaccompanied minor cannot be joined by his or her family. Furthermore, the asylum application procedure is very short: although the law on foreigners entitles asylum seekers to lodge an appeal with suspensive effect, they are required to leave Romania within 15 days of their application being rejected. They have only 10 days to appeal and only 3 days if the application was made at the border. On this point, the UNHCR is co-operating with NGOs and the Norwegian Government to provide asylum seekers with legal aid and access to interpreters. Yet, although the law entitles asylum seekers to legal aid, the Romanian authorities have not set up any system to that end. Moreover, as

interpreters are required to register with the Ministry of Justice, it is hard to find persons who speak languages that are little used in Romania. ECRI is also greatly concerned to learn that any foreigner who is the subject of a deportation order or has been declared persona non grata by the Romanian authorities can be placed in detention for an indeterminate period.” (ibid, p.24)

Paragraph 90 of this report states:

“According to the information received by ECRI, only 4% of asylum seekers obtain refugee status. ECRI notes that 60% of them leave the country because they are unable to integrate. The main obstacles to the integration of refugees are the problem of the recognition of their diplomas and work experience and their integration into the labour market. In addition, the National Employment Agency does not cater to refugees because it is not aware of the relevant law or of refugees’ needs and lacks the resources to remedy these deficiencies. ECRI also notes that although the law provides for free Romanian language courses to refugees, the latter do not even have access to fee-paying courses. ECRI is also very concerned by the fact that Romania intends to open detention centres for asylum seekers and that the National Office for Refugees has opened a 20-bed centre for unaccompanied minors at Bucharest airport.” (ibid, p.24)

Paragraph 91 states:

“Although there are as yet very few asylum seekers in Romania (according to the UNHCR, 50 asylum applications are made in Romania each year), much remains to be done to ensure that the legislation concerning them is applied. ECRI notes that the Romanian authorities still depend largely on the UNHCR, NGOs, the European Union and other governments to finance programmes for asylum seekers and refugees. Thus, NGOs deplore the fact that when these organizations and governments withdraw their financial aid, the Romanian authorities do not take over their work. This is the case, for example, with language course programmes and programmes designed to help refugees enter the labour market.” (ibid, p.24)

In a section titled “The criminalization of irregular migration and the detention of migrants” (Paragraph 82) this report refers to the provision of legal counselling as follows:

“Aliens in administrative detention in the Otopeni Centre have access to regular legal counselling. However, according to information received, aliens in administrative detention in the Arad Centre do not benefit from regular assistance or legal counselling. The Special Rapporteur also heard allegations concerning the lack of specialized free legal assistance and interpreters for aliens – even via telephone – during court proceedings in counties other than Bucharest.” (ibid, p.16)

In Paragraph 83 this report refers to conditions of detention, stating:

“Information received by the Special Rapporteur also indicates that immigrants arriving or staying irregularly are often detained for prolonged periods well beyond those prescribed by the law and at times without proper judicial safeguards, including not being regularly updated on the status of their case proceedings or the expected date for their deportation. Although

conditions of detention and treatment of inmates were generally reported to be good, concerns were expressed to the Special Rapporteur about the need to provide food according to religious preferences.” (ibid, pp.16-17)

See also Paragraph 84 which states:

“The Asylum Law does not contain provisions on the detention of asylum-seekers and refugees. However, article 17, paragraph 6, of the Asylum Law provides that for reasons of public interest, national security, public order, health, public morals or the protection of the rights and freedoms of other persons, the Romanian Immigration Office can designate a place of residency for the entire duration of the refugee status determination procedure.” (ibid, p.17)

A *Global Detention Project* report, in a section titled “Grounds for detention (“public custody)””, states:

“A magistrate can issue an order 'restraining free movement on Romanian territory' (a detention order) for foreign nationals who cannot be returned within the established period of time 'as well as against the alien declared undesirable or against whom the court took the measure of expulsion' (Aliens Law, amendment 113/2005, Art. 93). A person issued a 'measure of return' can be taken into 'public custody' when 'the measure of return cannot be enforced within 24 hours' (Art. 87(3)). The Prosecutor's Office affiliated with the Court of Appeal in Bucharest authorises taking a foreign national into public custody after receiving a request to do so from the Romanian Immigration Office or its territorial units (Art. 91(2)). Provisions for appealing a measure of return were introduced in the 2004 Aliens Law amendments (Art. 861). Provisions for appealing detention are provided in Article 93, paragraph 8.” (Global Detention Project (May 2010) *Romania Detention Profile*)

A paragraph headed “Length of detention” states:

“Persons detained based on a measure of return can be held in public custody for up to 30 days. If, after 30 days, they still cannot be removed from the country, the Romanian Immigration Office can request the local court of appeal to renew the period of public custody (Art. 93(5)) for up to six months (Art. 93(6)). After six months, the person can be granted ‘tolerance for remaining on the Romanian territory’ (Art. 98). Those detained based on a measure of expulsion can be held in custody for up to two years. If they are not deported within this period, they are to be granted tolerance to remain in Romania and released (Amendment 113/2005, Art.99). Tolerance is never granted to non-citizens declared to be 'undesirable' (Art. 99), and observers have noted that they can be detained indefinitely, even if they have been granted some form of protection (JRS website).” (ibid)

In a paragraph headed “Political Developments” the *Jesuit Refugee Service Europe* annual report for 2008 states:

“The average duration of the asylum procedure in Romania, including both the administrative phase and the judiciary phase, was 6-8 months. In July, the number of irregular foreigners in the country was double of that figure for the same six months of 2007, when 2,916 foreigners were found to be staying irregularly on Romanian territory. Of these 2,916 people, 401 were returned

by force and 257 were put into administrative detention.” (Jesuit Refugee Service Europe (undated) *Annual Report 2008*, p.26)

In a paragraph headed “Accommodation” this report states:

“Unfortunately, last year, more and more people without a solution for the future requested the assistance of JRS, putting a strain on the office’s resources. JRS is the only NGO in Romania providing temporary accommodation, and equally, the state have no possibility to accommodate these people due to the lack of legislative regulations and the necessary infrastructure.” (ibid, p.26)

In a section titled “Push factors: conditions in Romania” (paragraph headed “Accommodation”) a research paper published by the *UN High Commissioner for Refugees* states:

“A total of 17 respondents were accommodated in Stolnicul Accommodation Centre, whilst 14 were in rented accommodation, eight in an NGO shelter and three dependent on the goodwill of family or friends. Although in general residents of the Stolnicul Accommodation Centre were grateful for the accommodation provided, a number of concerns were expressed regarding the restrictive opening hours, the manner in which the regulations are enforced by security staff, the lack of cleanliness, the occasional unwanted presence of the media and the lack of social activities in the centre. However, individuals staying in rented accommodation also expressed difficulties, including high rents and discriminating attitudes from landlords towards refugees. Several incidents were recorded, both by refugees and professionals in the refugee community of discrimination on the part of landlords when renting to refugees.” (UN High Commissioner for Refugees (14 December 2007) *Secondary movement in Romania: the asylum-migration nexus*, pp.12-13)

In a paragraph headed “Discrimination” this section of the report also states:

“It would appear that the above-mentioned example of discrimination is not an isolated case amongst asylum-seekers and refugees in Romania, as half of all respondents stated that they felt discriminated against. However, it is important to note that only one of these cases referred to discrimination of a racial nature in society. All other respondents stated that they view Romania as a tolerant society in which they do not feel discriminated against by Romanian people in general. Discrimination was, however, reported in the form of unfair treatment on the part of employers, landlords, local authorities and health services.” (ibid, p.13)

A paragraph headed “Safety” states:

“A total of 64 per cent of respondents stated that they felt safe in Romania. It is worth noting that the majority of those who didn’t feel safe were asylum-seekers or persons with tolerated status that expressed a fear of being returned to their country of origin. Also of interest is the fact that many refugees who currently felt safe recounted periods of anxiety over their safety whilst they were in the status determination process, which led them to consider leaving the country. Indeed, some respondents recounted incidents in which this anxiety had driven them to an (unsuccessful) attempt to leave.

This is supported by the fact that the majority of asylum-seekers interviewed cited lack of secure legal status as a primary motivation for moving.” (ibid, p.13)

In a section titled “Situation of foreigners” (Paragraph 146) a report from the *UN Committee on the Elimination of Racial Discrimination (CERD)* states:

“Foreigners benefiting of a form of protection can enjoy their rights in the same conditions as the Romanian citizens. The law regulates the statute of the refugee, the regime of subsidiary protection (protection for foreigners and stateless persons who do not fall under the incidence of the 1951 Geneva Convention regarding the statute of the refugees) and temporary protection (exceptional procedure in the case of a massive flux of displaced persons from third countries). Hence, persons receiving a form of protection defined by law have the right to residence, the right to own travel and ID documents, freedom of movement, the right to work, the right to social security, the right to receive social aid and health insurance, the right to acquire movable and immovable properties (the best legal regime applicable to foreign citizens), the right to intellectual property protection, the right to personal data protection, the right to all levels of education accessible to Romanian citizens, the right to freely practice their religion and the right to religious education for their children, free access to justice and administrative assistance, the right to transfer goods brought in Romania to other countries, freedom of peaceful association and assembly in non-political associations and professional unions.” (UN Committee on the Elimination of Racial Discrimination (CERD) (22 June 2009) *Reports submitted by States parties under article 9 of the Convention : International Convention on the Elimination of all Forms of Racial Discrimination : 16th to 19th periodic report due in 2007 : Romania*, p.35)

The Introduction to a research paper published by the *UN High Commissioner for Refugees* comments on the work of NGOs in Romania as follows:

“As the agency responsible for the protection of refugees, UNHCR has a solid record of collaboration with NGO partners since it began its work in 1951, and currently relies on these partners to provide a wide range of services to persons of concern. Such partners can be described as ‘implementing’, in that they receive financial support from UNHCR to perform specific services to beneficiaries, or ‘operating’, where no financial support is given but the organisation works in close coordination with UNHCR. Both types of partnership may also work together with UNHCR on advocacy and public information activities, promoting a favourable protection environment for persons of concern. In Romania there are currently six such NGO partners, four of which are implementing and two of which are operational. These partner NGOs provide a wide range of services, including social and legal assistance, which are key to the well-being of persons of concern. Over the coming years, it is expected that these NGOs will make a gradual transition from implementing to operational partnerships, continuing to offer assistance and contribute to the protection of persons of concern in Romania.” (UN High Commissioner for Refugees (11 July 2008) *Partners for protection: a review of the organizational capacity of NGOs in Romania*, p.1)

A *UN Human Rights Council* report, in a section titled “Migrants, refugees and asylum-seekers” (paragraph 43), states:

“ECRI noted that programmes destined to facilitate the integration of asylum seekers and refugees into Romanian society receive virtually no government funding.” (UN Human Rights Council (15 March 2008) *Summary Prepared By The Office Of The High Commissioner For Human Rights, In Accordance With Paragraph 15 (C) Of The Annex To Human Rights Council Resolution 5/1: Romania*, p.10)

A report from the *US Committee for Refugees and Immigrants* states:

“Under 2001 legislation, refugees are entitled to public assistance for a year, including employment services, language classes, vocational training, and unemployment benefits. During the year, the government granted childcare allowances to refugee children at school, offered refugees access to health insurance, and improved their access to social welfare. However, UNHCR reported that government officials administered such provision inconsistently, and UNHCR had to assist individuals to access it. UNHCR and its implementing partners organized training for government workers to increase their awareness of refugees’ rights and needs.” (US Committee for Refugees and Immigrants (24 May 2004) *World Refugee Survey 2004: Romania*)

This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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