

Laws and other Normative Acts

Decree of the President of the Republic
September 16th 2004, N° 303

Regulations related to the procedures for the recognition of refugee *Status*

The president of the Republic

In accordance with article 87 of the Constitution;

In accordance with article 17, paragraph 1 of the law of 23rd August 1988, N° 400;

In accordance with article 1-bis, paragraph 3 of the law by decree of 30th December 1989 N°416, converted with modifications by the law of 28th February 1990 N°39, introduced by article 32 of the law of 30th July 2002 N°189, issuing the proper regulations for the carrying out of the same rule and the subsequent articles 1-quater, paragraph 1 and 1-quinquies, paragraph 3;

Having obtained the opinion of the Unified Conference in accordance with article 8 of the legislative decree of 28th August 1997 N°281, expressed during the session of 10th December 2003;

Having heard the opinion of Council of State, expressed by the consultative section about the Normative Acts in the meetings of 26th January 2004 and of 19th April 2004;

Having considered the preliminary deliberation of the Council of Ministers, adopted in the meeting 27th June 2003;

Having considered the deliberation of the Council of Ministers, adopted in the meeting of 9th July 2004;

On the proposal of the Vice-President of the Council of Ministers, of the Minister of the Interior and of the Minister for the Institutional Reforms and Devolution together with the Ministers for Foreign Affairs and of the Labour and Social Policies;

ISSUES

The following regulations

Article 1

Definitions

1. For the purpose of the current regulations:

- a) “Consolidation Act” means the Consolidation Act of the provisions concerning the branch of immigration and rules about the conditions of the alien in accordance with the legislative decree of 25th July 1998 N°286 and subsequent modifications;

- b) “Decree” means the law by decree of 30th December 1989, N°416, converted with modifications by the law of 28th February 1990, N°39 and subsequent modifications;
- c) “Asylum Seeker” means the alien applying for the recognition of refugee *status* in accordance with the Geneva Convention of 28th July 1951, relating to the refugee *status*, which has become effective in Italy with the law of 24th July 1954, N°722 and modified by the Protocol signed in New York on 31st January 1967;
- d) “Application for asylum” means the application for the recognition of refugee *status* in accordance with the above-mentioned Geneva Convention;
- e) “Centres” means the identification centres set up in accordance with article 1-*bis*, paragraph 3 of the above-mentioned law by decree;
- f) “Territorial Commission” means the Territorial Commission for the recognition of refugee *status*;
- g) “National Commission” means the National Commission for Asylum Right;
- h) “Simplified Procedure” means the procedure laid down in article 1-*ter* of the above-mentioned law by decree;
- i) “UNHCR” means United Nation High Commissioner for Refugees;
- j) “Non-accompanied minor” means the minor below the age of 18 years, stateless or whose nationality belongs to non-European Union Countries, who stays for any reason in the State territory without any assistance and legal representation.

Article 2.

Inquest into the application for the recognition of refugee status

1. The border police office receiving the application for asylum, takes note of the personal particulars given by the asylum seeker. The border police office invites the asylum seeker to take up a domicile and in absence of any impedimental reasons, authorizes him to go to the Provincial Police Authority (Questura) with territorial jurisdiction, to which the border police office submits, also by electronic mail, the application drawn up in pre-printed form. If the border police office is not present at the place of entry into the national territory, in that case, it is understood that such office will be the office of the Provincial Police Authority with territorial jurisdiction. If possible, an interpreter speaking the applicant’s language takes part in the operations. If the applicant is a woman, female staff takes part in the operations.

2. The Provincial Police Authority (Questura), after having received the application for asylum, and not considering it inadmissible in accordance with article 1, paragraph 4 of the decree, draws up a report about the declarations of the asylum seeker on appropriate form, prearranged by the National Commission and attaches the submitted and recorded documents.

A copy of the undersigned report and attached documents is issued to the asylum seeker.

3. With the exception of what is envisaged by article 1-*ter*, paragraph 5 of the decree, the Provincial Police Authority (Questura) initiates the procedures determining the relevant State for the examination of the application for asylum submitted in one of the State Members of the European Union.

4. The Head of Provincial Police Administration (Questore), when the cases envisaged by article 1-*bis* of the decree exist, orders that the asylum seeker goes to the identification centres, that is, only when the cases envisaged by article 1-*bis*, paragraph 2, letter *a*) of the decree exist, the asylum seeker is ordered to go to the temporary stay and assistance centres. In the other cases, the Head of Provincial Police Administration issues a permit of stay valid for three months, renewable until the definition of the procedure for the recognition of refugee *Status* at the relevant Territorial Commission.

5. Whenever the application for asylum is submitted by a non-accompanied minor, the authority receiving the application, interrupts the proceedings and immediately informs the Juvenile Court with

territorial jurisdiction, about the application in order to adopt measures for the proceedings in accordance with articles 346 and the subsequent ones of the civil code and also in accordance with articles regarding the reception of the minor. Moreover, the authority informs the Committee for Foreign Minors at the Ministry of the Labour and Social Policy.

The appointed tutor confirms the application for asylum and immediately gets in touch with the relevant Provincial Police Authority (Questura) for reopening the proceedings.

Waiting for the tutor's appointment, the local public authority (Comune) in which the minor is, guarantees assistance and reception.

In any case the non-accompanied minor cannot be detained in the identification centres or in the temporary stay ones.

6. The Provincial Police Authority (Questura) gives the asylum seeker a booklet drawn up by the National Commission in accordance with the modalities laid down in article 4 in which are explained the following points:

- a) The phases of the procedure for the recognition of *Refugee Status*;
- b) The main rights and duties of the asylum seekers during his stay in Italy;
- c) The medical and reception services for the asylum seeker and the modalities to apply for them;
- d) The address and telephone number of UNHCR and of the relevant organizations for the protection of refugees and asylum seekers;
- e) Instructions for enrolling the minor in the compulsory education, the access to the services in order to receive the asylum seeker without any means of support given by the local authority, the instructions for the access to training and professional retraining courses whose duration cannot be longer than the period of validity of the permit of stay.

Article 3

Detention of the asylum seeker

1. The proceedings through which the Head of Provincial Police Administration (Questore) orders that the asylum seeker goes to the identification centres are briefly communicated to the interested party in accordance with the modalities as envisaged by article 4. In the cases of detention laid down in article 1-*bis*, paragraph 1 of the decree, the proceedings provide that the asylum seeker can stay in the centre for a period not exceeding 20 days.

2. The Provincial Police Authority (Questura) issues the asylum seeker in the centre a personal certificate. This personal certificate attests that the applicant staying in the identification centre, that is, in the temporary stay and assistance centre, is applying for *refugee status*.

3. In accordance with the paragraph 1, through a communication the asylum seeker is also informed about:

- a) the possibility to keep in contact with the UNHCR in any moment of the procedure;
- b) the set of rules of the current regulations regarding the visits and the stay in the centre.

4. When the term expires as envisaged for the simplified procedure, in accordance with article 1-*ter* of the decree, and even if such procedure is not concluded yet, that is, when the term expires as envisaged in the paragraph 1 or, in any case, ceased the requirement which has imposed the detention, as envisaged by article 1-*bis*, paragraph 1 of the decree, a permit of stay, valid for 3 months is issued to the interested party at the time of leaving the centre. Such permit of stay is renewable until the definition of the procedure for the recognition of *refugee status* at the relevant Territorial Commission.

Article 4

Communications

1.The communications to the asylum seeker about the proceedings for the recognition of refugee *status* are given in a language understandable for the asylum seeker, or if this is not possible, in English, French, Spanish and Arab languages according to the preference as indicated by the interested party.

Article 5

Establishment of the identification centres

1.Seven identification centres are set up in the provinces, identified with a decree of the Minister of the Interior, having heard the Unified Conference according to article 8 of the legislative decree of 28th August 1997, N°281, and the regions and the concerned independent provinces which give their own opinion within 30 days.

2.If it is necessary, the Minister of the Interior, with an own decree, can provide, also temporarily, to establish new centres or to close the existing ones, in respect of the procedures according to the paragraph 1.

3.The structures set up according to the law by decree of 30th October 1995, N°451, converted with modifications by the law of 29th December 1995, N°563, can be finalized towards the aims in accordance with the paragraph 1, through the decree of the Minister of the Interior.

Article 6

Preparation for the identification centres

1.For the preparation of the identification centres the Ministry of the Interior, subject to the acquisition of the feasibility reports and technical planning, can provide:

- a) Purchasing properties, also through leasing, building or land lease as well;
- b) Construction, fitting out, readjustment and maintenance of buildings and lands;
- c) Positioning the pavilions, also furniture and any other project necessary to the realization of the right structure;

2.Inside the centres are established suitable rooms for the activity of the Territorial Commission according to article 12 and also for the visits to the asylum seeker, for the carrying out of the recreational, study or worship activities.

Article 7

Agreement on the management of the centres

1.The Prefect (Prefetto) of the province in which the centre is established, entrusts the management, through suitable agreements, to local, public or private authorities, which operate in the field of assistance to asylum seekers or to immigrants, that is, in the field of social work.

2.In particular, for the purpose of the agreement:

- a) The director of the centre, chosen out of personnel, who has a diploma as social worker issued by schools with special aims, or with a three year degree course in social worker together with the qualification for the practice of the profession, and working experience of at least five years in the field of assistance to immigrants or in social work; degree in social work together with the qualification for the practise of the profession; specialist degree course in social work together

- with the qualification for the practise of the profession; degree in psychology together with the qualification for the practise of the profession and with working experience for at least two years in the field of assistance to immigrants or social work;
- b) The number of necessary persons, as a rule, managing the centre, having suitable skills adapted to the characteristics and needs of the asylum seekers and also skills suitable to the specific needs of minors and women;
 - c) The modalities for carrying out the reception service of the asylum seekers to be hosted in the centres and modalities for attendance registering;
 - d) A continuous security service and the presence, also during the night and on holidays, of necessary staff for the functioning of the centre;
 - e) An interpretation service for at least four hours a day, for the needs concerning the recognition of refugee *status* and for primary needs of the guests of the centre;
 - f) A legal information service about the recognition of refugee *status*;
 - g) The daily presences and the non- authorized leavings are communicated to the Prefecture, Government Territorial Office at the Ministry of the Interior;
 - h) The staff of the centre is obliged to privacy about data and information concerning the asylum seekers staying in the centre even after their leaving;
 - i) Activities and services in order to respect the dignity and the right to privacy of the asylum seekers staying in the centre;

3.The Prefecture (Prefettura) – Government Territorial Office orders the necessary administration and management controls of the centre and submits a report about the activities carried out in it during the previous year, to the Ministry of the Interior, to the competent region, to the competent province and to the competent local public authority (Comune) within the month of March of each year.

Article 8

Functioning

1.In the respect of the directives given by the Prefecture- Government Territorial Office, the director of the centre according to article 7, paragraph 2, letter *a*) provides for services in order to ensure the asylum seeker a quality of life, which guarantees dignity and health, keeping in consideration of the family needs composed by husband and wife and by relatives of first degree of kinship, and of persons having particular needs such as minors, disabled persons, old people, pregnant women, persons having suffered, in their own place of origin, discriminations, abuses and sexual abuse.

If it is possible, the director of the centre, heard the Head of Provincial Police Administration (Questore), provides for the disabled and pregnant women’s hospitalisation to outside suitable structures.

2.The director of the centre arranges for regulating the carrying out of the activities assuring the cohabitation and the best fruition of the services by the asylum seekers.

3.The Prefect (Prefetto) adopts provisions concerning the modalities of visiting hours to the asylum seekers and also those ones concerning the authorizations to leave the centre. The Prefect also provides:

- a) A daily organized visiting time of 4 hours in the respect of a right cohabitation;
- b) Visits of the UNHCR representatives and of the asylum seekers’ lawyers;
- c) Visits from representatives, who belong to bodies for the protection of refugees, authorized by the Ministry of the Interior according to article 11;
- d) Visits from relatives or from Italian citizens if requested by the asylum seeker, subject to authorization of the Prefecture – Government Territorial Office.

Article 9

Modalities of staying in the centre

1. It is guaranteed, with the exception of the families, the separation between men and women during the night.
2. It being understood what is envisaged by article 1-ter, paragraph 4 of the decree, as long as it is consistent with the normal carrying out of the simplified procedure and upon notice to the director of the centre, the asylum seekers are permitted to leave the centre from 8 am until 8pm, only if they do not find themselves in the cases envisaged by article 1-bis, paragraph 1, letter a), and paragraph 2, letter a) of the decree. The relevant government official of the Prefecture can issue the asylum seeker, even in the cases envisaged by article 1-bis, paragraph 1, letter a), and paragraph 2, letter a) of the decree, a temporary permission to leave the centre for a period of time which is different or longer than the time indicated in accordance with the provisions envisaged by article 8, paragraph 3, for important and proved personal reasons, for health or for familiar problems or for proved reasons concerning the examination of the application for recognition of refugee *Status*. In any case, the leave has to be consistent with the times of the simplified procedure. The refusal is motivated and communicated to the interested party according to the modalities of article 4.
3. At the entry of the centre an informative booklet, drawn up in accordance with the modalities of article 4, is given to the asylum seeker. In it are briefly indicated the rules of cohabitation and the provisions in accordance with article 8, paragraph 3, together with the time of the simplified procedure according to article 1-ter of the decree and together with the consequences that the article 1-ter, paragraph 4 of the same decree provides in the case of a non-authorized leaving from the centre.
4. Information, according to paragraph 3, can be asked to interpreters staying in the centre.

Article 10

Medical Assistance

1. The asylum seeker staying in the centre has the right to get outpatient and hospital treatments either urgent or essential and also permanent treatments for disease or for an unfortunate accident given by the Medical Health Service according to article 35, paragraph 3 of the consolidation act on the basis of the conventions stipulated, if possible, by the Ministry of the Interior.
2. Basic medical assistance services are assured for at least four hours a day in the centre in which there are over one hundred asylum seekers.

Article 11

Associations and Protection Bodies

1. The representatives of the associations and protection bodies for refugees, as long as with proved and developed experience in Italy for at least 3 years in the field, can be authorized by the Prefect (Prefetto) of the province in which the centre is established, to enter the visiting rooms, which are set up in the identification centre, during the scheduled time. The Prefect gives the authorization including the request to protect the asylum seekers' privacy and safety.

2.The local authorities and the central service according to article 1-*sexies*, paragraph 4 of the decree, and subject to communication of the Prefect, who can deny the admission for any motivated reasons, can activate in the centre teaching services of Italian languages, information and legal assistance services, social and psychological support services and also information about the voluntary repatriation programme within the activities done according to article 1-*sexies* of the decree.

Article 12

Individuation of the Territorial Commissions

1.In accordance with article 1-*quater* of the decree, the Territorial Commission are established at the following prefectures – Government Territorial Offices:

Gorizia with competence in knowing the applications submitted to the Regions: Friuli-Venezia Giulia, Veneto, Trentino Alto-Adige;

Milano with competence in knowing the applications submitted to the Regions: Lombardia, Valle D’Aosta, Piemonte, Liguria, Emilia Romagna;

Roma with competence in knowing the applications submitted to the Regions: Lazio, Campania, Abruzzo, Molise, Sardegna, Toscana, Marche, Umbria;

Foggia with competence in knowing the applications submitted to Region: Puglia;

Siracusa with the competence in knowing the applications submitted to the Provinces of Siracusa, Ragusa, Caltanissetta, Catania;

Crotone with the competence in knowing the applications submitted to the Regions: Calabria, Basilicata;

Trapani with the competence in knowing the applications submitted to the Provinces of Agrigento, Trapani, Palermo, Messina, Enna.

2.The Territorial Commission, in whose territorial jurisdiction the centre is located, has competence in knowing the applications submitted by the asylum seekers staying in the identification centres or in the temporary stay and assistance centres. In the other cases, the competent Territorial Commission is the one in whose territorial jurisdiction the application is submitted.

3.The Territorial Commission members are admitted to attend a special training course in preparation for the activity organized by the National Commission for Asylum Right.

4.In the provinces in which the identification centres and the Territorial Commission are established, the Prefect, where it is opportune, also for a better rationalization of the resources, can fix suitable rooms of the centre as Territorial Commission offices.

Article 13

Convocation

1.The convocation for the examination at the Territorial Commission is communicated to the interested party through the Provincial Police Authority (Questura) with territorial jurisdiction. With the exception of what is envisaged by article 1-*ter*, paragraph 4 of the decree, if it has not been possible to notify the convocation although new researches of the interested party, in particular in the place of the chosen domicile and definitive residence, the Commission, after having certified that the permit of stay issued to the alien for the application for asylum is expired and the interested party has not asked for the renewal, decides, in regard to the application for asylum, also lacking the individual examination, on the basis of the available documents.

2.The examination can be postponed if the health conditions of the asylum seeker, rightly certified, make it impossible, that is, if the interested party asks for and gets an adjournment for serious and well-founded reasons. If the asylum seeker does not present himself at the individual examination, this will not keep the Territorial Commission from taking the decision about the application for asylum.

Article 14

Examinations

1.The Territorial Commission in a non-public sitting proceeds to examine the asylum seeker. A report of the examination is drawn up and a copy of it is given to the alien together with a copy of the documents supplied by the alien.

2.The applicant can speak in his own language or in a language that he knows. If it is necessary the Commission appoints an interpreter.

3.The Territorial Commission adopts the suitable measures to grant the privacy of the data about the identity and the declarations of the refugee status seekers, and also about the conditions of the subjects according to article 8, paragraph 1. The asylum seeker has authority over being defended by a lawyer.

4.The Territorial Commission provides for the examination of the non-accompanied minors, who apply for asylum, in the presence of the person who has authority over the minor. In any case, the examination of the minor occurs in the presence of a parent or of the tutor and it can be avoided if the Commission considers it has enough elements to make a positive decision.

5.The asylum seeker, in any phases of the proceedings, can submit memoirs and documents to the relevant Territorial Commission and to the National Commission for Asylum Right.

Article 15

Decisions

1.The Territorial Commission is effectively constituted with the presence of all members as envisaged by article 1-*quater* of the decree and decides by majority.

2.The Territorial Commission, within three working days of the examination date, with a written and well-founded act, makes one of the following decisions:

- a) Recognizing the refugee *status* to the applicant having the requisites envisaged by the Geneva Convention;
- b) Refusing the application if the applicant does not have the requisites envisaged by the Geneva Convention;
- c) Refusing the application if the applicant does not have the requisites envisaged by the Geneva Convention but, considered the consequences of a repatriation, by the light of the duties coming from International Conventions of which Italy is signatory and in particular in accordance with article 3 of the European Convention for Human Rights Protection and for the Basic Freedoms, confirmed by the law of 4th August 1955, N°848, the Territorial Commission asks the Head of Provincial Police Administration (Questore) for the pursuance of article 5, paragraph 6 of the consolidation act.

3.The decision is communicated to the applicant together with information about the modalities of impugment and for the cases according to article 1-*ter*, paragraph 6 of the decree, about the possibility to ask for the review and for the Prefect's authorization to stay in the national territory as well.

4.The Territorial Commission issues the alien, who is not recognized the refugee *status*, a certificate on the basis of the form set by the National Commission.

5.The alien, to whom is not recognized the refugee *status*, has to leave the State territory unless a permit of stay has been issued to him for other reason. It being understood what is envisaged by article 16, paragraph 1, the Head of Provincial Police Administration (Questore) provides according to article 13, paragraph 4 of the consolidation act, for alien who is already detained in the identification centre, that is, in the temporary stay and assistance one, and according to article 13, paragraph 5 of the consolidation act, for alien to whom the permit of stay for the application for asylum has been issued.

Article 16

Review

1.The applicant, detained in one of the identification centres, according to article 1-*bis*, paragraph 3 of the decree, can submit, within five days of the decision which refuses the application according to article 1-*ter*, paragraph 6 of the decree, a request of the review to the President of the Territorial Commission. Waiting for the decision, the interested party stays in the identification centre.

2.The request of the review considers elements intervening or existing before, not fairly considered in first instance, which are decisive in order to grant the recognition of refugee *status*.

3.Within three days of the submission date of the request of the review, the President of the Territorial Commission asks the President of the National Commission to integrate a member of the National Commission into the Territorial Commission.

4.The integrated Territorial Commission can proceed with a new examination of the interested party if required by that party or by a National Commission member. The Commission decides with motivated proceedings, which are communicated to the interested party within the following 48 hours. It is permitted to appeal from such proceedings within the following 15 days of the communication to the Court with territorial jurisdiction, which decides in monocratic composition.

Article 17

Permission to stay in the State territory pending suit of jurisdictional appeal

1.The asylum seeker who has appealed to the Court, can ask the Prefect, who can adopt the expulsion order, to be authorized, according to article 1-*ter*, paragraph 6 of the decree, to stay in the national territory until the date of the decision of the appeal. In that case the applicant is detained in the temporary stay and assistance centre, according to the provisions envisaged by article 14 of the consolidation act.

2.The request of the permission to stay in the national territory has to be submitted in writing and fairly motivated in relation to facts intervening after the decision of the Territorial Commission, which imply serious and well-founded risks for the safety and personal freedom, and in relation to serious personal and health problems, which require the alien's stay in the State territory. The permission is issued if there is interest in staying in the State territory and if the Prefect does not consider dangerous the

waiting time for the decision of the appeal, which could be utilized by the alien to escape the expulsion order from the national territory.

3.The Prefect's decision is made within three days of the written and motivated presentation and it is communicated to the interested party as envisaged by article 4. Admitting the request, the Prefect defines the proceedings of the modalities of the stay in the territory and also orders the alien to be detained in the identification or reception and assistance centre.

4.Authorizing the stay in the State territory, the Head of Provincial Police Administration (Questore) issues a permit of stay valid for a period not exceeding 60 days, renewable if the Prefect considers that the conditions, which have authorized the stay in the national territory, exist.

Article 18

National Commission for asylum right

1.The National Commission works at the Civil Freedoms and Immigration Department of the Ministry of the Interior.

2.The President of the Council of Ministers, upon joint proposal of the Ministers of the Interior and for Foreign Affairs, provides for the appointment of the National Commission and for its possible division in other sections, within 30 days of the date in which the current regulations have come into force.

Article 19

Duties of the National Commission for asylum right

1.In accordance with article 1-*quinquies*, paragraph 2 of the decree, the National Commission in the limits of its own duties assigned by law, provides for:

- a) Realizing a data file centre about the social, political and economical situations of the asylum seekers' country on the basis of information gathered and on a non-stop updating;
- b) Individualizing the guidelines judging the applications for asylum, even in relation to the pursuance of article 5, paragraph 6 of the consolidation act;
- c) Working on matters of its own competence together with the Ministry for Foreign Affairs and in particular with the Permanent Delegation of Italy at the relevant international organizations in the field of asylum and human rights protection;
- d) Working together with the same organizations of the State Members of the European Union;
- e) Organizing training and refresher courses for Territorial Commission's members;
- f) Constituting and updating an electronic data base having useful information in order to monitor the applications for asylum;
- g) Monitoring the flow of asylum seekers in order to suggest, if necessary, the institution of new territorial Commissions or extraordinary territorial ones;
- h) Supplying, if necessary, the President of the Council of Ministries with information about the probable adoption of the proceedings according to article 20, paragraph 1 of the consolidation act.

Article 20

Suspensions and Revocations of Refugee Status

1.In accordance with article 1-*quinquies*, paragraph 2 of the decree, the cases of suspension or revocation of refugee *status*, as envisaged by article 1 of the Geneva Convention, duly instructed by

Provincial Police Authority (Questura) with territorial jurisdiction, are examined by the National Commission.

2.The convocation for the examination, if considered necessary, has to be notified to the interested party through the Provincial Police Authority (Questura) with territorial jurisdiction. The interested party can ask to be called in another date, for health problems or for any other problems duly certified and proved by documents; it is not possible to ask for one more adjournment. The Commission takes a decision within thirty days of the examination.

3.The Commission will decide on the basis of the documents in its possession, if the interested party does not present himself at the examination without having submitted the request of adjournment.

Article 21

Transitory norm

1. Requests for recognition of refugee status pending at the Central Commission on the date of coming into force of the present regulations are decided in accordance with article 34, paragraph 3, of law no. 189 of 30th July 2002, in accordance with the norms of the regulations of the decree of the President of the Republic no. 136 of 15th May 1990, by a special section of the National Commission, to be instituted in accordance with article 18, paragraph 2.
2. With exception to what is provided for by paragraph 3, the provisions of the present regulations take effect from the 120th day following the date of publication in the *Official Gazette*.
3. Within thirty days from the date of coming into force of the present regulations, steps are to be taken to nominate the members of the Territorial Commissions, in accordance with article 12, and of National Commissions, in accordance with article 18. The National Commission, during thirty days following the nomination, organises, in accordance with article 19, paragraph 1, letter e), the first training course for the members of the Territorial Commissions and takes steps to, within ninety days following the date of coming into force of the present regulations, adopt guide lines in accordance with article 19, paragraph 1, letter b).

The present decree with the State Seal, will be inserted in the official Body of normative acts of the Republic of Italy.

Stipulated in Rome, 16th September 2004

CIAMPI

BERLUSCONI, *President of the Council of Ministers*
FINI, *Vice President of the Council of Ministers*
PISANU, *Minister of the Interior*
CALDEROLI, *Minister for institutional reforms and devolution*
FRATTINI, *Foreign Affairs Minister*
MARONI, *Minister of Labour and social policies*

NOTES

FOREWARD:

The text of the notes here published was drawn up by the competent administration, in accordance with article 10, paragraph 2 and 3, of the consolidation act of law provisions, on the emanation of

the decrees of the President of the Republic and on the official publications of the Republic of Italy, approved by presidential decree no. 1092 of 28th December 1985, with the sole aim of facilitating the reading of modified or adjourned law provisions. The value and effect of legislative acts, herein transcribed, remain unchanged.

Notes to the premises:

- Article 87 of the Constitution confers on the President of the Republic the power to promulgate laws and issue decrees with the value of law and regulations.
- It refers to the text in force in accordance with article 17, paragraph 1 of law no. 400 of 23rd August 1988, (regulation of the activities of the Government and rules of the Council of Ministers Presidency):
“1. By decree of the President of the Republic, upon the deliberation of the Council of Ministers, upon the opinion of the State Council, which has to be pronounced within ninety days following the request, rules to regulate the following can be issued:
 - a) Enforcement of the laws and legislative decrees as well as EU regulations;
 - b) Implementation and integration of the laws and legislative decrees carrying norms of principle, excluding those concerning regional competences;
 - c) Subjects not regulated by law or acts having the value of laws, excluding the subjects reserved to the law”.
 - d) Organisation and functioning of public administrations in accordance with the provisions regulated by law”.

To complete the information, the whole texts of articles 1-bis, 1-querter and 1-quinquies, of law-by-decree no. 416 of 30th December 1989, converted, modified by law no. 39 of 28th February 1990, are referred to (Urgent norms in the field of the political asylum, entry and stay of non EU citizens and the regularization of non EU citizens and stateless persons already present on the territory of the State):

“Art. 1-bis (Cases of detention). – 1. The asylum seeker cannot be detained for the sole aim of examining the asylum application that he/she submitted. He/She can, however, be detained for the necessary time which the authorities need to define the stay on the territory of the State in accordance with the provisions of the consolidation act of the provisions regarding immigration and norms on the condition of the alien, in accordance with the legislative decree no. 286 of 25th July 1998, in the following cases:

- a) To verify or determine his/her nationality or identity, in cases where he/she does not have travel or personal documents, or if he/she has presented false documents on his/her arrival in the State;
- b) To verify the elements upon which the asylum application is based;
- c) Depending on the proceeding concerning the recognition of the right to be admitted to the territory of the State.

2. Detention must always be carried out in the following cases:

- a) Following the presentation of asylum application of an alien who has or tried to evade border controls or on condition of irregular stay.
- b) Following the presentation of asylum application of an alien with an expulsion or refusal order.

3. The detention provided for by paragraph 1, letter a), b) and c) and by paragraph 2, letter a) is implemented in Centres of identification in accordance with the norms of the relevant regulations. The same regulations determine the number, characteristics, and ways of organisation of such structures and consider the acts adopted by the UN High Commission for

Refugees (UNHCR), the Council of Europe and the European Union. UNHCR representatives will be allowed access to the Identification centres. Access will also be permitted to lawyers and bodies authorised by the Ministry of the Interior aimed at protection of refugees, with consolidated experience in the field.

4. As for detention provided for by paragraph 2, letter b), the norms envisaged by art. 14 of the consolidation act of the legislative decree no. 286 of 25th July 1998 are observed. In accordance with art. 14, UNHCR will be allowed access to the Centres of Temporary stay and Assistance. Access will also be permitted to lawyers and bodies authorised by the Minister of the Interior aimed at the protection of refugees, with consolidated experience in the field.
5. Upon the expiration of the period for the simplified procedure as in art. 1-ter and if the latter has not yet been concluded, the alien will be granted a temporary permit of stay until the termination of the procedure.

“Art. 1-quater (Territorial Commissions) – 1. The Territorial Commissions for the recognition of refugee status in the prefectures – territorial offices of the government indicated by the regulations in accordance with art. 1-bis, paragraph 3. The above mentioned commissions, nominated by decree of the Interior Minister, are presided over by an official of the prefecture and are composed of an official of the State Police, a representative of the territorial body designated by the Conference State-city and local autonomies and by a UNHCR representative. A substitute member must be available for every member. Such commissions can be formed at the request of the President of the Central Commission for the recognition of refugee status, in accordance with art. 2 of the regulations, referred to in the decree of the President of the Republic no. 136 of 15th May 1990, by an official of the Ministry of Foreign Affairs sitting on the Commission, whenever necessary, in relation to particular streams of asylum applicants, with regard to applications which should be particularly evaluated in terms of the situation in the countries of origin within the competence of the Ministry of Foreign Affairs. In case of equality, the President’s vote prevails. If necessary, in relation to particular streams of asylum applicants, the commissions can be composed of staff on leave or in retirement. The participation of the above mentioned staff does not require the payment of remuneration or any kind of compensation.

2. Within two days following the receipt of the application, the police commissioner takes steps to transmit the necessary documentation to the Territorial commission for refugee status recognition, which, within thirty days, takes steps to hold a hearing on the application. The decision is adopted within three days following the hearing.

3. During the hearing, if necessary, the Territorial Commissions avail themselves of interpreters. Minutes of the conversation with the applicant are drawn up. The decisions are adopted with a written and justified act. They are communicated to the applicant together with information on the ways of impugment in the modalities in accordance with article 2, paragraph 6, of the consolidation act of the provisions regarding the discipline of immigration and norms on the condition of the alien, in accordance with the legislative decree no. 286 of 25th July 1998.

4. While examining the asylum application, the Territorial Commissions evaluates, in accordance with the measures of art. 5, paragraph 6 of the above mentioned consolidation act of the legislative decree no. 286 of 1998, the consequences of repatriation in the light of the obligations deriving from the international conventions which Italy signed and, in particular, of art. 3 of the European

Convention for the protection of human rights and fundamental liberties, ratified in accordance with law no. 848 of 4th August 1955.

5. An appeal to the ordinary court competent for the territory, against the decisions of the Territorial Commissions, which rules in accordance with art. 1-ter, paragraph 6, is admissible.

“Art. 1-quinquies (National Commission for the right of asylum) –

1. The Central Commission for the recognition of refugee status envisaged by art. 2 of the regulations referred to in the decree of the President of the Republic no. 136 of 15th May 1990, has been transformed into the National Commission for the right to asylum, denominated afterwards “National Commission”, nominated by decree of the President of the Council of Ministers, at the united proposal of the Interior and Foreign Affairs Ministers. The Commission is presided over by a prefect and is composed of an official from the diplomatic service, of an official from the prefectorial service working in the Department for civil liberties and immigration and by an executive of the Department for public safety. A representative of the UNHCR delegation of Italy is present at the meetings. Every administration also appoints a deputy. The National Commission, if necessary, can be composed of sections of similar composition.

2 The National Commission has the tasks of directing and coordinating the Territorial Commissions, of training and updating the commissions’ members, of collecting statistical data as well as powers of decision concerning revocations and termination of granted status.

3 With the regulations in accordance with art. 1-bis, paragraph 3, the modalities of functioning of the National and Territorial Commissions are established.

- The text of art. 8 of the legislative decree no. 281 of 28th August 1997, is quoted (Definition and enlargement of the attributions of the permanent Conference for the relations among the State, regions and autonomous provinces of Trento and Bolzano and the unification, in the field of subjects and tasks of common interest, of regions, provinces and municipalities, with the Conference State-city and local autonomies):

Art. 8 (Conference State-city and local autonomies and unified Conference)

1. The conference State-city and local autonomies is unified for issues and competences of common interest of regions, provinces, municipalities and mountain communities with the conference State-regions.

2. The Conference State-city and local autonomies is presided over by the President of the Council of Ministers or, by his proxy, by the Minister of the Interior or by the Minister for regional affairs; the Minister of the Treasury, of the Budget and economic planning, the Minister of Finance, Minister of Public Works, Minister of Health, the President of the National Association of the municipalities in Italy – NAMI, the President of Province Union of Italy – PUI and the President of the National Union of municipalities, communities and mountain bodies – NUMCMB participate in the above mentioned conference as well as fourteen mayors designated by NAMI and six provincial presidents designated by PUI. Five out of fourteen mayors designated by NAMI represent the cities determined by art. 17 of law no. 142 of 8th June 1990. Other members of the Government can participate in the meetings as well as the representatives of state and local administrations and of public bodies.

3. The Conference State-city and local autonomies is convened at least every three months, and in all the cases where the president sees a necessity or if the President of NAMI, PUI or NUMCMB makes a request to do so.

4. The unified Conference, in accordance with paragraph 1, is convened by the President of the Council of Ministers. The meetings are presided over by the President of the Council of Ministers or by his proxy, by the Minister for regional affairs or, if such appointment is not conferred, by the Interior Minister”.

Notes to art. 1:

- The legislative decree no. 286 of 25th July 1998, contains: “The consolidation act of the provisions concerning the discipline of immigration and norms on the condition of the alien”.
- As for the text of art. 1-bis of the law-by-decree no. 416 of 30th December 1989, converted with modifications by law of 28th February 1990, see the notes to the premises.
- Law no. 722 of 24th July 1954 contains: Ratification and enforcement of the Convention relative to the statute of refugees, signed in Geneva on 28th July 1951.
- The text of art. 1-ter of law-by-decree no. 416 of 30th December 1989, converted, with modifications by law no. 36 of 28th February 1990, is quoted:

“Art. 1-ter (Simplified procedure) – 1. In the cases described in letter a) and b) of paragraph 2 of art. 1-bis the simplified procedure for the definition of the application of refugee status recognition in accordance with the modalities referred to in paragraphs 2 to 6 is established.

2. As soon as the application for recognition of refugee status in accordance with art. 1-bis, paragraph 2, letter a) is received, the police superintendent competent for the place where the application was submitted orders the detention of the alien in one of the identification centres in accordance with art. 1-bis, paragraph 3. Within two days following the receipt of the application, the Head of Provincial Police Administration (Questore) takes steps to transmit the documentation necessary to the Territorial commission for the recognition of refugee status, which, within fifteen days following the receipt of the documentation, takes steps to hear the applicant. The decision is adopted in the following three days.

3. As soon as the application for the recognition of refugee status in accordance with art. 1-bis, paragraph 2, letter a) is received, the Head of Provincial Police Administration (Questore) competent for the place where the application was submitted orders the detention of the alien in one of the centres of temporary stay in accordance with art. 14 of the consolidation act referred to in legislative decree no. 286 of 25th July 1998; if the alien is already in detention, the Head of Provincial Police Administration (Questore) asks the tribunal to extend the period of detention for a further thirty days in order to allow the fulfilment of the procedure in accordance with the present article. Within two days from the receipt of the application, the Head of Provincial Police Administration (Questore) takes steps to transmit the documentation necessary to the Territorial Commission for the recognition of refugee status, which, within fifteen days following receipt of the documentation, takes steps to hear the applicant. The decision is adopted within the following three days.

4. Non-authorized departure from the centres in accordance with art. 1-bis, paragraph 3, is equivalent to the renunciation of the application.

5. The Italian State is competent for the examination of the application for refugee status recognition in accordance with the present article, or if the times do not permit, in accordance with the Convention of Dublin, ratified in accordance with law no. 523 of 23rd December 1992.

6. The Territorial Commission, incorporated by a member of the National Commission for the right of asylum, proceeds to re-examine within ten days the decisions, at the request of the alien to whom the detention in one of the identification centres was ordered in accordance with art. 1-bis, paragraph 3, provided that there are reasonable grounds for said request. The application must be submitted to the Territorial Commission within five days from the communication of the decision. A possible appeal against the decision of the Territorial Commission is submitted to the court in monocratic composition, competent for the territory, within fifteen days, this appeal can also be submitted from abroad through diplomatic representations. The appeal does not suspend the measure of expulsion from the national territory; the asylum applicant can, however, ask the competent prefect for authorisation to remain on the national territory until the result of the appeal. The decision to reject the appeal is immediately enforceable.

Notes to art. 2:

- The text of art. 1, paragraph 4, of the above mentioned law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, is quoted:

“4. Entry to the territory of the State by an alien who intends to apply for refugee status recognition is not allowed when the State Police find that the applicant:

- 6 has already been recognised as a refugee in another State. However, driving back to one of the States in accordance with art. 7, paragraph 10, is not allowed.
 - 7 Arrives from a State, other than that of origin, which adheres to the Geneva Convention, where he/she passed a period of stay, not considered as necessary time for the transit from the original territory to the Italian territory. However, driving back to one of the States in accordance with art. 7, paragraph 10, is not allowed.
 - 8 Is in the conditions provided for by art. 1, paragraph F of the Geneva Convention;
 - 9 Was condemned in Italy for one of the crimes envisaged by art. 380, paragraphs 1 and 2, of the Code of Criminal Procedure or is dangerous to the safety of the State, or belongs to a criminal association, a drug trafficking ring or a terrorist organisation.”
- For the text of art. 1-bis and 1-ter of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, see the notes to the premises and art. 1.
 - Articles 346 and the following of the Civil Code are inserted in the book I (Persons and Families), title X (Protection and emancipation), item I (Protection of minors), section II (Guardian), section III (of Tutor and Protutor).

Notes to art. 3:

- For the text of art. 1-bis and 1-ter of law-by-decree no.416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, respectively in the notes to the premises and art. 1.

Notes to art 5:

- For the text of art. 8 of the legislative decree no. 281 of 28th August 1997, in the notes to the premises.
- Law-by-decree no. 451 of 30th October 1995, converted by law no. 563 of 29th December 1995, contains: Urgent provisions for the further use of the Armed Forces in activity of control of the maritime border in the region of Puglia.”

Notes to art. 9:

- As for the text of art. 1-bis and 1-ter of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, respectively in the premises and in art. 1.

Notes to art. 10:

- The text of art. 35, paragraph 3 of the above-mentioned legislative decree no. 286 of 25th July 1998, is quoted.

“3. To foreign citizens on the Italian territory, not in compliance with the norms relative to entry and stay, ambulatory and hospital treatments are assured in public and suitable places. These treatments may be urgent or essential, and continuous for illness and accident, and the programmes of preventive medicine are extended aimed at protecting individual as well as collective health. In particular, the following are guaranteed:

- a) The social protection of pregnancy and maternity on an equal footing with Italian citizens in accordance with law no. 405 of 29th July 1975, and law no. 194 of 22nd May 1978, and the decree of 6th March 1995 of the Ministry of Health, published in the Official Gazette no. 87 of 13th April 1995;
- b) The protection of the health of the minor in accord with the Convention on the Rights of the Child of 20th November 1989, ratified and rendered enforceable by law no.176 of 27th May 1991;
- c) Vaccinations in accordance with the set of rules and in the field of campaigns of collective prevention authorised by the regions;
- d) Interventions of international preventive treatment;
- e) Preventive treatment, diagnosis and treatment of infectious illnesses and possible clearance of centres of infection”.

Notes to art. 11:

- The text of art. 1-sexies of the above-mentioned law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, is quoted.

“Art. 1-sexies (System of protection for asylum applicants and refugees). – 1. Local bodies that offer services aimed at the reception of asylum seekers and at the protection of refugees and of aliens, or receivers of other forms of humanitarian protection, can accommodate in the field of such

services, the asylum seeker void of means of subsistence if the case is not covered by the hypotheses envisaged in art. 1-bis and 1-ter.

2. The Interior Minister, with his proper decree, having heard the unified Conference in accordance with art. 8 of the legislative decree of 28th August 1997, no. 281, takes steps annually to sustain financially the detention services, in accordance with paragraph 1 and as far as the resources of the Fund will allow in accordance with art. 1-septies, to sustain financially the reception centres in accordance with paragraph 1, by an amount not superior to 80% of the total cost of each territorial initiative.

3. In the phase of first implementation, the decree in accordance with paragraph 2:

- a) Establishes the guidelines and formulas for the presentation of contribution requests, the criteria for correct administration and the modalities for a possible revocation;
- b) Assures, within the limits of the financial resources of the Fund in accordance with art. 1-septies, the continuation of the interventions and services already in course, as envisaged by the European Fund for the refugees;
- c) Determines, within the limits of the financial resources of the Fund in accordance with art. 1-septies, the modalities and the measure of the allocation of an economic contribution for immediate assistance to the asylum seeker who does not fall within the cases envisaged by articles 1-bis and 1-ter and who does not fall within the services of detention in accordance with paragraph 1.

4. In order to rationalise and optimise the system of protection of the asylum seeker, refugee or alien with humanitarian permit in accordance with article 18 of the consolidation act of the provisions regarding the discipline of the immigration and norms on the conditions of the alien in accordance with the legislative decree of 25th July 1998, no. 286 and to facilitate the coordination at the national level of the territorial services of detention, the Ministry of the Interior activates, after having heard the National Association of Italian Municipalities (NAIM) and UNHCR, a central service of information, promotion, consulting, monitoring and technical support to the local bodies which offer services of detention in accordance with paragraph 1. The central service is entrusted to NAIM with the suitable convention.

5. The central service in accordance with paragraph 4 takes steps to:

- d) Monitor the presence of asylum seekers, refugees and aliens with humanitarian permit on the territory of the State;
- e) Create a data bank of interventions carried out in favour of asylum seekers and refugees at the local level;
- f) Favour the spreading of information on methods of intervention;
- g) Provide local bodies with technical assistance also in the predisposition of the services in accordance with paragraph 1;
- h) Promote and activate, in agreement with the Ministry of Foreign Affairs, repatriation programmes through the International Organisation for the migrations and other national and international organs of a humanitarian character.

6. The costs of functioning and management of the central service are financed, within the limits, by the Fund in accordance with art. 1-septies.

Note to art. 12:

- For the text of art. 1-quater of law-by-decree of 30th December 1989, no. 416 converted and modified by law of 28th February 1990, no. 39, see notes to the premises.

Note to art. 13:

- For the text of art. 1-ter, paragraph 4, of law-by-decree of 30th December 1989, no. 416, converted and modified by law of 28th February 1990, no. 39, see notes to art. 1

Notes to art. 15:

- For the text of art. 1-quater and 1-ter of law-by-decree of 30th December 1989, no. 416, converted and modified by law of 28th February 1990, no. 39, see respectively the notes to the premises and to art. 1.
- The text of art. 3 of the European Convention, ratified by law of 4th August 1955, no. 848 (Ratification and enforcement of the Convention for the protection of human rights and fundamental liberties signed in Rome on 4th November 1950 and of the protocol additional to the Convention, signed in Paris on 20th 1952, is quoted here below:

“Art. 3 – Every individual has the right to life, to freedom and to the safety of his/her proper person.”

- The text of art. 13, paragraph 4 and 5 of the cited legislative decree of 25th July 1998, no. 286, is quoted here below:

“4. The expulsion order is always carried out by the Head of Provincial Police Administration (Questore) with accompanying to the border by public force with exception to the cases in accordance with paragraph 5.

5. The expulsion order contains intimation to leave the Territory of the State within fifteen days towards the alien who remained on the territory of the State for more than sixty days after the permit of stay has expired and a renewal has not been requested. The Head of Provincial Police Administration (Questore) orders the immediate accompanying of the alien to the border, in cases where the superintendent perceives a concrete danger that the alien will evade the enforcement of the measure”.

Notes to art. 16:

- For the text of art. 1-bis and 1-ter of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, see respectively the notes to the premises and to art. 1.

Notes to art. 17:

- For the text of art. 1-ter of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, see the notes to art. 1.

- The text of art. 14 of the legislative decree no. 286 of 25th July 1998, is quoted here below:

“Art. 14 (Enforcement of the expulsion order). – 1. When it is not possible to carry out immediately the expulsion through accompanying to the border on the rejection of the application for refugee status, because it is necessary to proceed to the relief of the alien, or to supplementary ascertainments regarding his/her identity or nationality, or to the acquisition of documents for journey, or if the carrier or other means of transport is not available, the Head of Provincial Police Administration (Questore) orders that the alien is detained for the necessary time at the closest centre of temporary stay and assistance, among those determined or constituted by the decree of the Ministry of the Interior together with the Ministers of the Social solidarity and Treasury, Budget and Economic planning.

2. The alien is detained at the centre with such modalities so as to assure the necessary assistance and the full respect of his/her dignity. Other than what is provided for by art. 2, paragraph 6, in any case the liberty of correspondence, also telephonic, is assured with the outside.

3. The Head of Provincial Police Administration (Questore) of the district in which the centre is located, transmits copies of the acts to the lower court judge, without delay and within forty-eight hours from the adoption of the measure.

4. The lower court judge, if presuppositions in accordance with art. 13 and with the present article, are valid, confirms the measure of the Head of Provincial Police Administration (Questore) in accordance with art. 737 and the following of the code of civil procedure, after having heard the interested person. The measure ceases to have any effect if it is not confirmed within the following forty-eight hours. Confirmation can also be given during the examination of the appeal against the expulsion measure, within this time frame.

5. Confirmation implies a stay at the centre for not more than thirty days. In cases where the ascertainment of identity and nationality, that is to say acquisition of travel documents, presents serious difficulties, the judge, at the request of the Head of Provincial Police Administration (Questore), can extend the detention order by another thirty days. Before that period expires, the Head of Provincial Police Administration (Questore) carries out the expulsion or rejection, giving written communication, without delay, to the judge.

5-bis When it is not possible to detain the alien at a centre of temporary stay, that is to say when the date of stay has expired without the expulsion or rejection having been carried out, the Head of Provincial Police Administration (Questore) orders the alien to leave the Territory of the State within five days. The order is given by a written measure and carries criminal consequences if violated

5-ter. The alien who, with no justifiable reason, remains on the territory of the State in violation of the order given by the Head of Provincial Police Administration (Questore) in accordance with paragraph 5-bis is punished with arrest ranging from six months to one year. In such cases, the alien is then accompanied to the border and expelled through public force.

5-quater. The alien expelled in accordance with paragraph 5-ter who is found, in violation of the norms of the present consolidation act, on the Territory of the State is punished with imprisonment from one to four years.

5-quinquies. For crimes in accordance with paragraphs 5-ter and 5-quater arrest is obligatory and it is conducted with summary procedure. In order to assure the enforcement of the expulsion, the

Head of Provincial Police Administration (Questore) can order measures in accordance with paragraph 1 of the present article.

6. It is possible to appeal to the Supreme Court against the decrees of confirmation and of extension in accordance with paragraph 5. The relative appeal does not suspend the enforcement of the measure.

7. The Head of Provincial Police Administration (Questore), availing himself of public force, adopts efficient measure of vigilance so the alien does not unduly leave the centre and takes steps to re-enforce the measure if it is violated.

8. For collective transport to the border, conventions can be stipulated with agents of transportation lines or with bodies, national and international that carry out activities of assistance for aliens.

9. Other than what is provided for by the regulations of implementation and by the norms in the field of jurisdiction, the Minister of the Interior adopts the necessary measures for carrying out what is ordered by the present article, through conventions with other State administrations, local bodies, with owners or distributors of areas, structures and other plants as well as for the supply of goods and services. Possible departure from provisions in force in the financial or accountancy fields are adopted together with the Minister of Treasure, Budget and Economic Planning. The Minister of the Interior promotes, besides, the necessary agreements for the interventions of competence of other Ministers”.

Notes to art. 19:

- For the text of art. 1-quinquies of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, see notes to the premises.
- The text of articles 5, paragraph 6 and 20, paragraph 1 of the legislative decree no. 286 of 25th July 1998, is here below quoted:

“6. The refusal or revocation of the permit of stay can be adopted on the basis of conventions or international agreements, rendered enforceable in Italy, when the alien does not comply with the conditions of stay applicable in one of the contracting States, unless serious motives recur, in particular those of humanitarian character or resulting from constitutional or international obligations of the Italian State.”

“1. With the decree of the President of the Council of Ministers, adopted in agreement with the Ministers of Foreign Affairs, of the Interior, for Social Solidarity and with other Ministers possibly interested, the measures of temporary protection are established, within the limits of preordained resources of the Fund, in accordance with art. 45. These measures are to be adopted while making an exception to the present consolidation act for significant humanitarian needs, in occasion of conflicts, natural disasters or other events of particular gravity in non EU countries”.

Notes to art. 20:

- For the text of art. 1-quinquies of law-by-decree no. 416 of 30th December 1989, converted and modified by law no.39 of 28th February 1990, see notes to the premises.
- Art. 1 of the Geneva Convention establishes that the High Contracting Parties undertake to respect and to enforce the present Convention under any circumstance.

Notes to art. 21

- The text in force of art. 34, paragraph 3 of law no. 189 of 30th July 2002, (Modification to the set of rules of immigration and asylum):

“3. The regulations provided for by art. 1-bis, paragraph 3 of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, introduced by art. 32, are issued within 6 months from the date of coming into force of the present law. The provisions in accordance with articles 31 and 32 apply starting from the date of coming into force of the above mentioned regulations; until that date the rules and regulations previously in force are applied”.

- The decree of the President of the Republic no. 136 of 15th May 1990, cites:” Regulations for the implementation of art. 1, paragraph 2 of law-by-decree no. 416 of 30th December 1989, converted and modified by law no. 39 of 28th February 1990, in the field of refugee status recognition.”

