

Ordinance No. 102/2000 on the Status and Regime of Refugees in Romania

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Comments This is an unofficial translation. This Act has been adopted by the Government on 31 August 2000 and entered into force on 1 November 2000. This Government Ordinance no. 102/2000 amends the Refugee Law.

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THE GOVERNMENT OF ROMANIA on the basis of the provisions under Article 107, paragraphs (1) and (3) in the Constitution of Romania, as well as those under Article 1, letter G, sub-paragraph 2 in Law no. 125/2000 on enabling the Government to issue ordinances.

The Government of Romania hereby adopts the present ordinance.

CHAPTER I: General Provisions

Article 1.

Under the conditions of the present ordinance, aliens can be granted one of the following forms of protection:

- a) refugee status;
- b) conditioned humanitarian protection;
- c) temporary humanitarian protection.

Article 2.

(1) Refugee status can be granted, upon request, to an alien who attests that owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, and who is outside her/his country of origin and is unable, or, owing to such fear, is unwilling to obtain the protection of that country.

(2) 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 (s)he is a national, and in the case of a stateless person, the country where that person is domiciled.

Article 3.

(1) Refugee status shall also be granted, upon request, to the wife, or, as the case might be, to the husband and minor children, except the cases where these persons fall under one of the categories stipulated under Article 4.

(2) The provisions under paragraph (1) shall apply only to marriages concluded before the entry onto the territory of Romania of the person whose refugee status has been recognised under the provisions of Article 2, paragraph (1).

Article 4.

Refugee status shall not be granted to an alien who:

- a) has committed a crime against peace and humanity, or any crime as defined in the international conventions to which Romania is a party;
- b) has committed a serious non-political crime outside Romania prior to her/his admission to the territory as a refugee;
- c) has committed acts contrary to the purposes and principles of the United Nations Charter or of the international treaties and conventions on refugees to which Romania is a party.

Article 5.

Conditioned humanitarian protection may be granted to aliens who fail to meet the conditions stipulated under Article 2, paragraph (1), and who attest that in their country of origin:

- a) They have perpetrated deeds for which they may face death penalty, provided that such punishment may be inflicted according to the legislation of that country, and is applicable to them;
- b) They risk being subjected to torture, or to inhuman or degrading treatment;
- c) On account of belonging to a category of disadvantaged persons, they may be exposed to dangers of a kind that threaten their life, physical integrity, or freedom.

Article 6.

(1) During armed conflicts that Romania is not involved in, temporary humanitarian protection may be offered to persons coming from conflict areas.

(2) The Government shall establish the measures to be taken and the interval for which to grant the protection stipulated under paragraph (1).

CHAPTER II: Procedure for granting refugee status

SECTION 1: The Ordinary Procedure

Article 7.

(1) For the granting of refugee status in Romania, aliens shall approach in person and lodge an application in writing with the National Refugee Office of the Ministry of the Interior, or with any of the territorial bodies of the Ministry of Interior.

(2) An application for refugee status shall be lodged as soon as:

a) an applicant has arrived at a state border control point;

b) an applicant has entered the territory of Romania; or

c) in the case of aliens who have the right to stay in Romania, when events have occurred in the applicant's country of origin that make him or her seek protection.

Article 8.

(1) The interests of a minor alien under the age of 14 shall be represented by her/his own legal representative or, in the absence of a representative, by a legal representative appointed in accordance with the provisions of Romanian law.

(2) After the age of 14, a minor may submit the application personally and (s)he may be appointed a legal representative in accordance with the provisions of Romanian law.

(3) The National Refugee Office shall provide the minor with the necessary protection, until a legal representative is appointed.

Article 9.

(1) After receiving an application for granting of refugee status, the territorial body of the Ministry of the Interior shall issue the applicant with a provisional proof of identity, this document serving as her/his temporary identity document in Romania, and shall assure free transportation to the National Refugee Office.

(2) In case the application has been lodged with the territorial bodies of the Ministry of the Interior at a state border control point, the border police authorities shall issue the document stipulated under paragraph (1) only after the alien receives permission to enter the territory of Romania and shall assure free transportation to the National Refugee Office.

(3) In case the application has been lodged with the National Refugee Office, the latter shall issue the applicant with a temporary identity document.

(4) If the applicant does not possess material means, the National Refugee Office may designate for him or her a place of residence and assure the material aid necessary for the upkeep of the applicant for the entire duration of the procedure for granting refugee status.

(5) For justified reasons pertaining to public interest, national security^[1] public order, the protection of public health and morality and the protection of the rights and freedoms of other persons - even in cases where aliens do possess material means for their own upkeep - the National Refugee Office may designate a place of residence for applicants for the entire duration of the procedure for granting refugee status, and may arrange their accompanied transportation to that place, upon request by the competent authorities.

Article 10.

(1) In case an alien has previously transited a safe third country, and has already been offered protection in that country, or has had the opportunity, either at the border or on the territory of that country, to contact the authorities to obtain protection, the National Refugee Office may decide to return that alien to the respective country without examining the substance of her/his application.

(2) The National Refugee Office may examine the application lodged by an alien even if (s)he is in the situation outlined under paragraph (1), with the express agreement of the applicant.

Article 11.

Safe third countries are considered to be the Member States of the European Union, as well as other states to be determined by order of the Minister of the Interior, upon the suggestion of the National Refugee Office, provided the following conditions are met:

a) on their territories the life or freedom of the applicant is and shall not be threatened in the sense of Article 33 of the Convention relating to the Status of Refugees concluded in Geneva on 28 July 1951, to which Romania acceded by Law no. 46/1991;

b) on their territories the alien shall not risk being exposed to torture, or inhuman or degrading treatment;

c) in those countries, the alien will be assured of effective protection against return to her/his country of origin, both in the sense of the provisions of the Convention relating to the Status of Refugees concluded in Geneva on 28 July 1951, and on the basis of information provided by the Office of the United Nations High Commissioner for Refugees on the practice concerning the application of the principle of non-refoulement.

Article 12.

(1) The National Refugee Office has the competency to conduct interviews, examine the reasons invoked, and decide on the applications.

(2) These activities shall be conducted by specially appointed officials working with the National Refugee Office.

(3) Officials shall be appointed by order of the Minister of the Interior.

(4) The officials stipulated under paragraph (2) have the right to consult with experts during the decision procedure.

(5) On a periodic basis, the Ministry of Foreign Affairs shall provide a compendium of materials concerning the situation in the applicants' countries of origin and shall provide answers to the specific enquiries of the National Refugee Office, necessary for the resolving of applications for granting of refugee status.

(6) The National Refugee Office shall consult with the Ministry of Foreign Affairs in order to establish which are the countries where there is generally no serious risk of persecution, as well as safe third countries.

Article 13.

(1) Pending the resolving of their application through a final and irrevocable decision aliens applying for granting of refugee status have the following rights and obligations:

- a) the right to stay in Romania for 15 days from the moment the decision on the application for granting of refugee status has become final and irrevocable, with the exception of aliens whose applications have been rejected as manifestly unfounded in an accelerated procedure;
- b) the right to be assisted or represented by a lawyer, and to be ensured the services of an interpreter free of charge during the whole duration of the procedure for granting refugee status;
- c) the right to be counselled and assisted by representatives of Romanian or foreign non-governmental organisations, at each stages of the procedure for granting refugee status;
- d) the right to be informed, upon lodging the application and in a language known to the applicant, of her/his rights and duties during the procedure for granting refugee status;
- e) the right to the protection of personal data and of any other details concerning the application;
- f) the right to be issued with a temporary identification document;
- g) the right to be assured of the transportation under the conditions stipulated under Article 9, paragraphs (1) and (2) and of the assistance necessary for upkeep under the conditions stipulated under Article 9, paragraph (4), as well as of primary medical care and emergency hospital care free of charge;
- h) the obligation to lodge a reasoned application in writing with the territorial bodies of the Ministry of Interior, containing all the data requested by the body with which it is lodged , and to accept to being photographed and fingerprinted;
- i) the obligation to follow the state of the procedure and to declare any change of residence;
- j) the obligation to surrender the border crossing permit, after which (s)he shall receive the document stipulated under Article 9, paragraph (1);
- k) the obligation to respond to the requests of bodies with competencies in the field of granting refugee status, and to provide these bodies with complete and real information about her/his person and application;
- l) the obligation not to leave the locality of residence without the authorisation of the National Refugee Office;
- m) the obligation to present herself/himself for the medical examinations prescribed;
- n) the obligation to observe the laws of the Romanian State and the measures ordered by the Romanian bodies competent in refugee matters.

(2) Upon request, applicants for refugee status shall benefit from meals to the limit of 12,000 lei/person/day, as well as from accommodation to the limit of 8,000 lei/person/day, without exceeding the budgetary lines approved for this purpose within the budget of the Ministry of the Interior.

(3) Depending on financial means, if during the state fiscal period the inflation rate is at least ten per cent higher than in the month when the above-mentioned amounts were last revised, those amounts shall be increased in accordance with the inflation rate, by Government decision.

(4) In case an alien applying for refugee status is housed in a reception and accommodation centre of the Ministry of the Interior, the amount stipulated under paragraph (2) referring to accommodation shall not be disbursed.

(5) The amounts needed for free transportation to the place of residence, as stipulated under Article 9, paragraphs (1) and (2), shall be assured from the budget of the Ministry of Interior.

(6) The funds for the free basic medical care and emergency hospital care as stipulated under paragraph (1) letter g) shall be assured within the state budget and allocated to the Ministry of the Interior.

Article 14.

(1) Following analysis of the claim and within 30 days of its lodging, the official stipulated under Article 12, paragraph (2) may decide:

- a) to grant refugee status;
- b) to grant conditioned humanitarian protection;
- c) to reject the application for granting of refugee status.

(2) If resolving the claim necessitates supplementary documentation, the deadline stipulated under paragraph (1) shall be extended by no more than 30 days.

(3) The admission or rejection of an application for granting of refugee status shall be made through a decision and shall be communicated at once and in written form to the applicant, either through direct communication by representatives of the National Refugee Office, or through mail sent to his last declared residence.

(4) The decision to grant conditioned humanitarian protection shall also contain the motivation for denying refugee status.

(5) The decision to reject an application for granting of refugee status shall contain reasons corresponding to each form of protection stipulated under Articles 2, 3 or 5, as well as an order to leave the territory of Romania within 15 days from notification of the final and irrevocable decision.

Article 15.

(1) The decision stipulated under Article 14, paragraph (3) can be challenged in a first appeal within 10 days from receiving proof of notification or the document stating that the applicant can no longer be found at her/his last declared residence.

(2) In the case of a minor who has not reached the age of 14 the first appeal shall be lodged by her/his legal representative, while a minor aged between 14 and 18 may lodge the first appeal either personally or through her/his legal representative.

(3) First appeals shall be judged by the court whose territorial jurisdiction includes the headquarters of the National Refugee Office or by the court whose territorial jurisdiction includes the residence of the appellant.

(4) First appeals shall be lodged with the National Refugee Office and shall be accompanied by a copy of the decision rejecting the application for granting of some form of protection.

(5) First appeals shall be forwarded at once to the competent court, that will have to decide within 30 days, with the mandatory participation of a prosecutor.

- (6) The court shall pass judgement through a motivated decision
- (7) The appellant or the prosecutor may submit a second appeal within 5 days, from delivery for those present at the hearing or from notification for those not present.
- (8) Second appeals shall be reviewed within 30 days of their registration, and decisions passed during the appeal shall be final and irrevocable.
- (9) Final and irrevocable decisions are enforceable by law.
- (10) Appeals, as well as the other procedural acts invoked in the decision making process, shall be exempt from legal charges.

Article 16.

- (1) Once the court decision to reject an application becomes final and irrevocable, the alien shall be under the obligation to leave Romania within 15 days from notification.
- (2) If for objective reasons an alien cannot leave the territory of Romania within the deadline stipulated under paragraph (1), the Ministry of Interior shall grant that person the right to reside in the country, under the conditions stipulated in legal regulations pertaining to the status of aliens in Romania.
- (3) A new application for the recognition of refugee status can be submitted only if a final and irrevocable decision has been passed on the previous application, and only if one of the following conditions is met:
 - a) new elements have appeared that could not be presented, for reasons that are not imputable to the applicant, during the previous procedure, provided these elements have not resulted from actions initiated by the applicant in order to obtain some form of protection from the Romanian State. The applicant is required to produce evidence for the existence of the newly invoked reasons, as well as for the impossibility of having presented them while the former procedure was still under way.
 - b) political, social, military or legislative changes have occurred in the country of origin, of a kind that have serious consequences for the applicant.
- (4) The decision on a new application lodged under the conditions of paragraph (3) shall be made by an official as stipulated under Article 12, paragraph (2), who shall be however different from the one who made the decision on the previous application.
- (5) A decision shall be made within 5 days, based only on the new application, correspondingly reasoned, as well as documentation previously filed by the applicant. The solution shall be communicated at once, in writing, to the applicant.
- (6) The decision granting access to the decision making process of a new application for granting refugee status has the effect of cancelling the order to leave Romanian territory, stipulated in the previous decision, and the applicant shall benefit from the rights stipulated under Article 13.
- (7) An appeal may be submitted against the decision rejecting as inadmissible a new application for refugee status.
- (8) The appeal mentioned under paragraph (7) shall be settled according to the provisions under Article 15.

SECTION 2: The Accelerated Procedure

Article 17.

(1) Cause for an accelerated procedure:

- a) manifestly unfounded applications;
- b) applications of persons who, by their activity or membership in a particular group, represent a danger to national security* or public order in Romania;
- c) applications of persons coming from a country where in general there is no serious risk of persecution.

(2) Applications of persons found in one of the situations stipulated under Article 4 may also be cause for an accelerated procedure.

(3) Applications for granting refugee status to unaccompanied minors may not be decided upon in an accelerated procedure.

Article 18.

(1) An application for granting of refugee status is considered as manifestly unfounded if it is found:

- a) a lack of basis for invoking fear of persecution in the country of origin, under the conditions of Article 2, paragraph (1);
- b) a deliberate misleading of the bodies competent in refugee matters, or an abusive use of a procedure for granting refugee status, and in ill faith.

(2) The lack of basis for invoking fear of persecution in the country of origin exists when:

- a) an applicant does not invoke any fear of persecution in the sense of Article 2, paragraph (1);
- b) the applicant fails to provide data or information conveying that (s)he would be exposed to a fear of persecution or her/his account does not contain details relating to her/his own circumstances and person;
- c) the application manifestly lacks credibility, in the sense that the account is inconsistent, contradictory or manifestly untrue in relation to the situation in her/his 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) A deliberate misleading of the bodies with competencies in refugee matters or an abusive resorting to the procedure for granting refugee status exists in all cases in which the applicant, without offering a plausible explanation, finds herself/himself in one of the following situations:

- a) (s)he has filed an application under a false identity or has presented false or forged documents, claiming that they are genuine;
- b) after lodging the application, (s)he has deliberately presented false elements concerning the application;

- c) when, in ill faith, (s)he has destroyed, damaged, discarded, or given away a border crossing permit or a document that is relevant for her/his application, either to acquire a false identity with the purpose of applying for and obtaining of refugee status, or to hinder the decision making process of her/his application;
 - d) (s)he has deliberately failed to mention that (s)he has previously submitted another application for granting of refugee status in one or several countries, particularly in case (s)he did so under a false identity;
 - e) (s)he has filed an application for granting of refugee status with the evident purpose of impeding the imminent implementation of measures for removal from the country or expulsion, ordered by the competent authorities, although (s)he could also have lodged an application prior to the order for such measures;
 - f) (s)he manifestly has failed to comply with the duties stipulated under Article 13;
 - g) (s)he lodged the application for granting of refugee status following a previous assessment process, containing adequate procedural guarantees and conducted in conformity with the provisions of the Convention relating to the Status of Refugees concluded in Geneva on 28 July 1951, that rejected a similar application in a safe third country.
- (4) The reasons listed in paragraph (1) shall not prevail over a well-founded fear of persecution, in conformity with Article 2, paragraph (1).

Article 19.

(1) Countries for which it is considered that in general there is no serious risk of persecution, in the sense of Article 2, paragraph (1), are the Member States of the European Union, as well as other States to be determined by order of the Minister of the Interior, upon the suggestion of the National Refugee Office, based on the following criteria:

- a) the number of applications for granting of refugee status lodged by the citizens of that country and the granting rates of this status;
- b) the situation concerning respect for fundamental human rights;
- c) the functioning of democratic principles, political pluralism and free elections, as well as the existence of functional democratic institutions that guarantee the observance of fundamental human rights;
- d) the existence of stability factors.

(2) Criteria for evaluation other than those stipulated under paragraph (1) may also be considered.

(3) The application of an alien coming from a country in which in general there does not exist a risk of persecution shall be rejected as manifestly unfounded, with the exception of the cases where the circumstances or the evidence presented by the applicant indicate the existence of a well-founded fear of persecution in the sense of Article 2, paragraph (1). In the latter case, the applicant shall be permitted access to the procedure stipulated under Articles 7 - 16.

Article 20.

(1) The official stipulated under Article 12, paragraph (2), upon having conducted the interview and having examined the reasons invoked for the recognition of refugee status, shall provide a decision within three days from the receipt of the application.

- (2) In the case of a decision rejecting the application either as manifestly unfounded or on the basis of Article 4, the deadline for lodging a first appeal is two days from notification.
- (3) The first appeal comes under the competence of the court whose territorial jurisdiction includes the headquarters of the National Refugee Office, or whose jurisdiction includes the residence of the appellant.
- (4) The court shall settle the first appeal, with the mandatory participation of a prosecutor, within 10 days and deliver a reasoned decision.
- (5) The final decision is enforceable by law.
- (6) The appellant or the prosecutor may file a second appeal against the decision of the court within 5 days, from delivery for those present at the hearing or from notification for those not present.

SECTION 3: The Procedure for Granting Refugee Status for Applications Lodged at State Border Control Points

Article 21.

- (1) An application lodged with the territorial bodies of the Ministry of Interior at state border control points shall be forwarded at once to the National Refugee Office, which is to analyse and deliver a decision on the application within two days of receipt.
- (2) The official stipulated under Article 12, paragraph (2), upon having conducted the interview and having examined the reasons invoked for the granting of refugee status and with regard for the information concerning the situation in the country of origin, may decide:
 - a) to grant a form of protection and the right to enter Romania, if the applicant is in one of the situations stipulated under Articles 2, 3 or 5;
 - b) to grant the right to enter Romania and to have access to the ordinary procedure for settlement of her/his application for granting of refugee status, if the reasons invoked necessitate supplementary documentation;
 - c) to reject the application.
- (3) The alien may lodge a first appeal against the decision to reject the claim within two days from communication.
- (4) First appeals shall be lodged with the National Refugee Office, which is to forward them at once to the court in whose territorial jurisdiction its headquarters lie.
- (5) The court shall decide upon the first appeal within five days and deliver a reasoned decision by which it:
 - a) rejects the first appeal for at least one of the reasons stipulated under Article 18, paragraph (1).
 - b) accepts the first appeal, and orders the National Refugee Office to examine the application in an ordinary procedure, while also allowing the applicant access to the territory.
- (6) In the case stipulated under paragraph (5), letter a), the decision shall be reasoned, final and enforceable by law, and may be challenged in a second appeal within five days from notification.

Article 22.

(1) Aliens applying for refugee status in Romania shall remain in a transit zone at the state border control point until the decision approving their entry to Romania is received or, as the case might be, until the decision to reject the refugee status granting application becomes final and enforceable, but for no longer than 20 days after entry into the transit zone.

(2) A *transit zone*, in the sense of the present ordinance, is understood to be the area at or in the proximity of a state border, intended to accommodate persons who have not received approval to enter the territory, goods and means of transport, pending clarification at the state border control points of their legal status. In the case of international airports, a *transit zone* is understood to be an area situated between the boarding/arrival points and the space for border control.

(3) Applicants for refugee status may be accommodated in special reception and accommodation centres located in the proximity of state border control points, established by order of the Minister of Interior and enjoying the legal status of transit zones.

(4) Upon expiry of the deadline stipulated under paragraph (1), if an application has not been given a final and enforceable decision, the alien involved shall be allowed entry onto the territory.

(5) During the stay at a state border control point, an applicant for refugee status shall be entitled to legal and social counselling and to humanitarian assistance from non-governmental organisations involved in refugee matters, as well as from the representation of the United Nations High Commissioner for Refugees in Romania, and shall also have the rights and obligations stipulated under Article 13, with the exception of those that are contrary to the provisions of the current procedure.

CHAPTER III: Rights and Obligations of Refugees and of Persons who have Obtained a Form of Protection

Article 23.

The granting of refugee status or of another form of protection confers the following rights on the beneficiary:

- a) to remain on the territory of Romania and to obtain adequate documents for proving identity and for crossing the state border. Only refugees and persons who have been offered conditioned humanitarian protection are entitled to receive the documents for crossing the state border;
- b) to choose a place of residence and to circulate freely, in the conditions established by law for aliens;
- c) to be employed by physical or legal persons, to perform unpaid work, to practice liberal professions, to perform commercial activities or other juridical actions, under the conditions of the law;
- d) to transfer the goods that (s)he brought into Romania, to the territory of a third country, with a view to resettling there;
- e) to enjoy the most favourable treatment stipulated by the law for foreign citizens concerning the acquisition of movable and immovable property;
- f) to enjoy the protection of intellectual property under the conditions stipulated by law;

- g) to benefit from social security, social welfare, and state medical insurance under the conditions of law;
- h) to attend primary and secondary education, under the conditions stipulated by law for Romanian citizens, and other forms of education, under the conditions stipulated for aliens;
- i) to benefit from treatment equal to that accorded Romanian citizens concerning freedom of religion and of religious education for children;
- j) to benefit from the right to protection of personal data and of any other details related to her/his case;
- k) to enjoy the right to free association in non-political, non-profit organisations and trade unions, under the conditions stipulated by law for aliens;
- l) to enjoy free access to the courts of law and to administrative assistance;
- m) not to be expelled or returned, except in cases imposed by reasons of national security* or public order. In case these measures are prescribed, the person under consideration shall not be sent to territories where her/his life or freedom would be in danger for reasons of race, religion, nationality, membership in a particular social group or political opinion.

(2) Unaccompanied minors under the age of 18 shall enjoy the same protection that is offered to Romanian minors in difficulty as provided by the law.

(3) Aliens who have acquired refugee status shall further benefit from the following rights:

- a) to receive, upon request, and within the limitations of the State's financial reserves, reimbursable aid set at the level of the minimum gross wage in the country, during a period that shall not exceed six months, if, for objective reasons, they lack the means to cover their basic needs. For well founded reasons, this aid can be extended for a further period of three months maximum;
- b) in case of those with special needs and to the extent that space is available, to benefit from accommodation in an accommodation centre for applicants for refugee status, while paying a rent at the level of that set for state-owned lodgings; unaccompanied minors may be accommodated without their being imposed any rent.

(4) The reimbursable aid stipulated under paragraph 3, letter a) shall be assured from the budget of the Ministry of Labour and Social Security.

Article 24.

Beneficiaries of one of the forms of protection stipulated under Articles 2, 3 or 5 shall have the following obligations:

- a) to observe the provisions of the Romanian Constitution, the laws and any other normative acts issued by the Romanian authorities;
- b) to have a correct and civilised conduct, to observe the measures set by Romanian bodies competent in refugee matters, and to respond to their requests;
- c) to refrain from provoking any situation of conflict or any incident against the local population, or from committing acts that may be indictable under penal law;

d) to submit to the regulations concerning the legal status of aliens, as far as the law does not provide otherwise.

Article 25

(1) Persons who acquired refugee status shall be under the obligation to reimburse any aid received under the provisions of Article 23, paragraph (3), letter a), if they have attained an income that makes reimbursement possible, without however affecting theirs or their family's upkeep.

(2) The amounts reimbursed shall become revenue to the state budget.

CHAPTER IV: Cessation, Withdrawal or Cancellation of a Form of Protection

Article 26.

(1) A form of protection offered under the provisions of Articles 2, 3 or 5 shall cease in the following situations:

- a) the beneficiary of that form of protection has died;
- b) the alien under consideration has acquired a new nationality and currently enjoys the protection of the state of his new nationality;
- c) the alien under consideration has waived her/his right to a form of protection provided in the conditions of the present ordinance.

(2) The official stipulated under Article 12, paragraph (2) shall issue a certification decision concerning one of the factual situations stipulated under paragraph (1).

Article 27.

(1) Refugee status shall be withdrawn from an alien who finds herself/himself in any of the following situations:

- a) (s)he has voluntarily returned under the protection of the country of her/his nationality;
- b) having lost the nationality, (s)he has voluntarily regained it;
- c) (s)he has voluntarily resettled in the country which (s)he left or outside which (s)he remained owing to fear of persecution;
- d) (s)he can no longer, because the circumstances in connection with which (s)he has been recognised as a refugee have ceased to exist, continue to refuse to avail herself/himself of the protection of the country of nationality;
- e) a stateless person, if the circumstances that formed the basis of granting of refugee status have ceased to exist and (s)he is able to return to the country of her/his habitual residence;
- f) there are justified reasons pertaining to public interest, national security* and public order.

(2) The provisions under paragraph (1), letter d) shall not apply to a person who has been granted refugee status, and who invokes compelling reasons relating to prior persecutions which make him or her refuse

protection from the country (s)he is a citizen of.

(3) The provisions under paragraph (1), letter e) shall not apply to a person who has been granted refugee status, and who invokes imperative reasons relating to prior persecutions for refusing to return to the country of her/his former habitual residence.

Article 28.

Conditioned humanitarian protection shall be withdrawn from an alien in the following situations:

- a) the reasons that formed the basis for its granting have ceased to exist;
- b) after having obtained that protection, the alien, by her/his actions or by his membership in a group, represents a threat for national security* or public order in Romania.

Article 29.

(1) The form of protection granted is cancelled in the following situations:

- a) it has been granted on the basis of a false statement by the applicant or has been obtained fraudulently by him or her;
- b) after granting a form of protection, the alien is found to be in one of the situations stipulated under Article 4.

(2) The provisions under paragraph (1), letter b) shall apply only to aliens who have acquired the status of refugee.

Article 30.

(1) The withdrawal and cancellation of a form of protection shall be ordered through a decision pronounced by the official stipulated under Article 12, paragraph (2), *ex officio* or upon the suggestion of one of the institutions with competencies in the domain of national security* or public order.

(2) These measures shall not apply to the family members of the person against whom they have been taken.

(3) With regard to the reasons on which was based the decision to withdraw or cancel a form of protection, an alien may file an appeal against the decision stipulated under paragraph (1), in the conditions provided in the present ordinance for ordinary procedures or for accelerated procedures, accordingly.

Article 31.

If a person continues to reside in Romania after a form of protection has been withdrawn or cancelled, (s)he shall be subject to the legal provisions concerning the juridical status of aliens in Romania.

CHAPTER V: The National Refugee Office

Article 32.

(1) The central authority responsible for the implementation of Romanian policy concerning refugees, as well

as of the provisions in the present ordinance, is the National Refugee Office within the Ministry of the Interior, that:

- a) includes both central and territorial structures;
- b) benefits from its own budgetary resources, the head also being an authorising officer for disbursements;
- c) can use financial or material resources raised from donations or sponsorship, or obtained as a result of domestic or international agreements.

(2) In order to implement the provisions of the present ordinance, reception and accommodation centres for persons seeking refugee status as well as for refugees shall be established by order of the Minister of the Interior and co-ordinated by the National Refugee Office.

(3) The expenses involved in the establishment, operation and maintenance of the reception and accommodation centres shall be met from the budget of the Ministry of the Interior, according to the effective costs, and to the limit of the funding allocated for this purpose from the state budget.

Article 33.

The issuance of documents stipulated under Article 13, letter f), as well as under Article 23, paragraph (1), letter a) is the competence of the National Refugee Office.

Article 34.

The organisation, operation and tasks of the National Refugee Office shall be defined in a regulation approved by Government Decision, within 60 days from the publication of the present normative act in the Official Gazette of Romania, Part I.

CHAPTER VI: Final and Transitory Provisions

Article 35.

(1) The provisions of the present ordinance shall apply irrespective of race, religion, country of origin, nationality or handicap.

(2) Those seeking refugee status shall not be liable to penal sanctions for illegal entry or stay on the territory of Romania.

Article 36.

The provisions of Law no. 15/1996 on the Status and Regime of Refugees in Romania, with subsequent amendments, shall continue to apply to all applications for granting of refugee status or a form of protection according to Articles 2, 3 or 5 lodged prior to the coming into force of the present ordinance.

Article 37.

(1) The personal status of aliens benefiting from a form of protection according to the provisions of the present ordinance shall be regulated by the legislation of their country of origin.

(2) The rights deriving from personal status, previously acquired by an alien who was granted a form of protection in the conditions of the present ordinance, shall be recognised by the Romanian State, as provided by law.

Article 38.

During the refugee's stay on the territory of Romania, and depending on the extent of her/his integration into society, the Ministry of the Interior may approve the establishment of that person's domicile within the country, under the legal conditions regulating the treatment of aliens in Romania.

Article 39.

The Ministry of the Interior, through the National Refugee Office, and together with the Ministry of Labour and Social Security, shall initiate and run special programmes approved by Government decision for the social and professional integration of aliens who acquired refugee status.

Article 40.

The present ordinance shall come into force 60 days from the date of publication in The Official Gazette of Romania, Part I.

Article 41.

In view of the implementation of the present ordinance, the Ministry of the Interior shall draft methodological norms to be approved by Government decision within 60 days from the date of publication of the present normative act in the Official Gazette of Romania, Part I.

Article 42.

Upon the coming into force of the present ordinance, there shall be abrogated: Law no. 15/1996 concerning the Status and Regime of Refugees in Romania, published in the Official Gazette of Romania, Part I, no. 69 of 5 April 1996; Government Decision no. 1182/1996 on the implementation of Law no. 15/1996 concerning the Status and Regime of Refugees in Romania, published in the Official Gazette of Romania, Part I, no. 307 of 26 November 1996; Government Decision no. 322/2000, published in the Official Gazette of Romania, Part I, no. 179 of 25 April 2000; Articles 7 and 8 of Government Decision no. 417/1991 on the establishment of the Romanian Committee for Migration Issues, republished in the Official Gazette of Romania, Part I, no. 248 of 31 October 1995, with subsequent amendments, as well as any other provisions to the contrary.

PRIME-MINISTER

MUGUR CONSTANTIN ISARESCU

Countersigned by:

Minister of Interior,

Constantin Dudu Ionescu

Minister of State and Minister of Justice

Valeriu Stoica

For the Minister of State and Minister of Foreign Affairs

Secretary of State

Eugen Dijm|rescu

Minister of Finance

Decebal Traian Remes

Bucharest, 31 August 2000

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[1] The Romanian *siguranŃa*, more closely safety', would approximate to security' in this context. *Securitate*, i.e. the more literal equivalent of safety', would be avoided given its associations with the former Communist secret police.

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