

Law on Asylum in the Republic of Moldova

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Given the necessity to observe fundamental human rights and freedoms in line with generally recognised principles and norms of international law and provisions of the international treaties to which the Republic of Moldova is a party, recognising that regulation of the refugee status constitutes an important guarantee of human rights, as well as given the necessity to ensure the compatibility of the national legislation with the community one by means of harmonisation, on the basis of art. 19 and art. 72, para. (3), letter r) of the Constitution,

The Parliament adopts this organic law.

CHAPTER I General provisions

Article 1. Object and purpose of this law

(1) This Law establishes the legal status of foreigners, stateless persons and beneficiaries of a form of protection in the Republic of Moldova, as well as the procedure for granting, ceasing and cancelling protection.

(2) The purpose of the Law is to establish the legal and institutional framework for the functioning of the asylum system in the Republic of Moldova.

(3) Asylum shall be granted in conformity with the provisions of this Law, other normative acts, as well as with the unanimously recognised principles and norms of international law, observing the provisions of the international treaties to which the Republic of Moldova is a party.

Article 2. Scope of this law

(1) This Law shall apply to asylum-seekers, beneficiaries of a form of protection and competent authorities in the field of asylum.

(2) This Law shall not apply to persons recognised by the authorities of the Republic of Moldova as having rights and obligations attached to the possession of the nationality of the Republic of Moldova.

Article 3. Main definitions

For the purpose of this law the following terms are defined as follows:

International protection – ensuring equal access to a fair and efficient asylum procedure and the exercise of the rights of asylum-seekers, refugees, beneficiaries of humanitarian and temporary protection, pursuant to the national legislation and international treaties to which the Republic of Moldova is a party;

Asylum – the legal institution by means of which the state offers protection to a foreigner, by granting him/her refugee status, humanitarian protection, temporary protection, or political asylum;

Asylum procedure – the totality of the actions and measures taken, as well as the activities carried out by the competent authorities with a view to granting a form of protection on the territory of the Republic of Moldova;

Applicant or asylum-seeker – a foreigner who submitted an application for asylum on which no final decision has been taken yet;

Application for asylum – written or verbal expression of one's will made before the authorities competent to receive applications for asylum from which it follows with certainty that a form of protection on the territory of the Republic of Moldova is requested;

Accommodation centre – a centre designated or created pursuant to the legislation in force dedicated for temporary accommodation and receipt of asylum-seekers;

Country of origin – the country a national of which the foreigner is, or, in case if the foreigner holds more than one nationality, any such country, while in case of a stateless person – the country of his/her former habitual residence;

Refugee status – a form of protection, recognised by the Republic of Moldova, of a foreigner or a stateless person who meets the criteria provided for by the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951, as well as the Protocol relating to the Status of Refugees of 31 January 1967;

Humanitarian protection – a form of protection, recognised by the Republic of Moldova, granted to a foreigner or a stateless person for other reasons than the ones provided for by the Geneva Convention of 28 July 1951;

Temporary protection – protection of an exceptional nature aimed at providing, in the event of a mass and spontaneous influx of displaced persons who are unable to return to their country of origin, immediate and temporary protection to such persons, if there is a risk that the asylum system will be unable to process that influx without adverse effects for its efficient operation, in the interest of the persons concerned and other persons in need of protection;

Political asylum - protection of an exceptional nature granted to a foreigner by the President of the Republic of Moldova.

Massive and spontaneous influx of displaced persons – entry into the territory of the Republic of Moldova of a large number of persons who come from a specific country or geographical region which exceed the capacity of the Refugee Directorate of the Bureau for Migration and Asylum to examine individual applications for the recognition of refugee status or granting humanitarian protection, pursuant to the terms and conditions of this Law;

Displaced persons – foreigners who had to leave their country or region of origin, unable to return in safe conditions due to the situation prevailing in that country and who may fall within the scope of Article 1 A of the Geneva Convention or other national or international instruments under which international protection is given, in particular:

- a) persons who have fled areas of armed conflict or endemic violence;
- b) persons at serious risk of, or who have been victims of, systematic or generalised violations of their rights;

benefit of the doubt – a procedural principle applied to a person who meets the criteria set in Article 44 of this law;

family members – the spouse, unmarried dependant children under the age of 18, born in or out of wedlock or adopted, pursuant to the provisions of the national law of the country of origin, as well as the parents of spouses who are living together with them;

unaccompanied child – a foreigner under the age of 18 who entered the Republic of Moldova, unaccompanied by his/her parents or legal representative, or who is not in the care of another person, pursuant to the law, as well as a child who became unaccompanied after entering the territory of the Republic of Moldova.

CHAPTER II

Authorities competent to solve asylum issues

Article 4. Ministry of Internal Affairs

(1) The Refugee Directorate of the Bureau for Migration and Asylum (hereinafter referred to as “Refugee Directorate”) – a subdivision of the Ministry of Internal Affairs – is the authority responsible for managing and solving the problems of asylum-seekers, refugees and

beneficiaries of humanitarian or temporary protection, as well as for applying the provisions of this Law.

(2) The Refugee Directorate collaborates with the public administration authorities in implementing the norms and procedures necessary to ensure the observation of the rights of asylum-seekers, refugees, beneficiaries of humanitarian or temporary protection. To this end, the personnel of the Refugee Directorate have the possibility to communicate with these categories of persons, regardless of their whereabouts on the territory of the Republic of Moldova.

(3) The Head of the Refugee Directorate issues decisions, orders and other documents related to the determination of applications for asylum.

Article 5. Responsibilities of the Refugee Directorate

The Refugee Directorate:

- a) registers asylum-seekers' applications, interviews them, collects data and evidence necessary for the file for each application for asylum;
- b) takes protection and assistance measures provided to asylum-seekers and beneficiaries of a form of protection;
- c) where necessary, proposes creation of accommodation centres for asylum-seekers and refugees, and manages such centres;
- d) is responsible for the management of funds allocated to it, other types of aid, as well as financial assistance provided to asylum-seekers and refugees by national and international organisations;
- e) performs other duties in the field of refugees and asylum, provided for by the legislation of the Republic of Moldova.

Article 6. Eligibility counsellor

(1) An eligibility counsellor is a civil servant of the Refugee Directorate responsible for the examination of applications for asylum whose duties are approved by the Director of the Bureau for Migration and Asylum.

(2) During the examination of an application for asylum, the eligibility counsellor shall:

- a) inform the asylum-seeker about the purpose of the interview, his/her rights and obligations, as well as about the procedure that is to be followed;
- b) inform the asylum-seeker that the information provided by the latter shall serve as grounds for decisions;
- c) draw the applicant's attention to the fact that provision of false data regarding the circumstances at the basis of his/her application for asylum may constitute a ground for rejecting the application;
- d) ensure that the applicant presents in the most specific manner all the relevant elements of his/her application for asylum;
- e) determine the applicant's credibility and evaluate the evidence provided by him/her, granting him/her, if need be, the benefit of the doubt with the view to establishing the objective and subjective elements of the applicant's situation;
- f) corroborate the objective and subjective elements with the criteria provided by the national legislation with the view to granting a form of protection.

(3) The eligibility counsellor performs other duties as provided by this Law.

Article 7. Management of accommodation centres

(1) Accommodation centres carry out their activity pursuant to the provisions of this Law based on the regulations of the centre approved by the Government.

(2) The personnel of the accommodation centres shall have the appropriate training and shall respect the principle of confidentiality, pursuant to this Law, in relation to any information obtained during its activities.

(3) Necessary funds to cover the costs of the creation, functioning and maintenance of the centres are provided from the state budget, as well as other external sources, identified for this purpose depending on the actual costs and within the limits of allotted resources.

(4) The Refugee Directorate shall ensure access to the centres by representatives of the United Nations High Commissioner for Refugees (hereinafter referred to as UNHCR) and nongovernmental organisations with which it has signed cooperation agreements.

(5) With a view to carrying out counselling activities, the Refugee Directorate shall provide the representatives of the nongovernmental organisations, with which it has signed cooperation agreements, with necessary room within the accommodation centres.

Article 8. International cooperation

(1) The Republic of Moldova cooperates with other states and international organisations with a view to finding solutions to the problems in the field of asylum.

(2) The Government cooperates with UNHCR on the basis of the co-operation agreement signed between the Government of the Republic of Moldova and the Office of the United Nations High Commissioner for Refugees.

(3) The Refugee Directorate shall inform asylum-seekers and beneficiaries of a form of protection about the possibility to contact UNHCR. Its representatives may communicate with any asylum-seeker and beneficiary of a form of protection on the territory of the Republic of Moldova, regardless of his/her whereabouts. For this purpose, after coordinating with the competent public administration authorities, representatives of UNHCR shall be granted access to penitentiaries, pre-trial detention centres, transit zones at airports or at the border, or other places where the respective persons are present or detained.

(4) Upon request UNHCR representatives shall have access to the information on individual applications for asylum, determination procedure and to the decisions taken, subject to the consent of asylum-seekers.

**CHAPTER III
General Principles**

Article 9. Access to territory

(1) The competent authorities shall ensure access to the territory of the Republic of Moldova of any foreigner situated at the border, upon written or verbal expression of his/her will, from which it follows with certainty that the latter seeks protection of the Republic of Moldova. The authorisation shall be carried out in accordance with Article 54 of this Law.

(2) Asylum-seekers shall not be sanctioned for illegal entry or stay on the territory of the Republic of Moldova. Such persons shall be treated in accordance with international human rights standards and pursuant to the provisions of this Law.

Article 10. Non-discrimination

The provisions of the national legislation shall apply to asylum-seekers and beneficiaries of a form of protection without discrimination as to race, nationality, ethnic origin, language, religion, political membership, social category, convictions, sex, sexual orientation or age.

Article 11. The principle of non-refoulement

(1) No asylum-seeker shall be expelled or returned from the border or from the territory of the Republic of Moldova.

(2) No beneficiary of a form of protection shall be returned or expelled to the country or territory where his/her life or freedom might be threatened or where he may be subjected to torture, inhuman or degrading treatment.

(3) Without prejudice to the provisions of para. (2) and without affecting automatically the form of protection from which he/she benefits, a person who has been recognised as a refugee or who has been granted humanitarian protection may be expelled or returned from the territory of the Republic of Moldova, if:

a) there are well-founded reasons to consider that the person poses a threat to the state security of the Republic of Moldova;

b) having been convicted by a final court judgment of a grave, especially grave or exceptionally grave criminal offence, pursuant to the provisions of the Criminal Code of the Republic of Moldova, the person poses a threat to the public order in the Republic of Moldova.

(4) The Refugee Directorate shall coordinate with the competent authorities with a view to establishing the existence or absence of reasons to consider that a person poses a threat to the national security or public order.

(5) The refugee or beneficiary of humanitarian protection, with regard to whom a court judgment of expulsion has been issued, pursuant to the provisions of the Criminal Code, shall

be granted a reasonable term to perform the necessary formalities in order to be admitted into another country.

Article 12. Family unity

(1) Competent authorities shall respect the principle of family unity, pursuant to the provisions of this Law.

(2) Family members of the beneficiary of a form of protection shall benefit from the same form of protection and status as the beneficiary.

(3) This article shall apply to family members who meet the following conditions:

- a) they are accompanying the beneficiary of a form of protection;
- b) they are the beneficiary's dependants and live together with him/her;

c) their personal status is not incompatible with the status of refugee or another form of protection provided by this Law.

(4) The spouse shall benefit from the principle of family unity provided that the marriage had been concluded prior to the entry into the territory of the Republic of Moldova and prior to the date of the beneficiary's application for asylum.

(5) The status of refugee's family members whose refugee status has been recognised, pursuant to para. (3), shall be maintained in case of divorce, separation or the refugee's death.

Article 13. Confidentiality

(1) All the data and information concerning applications for asylum are confidential.

(2) The obligation to observe the principle of confidentiality applies to all the authorities and organisations that carry out activities in the field of asylum, third parties involved in the asylum procedure or those who accidentally come into possession of such data.

Article 14. Protection of minors

(1) A minor who applies for asylum or enjoys one of the forms of protection shall receive protection and assistance in order to exercise his/her rights.

(2) For the purposes of the implementation of this Law decisions concerning minors shall be taken with due observation of the best interest of the child, taking into consideration his/her age and level of development.

Article 15. Social integration

Central and local public administration authorities shall contribute to the development and implementation of social integration programs for persons who have been granted a form of protection.

CHAPTER IV

Forms of protection granted on the territory of the Republic of Moldova

Article 16. Forms of protection

Pursuant to the provisions of this Law, the following forms of protection are granted on the territory of the Republic of Moldova:

- a) refugee status;
- b) humanitarian protection;
- c) temporary protection;
- d) political asylum.

Article 17. Refugee status

(1) Upon request a the refugee status of a foreigner who, having a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country; or who, not having a nationality and being outside the country of his/her former habitual residence, as a result of such events, is unable or, owing to such fear, unwilling to return to it, is recognised.

(2) The provisions of para. (1) do not apply to foreigners who are at present receiving protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. Where such protection or assistance has ceased for any reason, without the position of such person being definitively settled in accordance with the

relevant resolutions adopted by the General Assembly of the United Nations, such persons shall benefit from the rights provided by this Law.

Article 18. Reasons for exclusion from recognising refugee status

(1) A foreigner is excluded from the recognition of refugee status with respect to whom there are serious reasons for considering that he/she:

a) has committed a crime against peace, a war crime or a crime against humanity, as defined by the provisions of the international treaties to which the Republic of Moldova is a party, as well as criminal legislation of the Republic of Moldova;

b) had committed a common law grave, especially grave or exceptionally grave criminal offence outside the Republic of Moldova prior to entering the territory of the Republic of Moldova;

c) has committed acts contrary to the purposes and principles of the United Nations, as specified in the Preamble and Articles 1 and 2 of the United Nations Charter;

d) has planned, facilitated or participated in the commission of terrorist acts, as defined in the international treaties to which the Republic of Moldova is a party.

(2) Constitutive elements of a criminal offence specified in para. (1), letter a) - c) serve as grounds for exclusion from the recognition of refugee status where such acts have been committed in any form of participation, in accordance with the criminal provisions of the Republic of Moldova.

Article 19. Humanitarian protection

(1) Humanitarian protection is granted to a foreigner who does not meet the criteria for the recognition of refugee status and with regard to whom there are reasons to believe that, upon return to his/her country of origin, he/she will be subjected to a serious risk, owing to which he is unable or unwilling to avail himself of the protection of that country.

(2) Humanitarian protection is granted for the period of one year, pursuant to the provisions of this Law.

(3) Upon the expiry of the period set out in para. (2), the Head of the Refugee Directorate shall order, upon request, the initiation of a procedure for the examination of the continued compliance with the criteria set out in para. (1). Based on the information contained in the file, within 2 months following the initiation of the examination procedure, the Head of the Refugee Directorate shall take a decision of granting or refusing humanitarian protection.

(4) Within the period specified in para. (3) and until the issuance of a final decision the foreigner shall enjoy the rights and duties of an asylum-seeker.

Article 20. Reasons for exclusion from granting humanitarian protection

(1) A foreigner shall be excluded from being granted humanitarian protection where there are serious grounds to consider that he/she:

a) has committed a crime against peace, a war crime or a crime against humanity, as defined by the provisions of the international treaties to which the Republic of Moldova is a party, as well as criminal legislation of the Republic of Moldova;

b) had committed a grave, especially grave or exceptionally grave common law criminal offence outside the Republic of Moldova prior to entering the territory of the Republic of Moldova;

c) has committed acts contrary to the purposes and principles of the United Nations, as specified in the Preamble and Articles 1 and 2 of the United Nations Charter;

d) poses a threat to the public order or security of the Republic of Moldova;

e) has planned, facilitated or participated in the commission of terrorist acts, as defined in the international treaties to which the Republic of Moldova is a party.

(2) Constitutive elements of a criminal offence specified in para. (1), letter a) – c) serve as grounds for exclusion from the granting humanitarian protection where such acts have been committed in any form of participation, in accordance with the criminal provisions of the Republic of Moldova.

Article 21. Procedure for granting temporary protection

(1) Temporary protection is granted by a Government decision, at the proposal of the Ministry of Internal Affairs, based on the report of the Bureau for Migration and Asylum on the need to grant temporary protection. The Government decision shall set measures and the period for which temporary protection is granted.

(2) The report is prepared by the Refugee Directorate and is based on analysis of the situation, taking into account the causes of possible influxes of people.

(3) Temporary protection is granted for the period of one year. Where the reasons for temporary protection persist the duration of temporary protection may be extended by six-month periods for the maximum period of one year which may not exceed 2 years.

(4) Upon granting, implementing and ceasing temporary protection, the Government shall consult UNHCR and other organisations.

Article 22. Registration and documentation of beneficiaries of temporary protection

(1) The Refugee Directorate registers the personal data of beneficiaries of temporary protection on the territory of the Republic of Moldova.

(2) The Refugee Directorate takes necessary measures to provide persons enjoying temporary protection with necessary documents for the entire duration of protection.

(3) Each beneficiary of temporary protection is issued an identity document which allows him/her to stay on the territory of the Republic of Moldova.

Article 23. Submission of an application for asylum by a beneficiary of temporary protection

(1) A beneficiary of temporary protection may submit an individual application for asylum.

(2) A beneficiary of temporary protection who has submitted an application for asylum shall maintain the status of an asylum-seeker until the date when the decision on his/her application becomes irrevocable.

(3) Provisions regarding temporary protection shall not apply to a beneficiary of temporary protection who has submitted an application for asylum.

(4) Where, following an assessment, the application for asylum is rejected, such a person shall continue to benefit from temporary protection for the remaining period of protection.

Article 24. Guarantees provided to unaccompanied children

(1) Within the term of 15 days the Refugee Directorate shall take measures to ensure representation for the unaccompanied children who enjoy temporary protection by a legal representative or, where necessary, by an organisation responsible for care and well-being of children, or by any other adequate representation.

(2) During the period of temporary protection the Refugee Directorate shall order the placement of the unaccompanied children in an accommodation centre or, based on the principle of the best interest of the child, shall request the competent authorities to seek a form of protection for the minors without parental care, in accordance with the legislation of the Republic of Moldova.

(3) Upon the accommodation of children, their opinions shall be taken into account depending on their age and level of maturity.

Article 25. Reasons for exclusion from granting of temporary protection

(1) Foreigners who fall under Article 20 shall be excluded from being granted temporary protection.

(2) Where there are indications that the person who enjoys temporary protection falls under one of the exclusion clauses provided for in Article 20 the application for asylum of such a person shall be examined in an ordinary procedure.

(3) Exclusion decisions or measures shall be based on the principle of proportionality.

Article 26. Reasons for cessation of temporary protection

(1) Temporary protection ceases in one of the following situations:
a) when its duration reaches the maximum period established by the Government decision;

b) renunciation of the protection;

c) voluntary repatriation;

d) granting of refugee status or of humanitarian protection;

e) legalisation of stay in any other way;

f) resettlement to another country.

(2) Cessation of the situation for which temporary protection was granted shall be ascertained by the Refugee Directorate and shall be communicated to every beneficiary of temporary protection.

(3) Temporary protection may cease at any moment by a Government decision.

(4) The Government decision is based on the assessment that the situation in the country of origin is of such a nature that it allows for a return in safety of the persons who were granted temporary protection, with due observation of human rights, fundamental freedoms and non-refoulement obligations.

Article 27. Political asylum

(1) In exceptional cases, persons, who have held political, diplomatic or public interest office in other states or international organisations, persons who have demonstrated a special attachment to, respect for and interest in the Republic of Moldova, other prominent persons who are persecuted in their country of origin may request political asylum from the President of the Republic of Moldova.

(2) Applications for political asylum are examined by the Commission on the issues of nationality and granting of political asylum under the President of the Republic of Moldova.

(3) The conditions, rules and grounds for granting political asylum to persons enumerated in para. (1) are set by a decree of the President of the Republic of Moldova.

(4) Persons whose application for political asylum has been rejected may seek other forms of protection, pursuant to the provisions of this Law.

CHAPTER V Rights and duties

Section 1. Rights and duties of asylum-seekers

Article 28. Rights of asylum-seekers

An asylum-seeker shall enjoy the following rights:

- a) not to be returned or expelled until his/her application for asylum is determined;
- b) to stay in the Republic of Moldova until the expiry of the 15-day term following the date when the decision of rejection of his/her application for asylum becomes irrevocable, save the situation where the application for asylum has been rejected in an accelerated procedure, in which case the foreigner shall leave the Republic of Moldova on the date when the decision on his/her application becomes irrevocable;
- c) to be informed in writing, upon submission of the application, in a language that he/she speaks or is reasonably presumed to speak about his/her rights and duties during the asylum procedure;
- d) upon request to be interviewed by a person of the same sex;
- e) to be provided for free with an interpreter (translator) at any stage of the asylum procedure;
- f) to legal assistance at any stage of the asylum procedure, in accordance with the law;
- g) to protection of personal data and any other details concerning his/her application;
- h) to be informed of the possibility to contact representatives of UNHCR;
- i) to be counselled and assisted by representatives of nongovernmental organisations at any stage of the asylum procedure;
- j) to be issued for free a temporary identity document the validity of which shall be extended by the Refugee Directorate, pursuant to the provisions of this Law. In the absence of documents certifying the applicant's identity, the temporary identity document shall indicate the declared identity the authenticity of which shall be subsequently verified jointly with competent authorities.
- k) to be informed about the possibility and terms of appeal against the decision of rejection of the application;
- l) upon request, to work - the right granted temporarily - provided that, for objective reasons, the person lacks necessary means for subsistence;
- m) to be placed in an accommodation centre for the period of the procedure;
- n) in the case of an asylum-seeker with special needs, to benefit from the adjustment of the accommodation and assistance conditions in the accommodation centres;
- o) to primary and emergency health care, in accordance with the law;

- p) in the case of a minor asylum-seeker, to have access to general compulsory education under the same conditions as children citizens of the Republic of Moldova;
- r) in the case of a family with children, as well as that of an unaccompanied minor, to benefit from all types of social assistance, in accordance with the legislation in force, under the same conditions as children citizens of the Republic of Moldova;
- s) other rights as provided by the legislation.

Article 29. Minors' right to education

- (1) Children of asylum-seekers and minor asylum-seekers shall have access to the educational system under the same conditions as children citizens of the Republic of Moldova.
- (2) Access to the educational system may not be postponed for more than three months following the date of the application lodged by the child or by his/her legal representative. This period may be extended to one year in case of the need for a preparatory course in order to be enrolled into the educational system.

Article 30. Access to health care

- (1) In case of an acute, life-threatening condition asylum-seekers shall be provided with emergency health care at the pre-hospital stage, in accordance with the legislation in force.
- (2) Asylum-seekers are provided with the right to a free medical examination (including anonymous examination) with a view to early detection of HIV and AIDS.
- (3) Testing for HIV markers is carried out in accordance with the legislation in force.

Article 31. Duties of asylum-seekers

An asylum-seeker shall:

- a) present all relevant elements of his/her application for asylum: statements and all existing documents, information on his/her identity, citizenship, previous countries and places of residence, previous applications for asylum, transit itineraries, identity and travel documents and the reasons for which a form of protection is sought;
- b) be truthful and cooperate with the eligibility counsellor to comprehensively establish all the relevant circumstances pertaining to his/her application;
- c) make efforts to support his/her declarations with any available proofs and offer justifications for the absence of proofs;
- d) provide detailed and complete information regarding them and their personal experiences in order to give the eligibility counsellor the possibility to establish relevant facts;
- e) hand over the identity documents, including travel documents, that he/she holds;
- f) inform within 10 days the Refugee Directorate of any change of residence, legal status, civil status, of any loss or deterioration of identity documents issued by the Refugee Directorate;
- g) inform the Refugee Directorate about leaving the place of residence;
- h) co-operate with the authorities for the determination of his/her application and reply to all question addressed to him/her by the competent authorities in the field of asylum;
- i) respond to the requests of the authorities competent in the field of asylum;
- j) undergo photographing and to mandatory fingerprint registration;
- k) undergo free medical examination for public health reasons;
- l) comply with the internal regulations of the accommodation centres;
- m) upon placement in an accommodation centre, to produce all the goods that he/she possesses for their inclusion in the inventory;
- n) leave the territory of the Republic of Moldova before the expiry of the 15-day term following the date when the decision of rejection of his/her application for asylum becomes irrevocable, save the situation where the application for asylum has been rejected in an accelerated procedure, in which case the foreigner shall leave Republic of Moldova on the date when the decision of rejection of his/her application for asylum becomes irrevocable;
- o) comply with the provisions of this Law and of the legislation in force.

Article 32. Documents of asylum-seekers

- (1) Pending the determination of the application for asylum, the Refugee Directorate shall issue the asylum-seeker a temporary asylum-seeker identity document, confirming his/her status of an asylum-seeker, but not necessarily his/her true identity.
- (2) The temporary identity document is valid for a period of 30 days, with the possibility of it being extended for subsequent 30-day terms, until the final decision on the application.

(3) Minors under the age of 16 who are accompanied by their parents are included in each parent's temporary asylum-seeker identity document. Unaccompanied children shall also be provided with temporary asylum-seeker identity documents.

(4) A temporary asylum-seeker identity document shall not be issued to foreigners held in detention during the detention period.

(5) Foreigners who apply for asylum at a state border control point or with the police authorities shall be issued a temporary certificate the validity of which shall not exceed 48 hours. The temporary certificate shall serve as a temporary identity document and permit the holder's travel to the Refugee Directorate. The sample of such a certificate shall be approved by an order of the Minister of Internal Affairs.

(6) Documents of asylum-seekers are state property and must be returned to the Refugee Directorate.

Section 2. Rights and duties of refugees and beneficiaries of humanitarian protection

Article 33. Rights of refugees and beneficiaries of humanitarian protection

(1) Refugee status and humanitarian protection grant the beneficiary all the rights provided by the legislation on foreigners and stateless persons, as well as the following special rights:

a) to be informed, as soon as possible following the grant of a form of protection, in writing in a language that he/she speaks or is reasonably presumed to speak about his/her rights and obligations;

b) to remain on the territory of the Republic of Moldova and obtain respective documents for confirming his/her identity and border crossing;

c) to choose a place of residence and move freely subject to the conditions set out in the legislation concerning foreigners;

d) to be employed by legal or natural persons, exercise freely professions, carry out entrepreneurial activities, pursuant to the provisions of the legislation in force;

e) to receive wages and benefit from the other material rights resulting from the activities performed, as well as the right to social insurance, pursuant to the provisions of the law;

f) to be enrolled in compulsory general education in accordance with the provisions set out in the legislation for citizens of the Republic of Moldova, as well as other forms of education set out in the legislation for foreigners and stateless persons;

g) in case of a family with children, as well as that of an unaccompanied minor, to benefit from all types of social assistance provided by the law to children citizens of the Republic of Moldova;

h) to benefit from treatment identical to the one offered to citizens of the Republic of Moldova with regard to freedom of practicing their religion and the right to provide their children with religious education;

i) to enjoy the same rights regarding the system of compulsory medical insurance as citizens of the Republic of Moldova, in accordance with the conditions provided by the legislation in force;

j) to benefit from the right of protection of personal data and any other details in connection with his/her case;

k) to have unhindered access to courts and administrative assistance;

l) not to be returned or expelled, save the cases provided by this Law;

m) to be placed in an accommodation centre for a certain period of time if determined to be socially vulnerable;

n) upon request, to participate in programs of social integration.

(2) In the absence of necessary means of subsistence, a beneficiary of refugee status or humanitarian protection has the right to financial aid, the procedure and amount of which are set by the Government. The period such assistance is 6 months and is subject to the following conditions:

a) submission of an application;

b) signing of a commitment to reimburse the amounts received;

c) availability of state funds.

Article 34. Duties of refugees and beneficiaries of humanitarian protection

(1) Refugee and beneficiaries of humanitarian protection are obliged to:

a) know and respect the Constitution of the Republic of Moldova, provisions this Law and other normative acts;

b) have correct and civilised behaviour, respect the rules established by the competent authorities in the field of asylum and respond to their requests;

c) respect internal regulations of the accommodation centre;

d) reimburse the amounts of assistance received, if the beneficiary has gained income which allows him to do so; the reimbursed amounts shall be considered as income to the state budget.

(2) Refugees shall contact the Refugee Directorate with a view to obtaining a new identity card, upon the expiry of its validity, with at least 30 days prior to the expiration, and, in case of a loss or damage, within 3 days;

(3) Beneficiaries of humanitarian protection shall contact immediately the Refugee Directorate in case of a loss or damage of the humanitarian protection identity card.

Article 35. Access to social integration benefits

(1) The Refugee Directorate shall promote programs for social integration of refugees and beneficiaries of humanitarian protection and shall ensure access to such programs.

(2) Assistance for economic, cultural and social integration of foreigners is ensured in accordance with the provisions of the legislation governing the status of foreigners in the Republic of Moldova.

Article 36. Documents of refugees

(1) Every refugee shall be issued an identity card. The identity card for refugees shall be issued for a period of 5 years.

(2) Refugees may receive, upon request, travel documents allowing them to travel outside the territory of the Republic of Moldova, save the cases when there is a threat to the national security or public order of the Republic of Moldova.

(3) The travel document for refugees is issued for a period of 2 years, the validity of which shall not exceed the validity of the identity card.

(4) Identity documents for refugees are issued by the Ministry of Internal Affairs based on the decision of the Head of the Refugee Directorate.

Article 37. Documents of beneficiaries of humanitarian protection

(1) Every beneficiary of humanitarian protection shall be issued an identity card for a period of one year. Upon expiry of the validity of the card, the Refugee Directorate shall document the applicant with a temporary identity document.

(2) Beneficiaries of humanitarian protection may receive, upon request, travel documents allowing them to travel outside the territory of the Republic of Moldova, save the cases when there is a threat to the national security or public order of the Republic of Moldova.

(3) The travel document for beneficiaries of humanitarian protection is issued for a period of 1 year.

(4) Identity documents for the beneficiaries of humanitarian protection are issued by the Ministry of Internal Affairs based on the decision of the Head of the Refugee Directorate.

Article 38. Voluntary repatriation

(1) Voluntary repatriation means voluntary return of a refugee to his/her country of origin.

(2) In order to carry out voluntary repatriation, the Refugee Directorate shall observe the following conditions:

a) the repatriation shall be of a voluntary nature without any pressure exerted on the refugee by the authorities;

b) the refugee's will to repatriate shall be expressed in writing;

c) for the purposes of facilitating the determination of the repatriation decision the refugee shall be provided with all the available information on his/her country of origin, its guarantees and conditions in the country of origin;

d) with a view to facilitating the repatriation it shall be verified whether the repatriating refugee is provided with travel documents and other necessary documents;

e) if need be, or under voluntary repatriation programs, all the measures shall be taken to ensure that the official guarantees provided by the countries of origin regarding the safety of

the refugee's return will be fully observed and that the repatriation will take place in safety and with dignity.

Section 3. Rights and duties of beneficiaries of temporary protection

Article 39. Rights of beneficiaries of temporary protection

Beneficiary of temporary protection shall have the following rights:

- a) not to be returned to the country where the life, freedom, physical or mental integrity of the beneficiary is at risk of being harmed;
- b) to be informed in writing in a language that the beneficiary speaks or is reasonably presumed speak of the rights and duties that the beneficiary is entitled to during the period of temporary protection;
- c) to be issued an identity document for the respective period by which the beneficiary is granted permission to stay on the territory of the Republic of Moldova;
- d) upon request, to work for a period not exceeding the term of the temporary protection;
- e) to have access to appropriate accommodation;
- f) to receive basic and emergency medical assistance in accordance with the legislation in force;
- g) in the case of minors, to have access to compulsory general education under the same conditions as citizens of the Republic of Moldova;
- h) in the case of a family with children and that of unaccompanied minors, to benefit from all types of social assistance granted to children citizens of the Republic of Moldova, in accordance with the legislation in force.

Article 40. Duties of beneficiary of temporary protection

A beneficiary of temporary protection shall:

- a) have correct and civilized behaviour, observe the rules established by the authorities and respond to their requests;
- b) observe the internal regulations of the accommodation centre;
- c) provide, in detail, all the information concerning him/her;
- d) reply to all queries from the competent authorities in the field of asylum;
- e) submit all documents that he/she possesses;
- f) within 10 days to inform the Refugees Directorate about any change in his/her legal status, civil status, or about the loss or damage of the identity documents issued by the Refugee Directorate;
- g) co-operate with the competent authorities in the field of asylum;
- h) respond to the requests of the authorities competent in the field of asylum;
- i) undergo compulsory photographing and fingerprinting;
- j) undergo free medical examination for public health reasons;
- k) upon placement in the accommodation centre, produce all the goods that he/she possesses for their inclusion in the inventory;
- l) observe the legislation governing the status of foreigners in the Republic of Moldova, unless otherwise provided by the law;
- m) observe this Law and the legislation in force of the Republic of Moldova.

CHAPTER VI

Procedure for the examination of asylum applications

Section 1. Procedural guarantees

Article 41. Access to the procedure

The competent authorities shall ensure access to the asylum procedure of every foreigner on the territory of the Republic of Moldova or at the border upon written or verbal expression of his/her will from which it follows that he/she requests protection of the Republic of Moldova.

Article 42. Active role

(1) When assessing applications for asylum, the competent authorities shall investigate *ex officio* any factual and legal circumstances that may lead to the resolution of the case, even if such a circumstance was not expressly invoked or mentioned in the application for asylum or appeal application.

(2) When assessing an application for asylum, the competent authorities have the obligation to examine all the relevant aspects of the application for asylum, if need be, in collaboration with the applicant, or upon the applicant's request.

(3) With a view to fulfilling the duties provided for in para. (1) and (2), the authorities competent to examine applications for asylum may initiate forensic examinations, consult experts, undertake verifications regarding the applicants' identity, pursuant to the legislation in force.

Article 43. Requirements for the examination of application

(1) Applications for asylum shall be assessed individually, objectively and impartially by qualified personnel that know relevant standards applicable in the field of asylum law.

(2) When assessing the application for asylum, accurate and updated information from various sources on the general situation in the asylum-seeker's country of origin shall be taken into consideration for the purpose of evaluating the personal situation of the applicant.

(3) The reasons for granting of a form of protection, pursuant to the provisions of this Law, are assessed in a single procedure, in a successive manner, from the perspective of fulfilment of the refugee definition criteria and situations for which humanitarian protection is granted.

(4) Applications for temporary protection are examined in accordance with articles 22-27.

Article 44. Benefit of the doubt

Whenever some or all reasons presented in the application for asylum, which would justify the grant of a form of protection, are not substantiated with any documentary or other evidence, the benefit of the doubt shall be granted if the following conditions are cumulatively met:

- a) the applicant has made all the efforts to substantiate his/her application for asylum;
- b) all the relevant elements that the applicant holds have been presented and the absence of such elements has been justified in a reasonable manner;
- c) the applicant's statements are considered coherent, plausible and are not contradicted by the country of origin information relevant to his/her case;
- d) the applicant submitted the application for asylum as soon as possible and the possible delay is justified by well-founded reasons;
- e) the general credibility of the applicant has been established.

Article 45. Persecution and serious risk

(1) Acts considered to be persecution, within the meaning of art. 17, must be:

a) sufficiently serious by their nature or by repetition as to constitute a severe violation of basic human rights, in particular non-derogable rights under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950, ratified by the Republic of Moldova by Parliament Decision no. 1298-XII of 24.07.1997;

b) multitude of measures, including violations of human rights, which are sufficiently severe as to affect an individual in a similar manner as set out in letter a).

(2) Acts of persecution that can be qualified as such, pursuant to para. (1), may be in the form of:

- a) acts of physical or mental violence, including acts of sexual violence;
- b) legal, administrative, police, and/or judicial measures which are discriminatory or which are applied in a discriminatory manner;
- c) disproportionate or discriminatory accusation or punishment;
- d) impossibility of retrial following a discriminatory or disproportionate punishment;
- e) accusation or punishment resulting from refusal to perform military service, in the case of a conflict, where performing military service would include commission of offences or acts that fall under the exclusion clauses set out in art. 17;

f) acts and abuses of gender-specific discrimination nature, as well as acts and abuses of child-specific discrimination nature.

(3) A serious risk shall mean the presence of one of the following situations:

- a) existence of a conviction to capital punishment or threat of execution;
- b) torture, inhuman or degrading treatment or punishment of the applicant in his/her country of origin;
- c) serious and individual threat to the civilian's life for reasons of generalised violence in situations of international or internal armed conflict.

Article 46. Reasons for persecution

(1) The competent authorities shall take the following elements into account when assessing the reasons for persecution:

a) the concept of race which includes considerations of colour, descent or membership of a particular ethnic group;

b) the concept of religion which includes the holding of theistic, non-theistic and atheistic beliefs, participation or non-participation in formal rites, be it in public or in private, either alone or together with others, other religious acts or expressions of beliefs, or forms of personal or communal conduct based on or imposed by a certain religion;

c) the concept of nationality shall not be limited to the notion of citizenship or statelessness, but shall include membership of a group determined by its cultural, ethnic or linguistic identity, common geographical or political origins, or its relationship with the population of another State;

d) the concept of a social group, in the cases when:

- members of that group share innate characteristics or a common background which cannot be changed, or features or beliefs which are so important to the identity and conscience that the person cannot be forced to renounce them;
- the group has a distinct identity in that country because it is perceived as being different from the rest of the society;

- depending on the circumstances in the country of origin, a particular social group might include a group based on common sexual orientation characteristics. Sexual orientation cannot be considered a feature of the social group, within the meaning of this article, in cases when the sexual orientation-specific acts are considered to be criminal, in accordance with criminal law of the Republic of Moldova. Gender related aspects might be included in the notion of sexual orientation with the condition that it is not the only reason for the application of this article;

e) the concept of political opinion shall include the holding of an opinion regarding a certain matter related to the potential agents of persecution, set out in art. 47, and their policies and methods, regardless of whether such an opinion has been manifested by the applicant.

(2) According to the refugee definition, there must be a link between the reasons set out in this article and the acts of persecution provided for in art. 45, para. (1) and (2).

(3) When assessing the well-foundedness of the applicant's fear of being persecuted, it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristics which have led to acts of persecution, provided that such a characteristic is attributed to the applicant by the agent of persecution.

Article 47. Agents of persecution and serious risk

Agents of persecution and serious risk are:

a) the state;

b) parties and organisations controlling the state or an important part of the state's territory;

c) non-state agents, provided that the agents mentioned in letters (a) and (b), including international organisations, are unable or unwilling to provide protection against persecution.

Article 48. Well-founded fear of being persecuted or subject to a serious risk

(1) When assessing the well-founded fear of being persecuted or subject to a serious risk, the competent authorities shall rely not only on the events which had taken place prior to the applicant's flight from his/her country of origin, but also on those that have taken place after the flight from his/her country of origin.

(2) A well-founded fear of being persecuted or subject to a serious risk may also be caused by the applicant's activities after leaving his/her country of origin, particularly where it

has been established that such activities constitute expression and continuation of convictions or orientations held in his/her country of origin

Article 49. Internal flight

(1) When assessing the application for asylum, it may be determined that the applicant is not in need of international protection if well-founded fear of being persecuted is not justified or where there is no serious risk of being harmed in a region of his/her country of origin and if the applicant can be reasonably expected to stay in that region.

(2) When assessing the situation mentioned in paragraph (1), the current general situation prevailing in that part of the country and the personal circumstances of the applicant at the time of the decision on his/her application for asylum shall be taken into consideration.

Article 50. Requirements for the decision of the Refugees Directorate on the application for asylum

(1) The decision to reject an application for asylum shall be motivated and, by all means, contain the factual and legal situation, as well as the information regarding the appeal procedure, appeal deadline, and the institutions to which the appeal against the rejection decision is to be lodged.

(2) Decisions on applications for asylum shall be communicated in writing in the state language of the Republic of Moldova and its content shall be explained verbally in a language spoken by the applicant.

(3) The Refugees Directorate does not communicate the reasons for granting a form of protection on the territory of the Republic of Moldova to the applicant.

Section 2. Ordinary procedure

Article 51. Application for asylum

(1) An application for asylum shall be submitted personally by a foreigner, immediately upon:

a) arriving at a crossing point of the state border;
b) entering the territory of the Republic of Moldova;
c) occurrence of events in the country of origin of a foreigner with the right of sojourn in the Republic of Moldova that have determined him/her to seek protection.

(2) Submission of applications for asylum outside the territory of the Republic of Moldova shall not be accepted.

(3) The competent authorities cannot refuse to receive an application for asylum on the ground that it was submitted with a delay.

(4) Group applications are not accepted.

(5) In the case of an unaccompanied minor, the application for asylum shall be submitted by his/her legal representative.

(6) In the case of a mentally incapacitated person, the application for asylum shall be submitted by a legal guardian after his/her appointment.

(7) In the case of an illiterate applicant, the official who receives the application shall complete the application, based on the applicant's verbal statements. The application shall be signed by the applicant, official and interpreter. If the applicant cannot sign, he/she shall fingerprint the application.

Article 52. Authorities competent to receive applications for asylum

The authorities competent to receive applications for asylum are:

a) Refugees Directorate;
b) authorities of supervision and control of the state border;
c) police bodies;
d) structures of the Department of Penitentiary Institutions of the Ministry of Justice or subdivisions of temporary detention of the law enforcement bodies.

Article 53. Applications for asylum submitted to the Refugee Directorate

(1) Upon registration of the application for asylum with the Refugee Directorate the applicant shall complete a questionnaire in the state language of the Republic of Moldova or in a language which he/she speaks.

(2) The questionnaire shall, by all means, contain personal data of the applicant and of the persons accompanying him/her, countries of transit, reasons for leaving his/her country of origin, as well as the list of the identity or travel documents the applicant holds.

(3) For identification and record-keeping purposes, asylum-seekers' personal files, containing data regarding their identity, photographs, fingerprints and other data, shall be opened. Procedures for recording, keeping and storing files shall be established by an order of the Director of the Bureau for Migration and Asylum.

Article 54. Applications for asylum submitted to other authorities competent to receive applications for asylum

(1) Applications submitted to the competent authorities of supervision and control of the state border, police bodies, structures of the Department of Penitentiary Institutions of the Ministry of Justice or subdivisions of temporary detention of the law enforcement bodies shall be forwarded to the Refugee Directorate, pursuant to the provisions of this Law.

(2) The authorities provided for in para. (1) shall make a report, observing the confidentiality conditions, which will contain:

- a) data regarding the identity of the person, and, in the case of an undocumented person, his/her declared identity;
- b) circumstances which have determined the person to seek asylum;
- c) country of origin;
- d) other statements made by the asylum-seeker or relevant information that the competent authorities, enumerated in para. (1), are aware of;

(3) The competent authorities of supervision and control of the state border shall ensure the asylum-seeker's access to the territory of the Republic of Moldova only after notification of and permission from the Bureau for Migration and Asylum, which, in its turn, within 24 hours, shall take over the applicant from the state border in order to examine his/her application.

Article 55. Interviewing of asylum-seekers

(1) Before taking a decision on the application for asylum, the asylum-seeker shall have the possibility to be interviewed with regard to his/her application. The interview shall take place as soon as possible, but not later than 21 days following the application date.

(2) In case of a need for an additional research of country of origin information, as well as other pertinent circumstances relating to the application for asylum, the term provided for in para. (1) may be extended for 21 days.

(3) The interview shall take place in conditions of confidentiality.

(4) The interview shall be conducted by an eligibility counsellor who has the duty to:

- a) organise and properly conduct the interview;
- b) verify the facts presented by the asylum-seeker;
- c) take into consideration, to the extent possible, the personal or general situation of the application for asylum, including the origin or vulnerability of the applicant;
- d) provide the asylum-seeker with an interpreter who would ensure an adequate communication between the applicant and counsellor.

(5) The interview shall take place in the language which the applicant chooses. Whenever it is reasonably assumed that the applicant speaks another language, the interview may take place in the respective language. Initially, the eligibility counsellor shall make sure that the language of the interview is sufficiently accessible to the applicant.

(6) The asylum-seeker may be interviewed in the presence of a lawyer. Representatives of UNHCR and nongovernmental organisations shall have the right to be present during the interview, subject to the applicant's consent.

(7) During the interview the applicant must answer personally the questions which he/she is asked.

(8) The interview is recorded in writing in an interview note and serves to clarify the aspects necessary for the assessment of the application for asylum. The interview note shall include: data regarding the identity of the asylum-seeker, name of the eligibility counsellor who conducts the interview, name of the interpreter, information regarding other participants in the interview, language of the interview, statements of the applicant regarding the reasons for seeking asylum, as well as any other information that might lead to the determination of the application for asylum.

(9) The interview note shall be signed by the eligibility counsellor, asylum-seeker, interpreter and, if need be, other participants in the interview.

(10) If the applicant refuses to sign the interview note the reasons of the refusal shall be indicated in his/her file. Refusal by the applicant to sign the interview note shall not prevent the Refugee Directorate from taking a decision on the application for asylum.

(11) If deemed necessary, the eligibility counsellor may conduct another interview.

(12) The applicant may postpone the interview for well-founded reasons, provided that the delay period does not exceed 5 days.

(13) If the applicant does not show up for three consecutive interviews without a valid reason the decision shall be taken on the basis of the documents available in the file.

(14) Upon request, after being communicated the decision of rejection of the application for asylum, the applicant shall have the right to familiarise himself/herself with the content of the interview note.

(15) The personal interview may be omitted in cases when:

a) The Refugee Directorate is able to take a positive decision based on the information available in the file;

b) the interview cannot take place, particularly when it is considered that the applicant is not able or capable to be interviewed because of some long-term circumstances that are beyond his/her will. When in doubt, the Refugee Directorate may request a medical or psychological certificate.

Article 56. Assessment of the reasons invoked by the asylum-seeker

When assessing the application for asylum, the following shall be taken into consideration:

a) age, past, including that of close relatives, identity, nationality, countries and places of previous residence, previous applications for asylum, transit itineraries, identity and travel documents and the reasons for applying for a form of protection;

b) relevant facts in relation to the country of origin at the time of taking the decision on the application, including laws and regulations of the country of origin and the manner in which they are applied;

c) statements and relevant documentation provided by the applicant, including information on whether the applicant has been subjected to persecution or on the possibility to be persecuted or be subjected to a serious;

d) whether the individual situation or personal circumstances of the applicant represent persecution or a serious risk;

e) whether the actions of the applicant, following his departure from the country of origin, have been directed exclusively or mainly at creating necessary conditions to submit an application for asylum and evaluate whether those actions will lead to persecution or cause a serious risk to the applicant in case of his/her return to the country of origin;

f) existence of a possibility for the applicant to benefit from the protection of another country the nationality of which he/she has acquired.

Article 57. Collection of relevant information for the determination of the application for asylum

(1) The eligibility counsellor shall take all measures with a view to collecting necessary information for the assessment of the application for asylum.

(2) In order to take a decision the competent authorities may take into consideration the information provided by UNHCR, United Nations human rights reports, as well as other information.

(3) The Refugee Directorate may request any central or local public authority to provide it with any document necessary to assess the situation of the applicant and examine the application for asylum, respecting confidentiality in the meaning of art. 13.

(4) Whenever necessary, the Refugee Directorate may request examinations and consult experts in the decision-making process.

(5) For the purpose of assessing individual cases, the competent authority:

a) shall not disclose information regarding individual applications for asylum or the fact that the application for asylum has been submitted by the respective applicant to the alleged agent of persecution to which the asylum-seeker was subjected;

b) shall not obtain information from the alleged agent of persecution in a way which may disclose the fact of submission of an application for asylum by the respective applicant and which might endanger the physical integrity of the applicant and his/her dependants or freedom and safety of his/her family members who are in his/her country of origin.

Article 58. Procedure for the examination of the application for asylum

(1) The application for asylum shall be examined within the asylum procedure, in accordance with the procedural principles and guarantees provided by this Law.

(2) The term for the examination of the application for asylum shall be from 1 to 6 months.

(3) If a decision on the application for asylum cannot be taken within the term set out in para. (2) for reasons independent of the Refugees Directorate, this period may be extended, provided that necessary steps with a view to taking the decision are being made. The period may be extended for consecutive periods of 1 month each, but shall not exceed 3 months.

(4) In case if a decision cannot be taken within the period of 6 months, the applicant shall:

- a) be informed in writing about the delay;
- b) upon request, receive information regarding the date when the decision on his/her application is expected to be taken.

Article 59. Renunciation of the application for asylum

(1) The asylum-seeker who expressly renounces his/her application for asylum before the decision on it is taken shall be informed about the consequences of such a renunciation.

(2) In case of a renunciation of the application for asylum, the Head of Refugee Directorate shall issue an order of cessation of the examination of the application.

(3) The order of cessation of the examination of the application shall be immediately communicated to the applicant in writing in person or by post delivery to the last declared address of the applicant.

(4) The applicant who renounced his/her application for asylum is obliged to leave the territory of the Republic of Moldova within fifteen days following the communication or receipt of the order, after which he is subject to the legislation relating to the legal regime of foreigners and other normative acts that regulate foreigners' sojourn on the territory of the Republic of Moldova.

Article 60. Decision on the asylum application

(1) Following the interview with the asylum-seeker, on the basis of the information prepared by Refugee Directorate, its Head shall take one of the following decisions:

- a) to recognise refugee status;
- b) to grant humanitarian protection;
- c) to reject the application for asylum;
- d) not to grant humanitarian protection.

(2) The decision of granting humanitarian protection shall include the reasons for not granting refugee status.

(3) Any decision of the Refugee Directorate on the application for asylum shall be communicated to the applicant immediately, in writing, in person or post delivery to the last declared address of the applicant. Upon request, a copy of the decision will be provided to UNHCR.

(4) When a form of protection is granted the Refugee Directorate shall inform the beneficiary about his/her rights and duties.

(5) In case of a negative decision it shall contain the right and the period for appeal, as well as the obligation to leave the territory of the Republic of Moldova upon expiration of 15 days following the date when the decision of rejection of the application for asylum becomes irrevocable.

Article 61. Examination procedure in court

(1) Decisions of the Refugee Directorate on applications for asylum may be appealed in an administrative procedure without complying with the requirement of a preliminary procedure.

(2) The examination of applications for asylum during the administrative procedure shall be carried out observing the principle of confidentiality set out in art. 13.

Section 3. Accelerated procedure

Article 62. Applications for asylum that fall under the accelerated procedure

The following applications for asylum shall be assessed under the accelerated procedure:

- a) abusive;

- b) manifestly unfounded;
- c) submitted by persons who, by virtue of their activity or membership in a particular group, pose a threat to the national security or public order.

Article 63. Abusive and manifestly unfounded applications for asylum

- (1) An application for asylum shall be considered abusive if:
- a) the applicant mislead the authorities with regard to his/her identity and/or nationality and/or authenticity of his/her documents by presenting false information or documents or by withholding relevant information and documents that may have had an unfavourable impact on his/her decision;
 - b) the applicant submitted another application for asylum providing different personal data;
 - c) the applicant did not present any information that would establish to a reasonable degree of certitude his/her identity or nationality, or did not submit in bad faith the identity documents or travel documents which might have contributed to establishing his/her identity or nationality;
 - d) the applicant submitted an application for the sole purpose of delaying or preventing the execution of a previous or imminent decision of his/her expulsion.
- (2) An application for asylum is considered manifestly unfounded when:
- a) the applicant made incoherent, contradictory, hardly plausible or insufficient statements which render, with certainty, unconvincing his/her claim of having been subjected to persecution;
 - b) the applicant submitted a subsequent application invoking no new relevant elements regarding his/her personal situation or the situation in his/her country of origin;
 - c) the applicant entered the territory of the Republic of Moldova illegally or extended his/her stay illegally and, without a valid reason, did not present himself/herself before the authorities and/or did not submit as soon as possible an application for asylum, considering the circumstances of his/her entry into the territory.
- (3) The reasons set out in paragraphs (1) and (2) shall not prevail over well-founded fear of persecution, as provided in art. 48.

Article 64. Examination of applications under the accelerated procedure

- (1) The accelerated procedure may be initiated during an ordinary procedure on the date when the eligibility counsellor ascertains the existence of one of the situations provided for in art. 63.
- (2) After the interview and assessment of the reasons invoked in the application for asylum, the Refugee Directorate shall take a decision within the maximum term of 15 days following the start of the accelerated procedure.

Article 65. Appeal against decisions

- (1) Decisions of the Refugee Directorate on applications for asylum under the accelerated procedure may be appealed in an administrative procedure without complying with the requirement of a preliminary procedure.
- (2) In case when an application for asylum was rejected under the accelerated procedure by an irrevocable decision the foreigner is obliged leave the territory of the Republic of Moldova on the day of communication of the decision to him/her.
- (3) If the decision of the Refugee Directorate is not appealed it shall become irrevocable.

Section 4. Procedure in the case of persons with special needs

Article 66. Safeguards regarding unaccompanied minors

- (1) An application for asylum submitted by an unaccompanied minor shall be examined with priority and cannot be assessed under the accelerated procedure.
- (2) The competent authorities shall ensure access for minors - victims of any form of abuse, neglect, exploitation, torture, inhuman or degrading treatment or who suffered from armed conflicts - to rehabilitation services and, if need be, shall provide them with complex and adequate medical assistance and qualified counselling.

(3) The opinion of an unaccompanied minor asylum-seeker shall be taken into consideration and given the appropriate importance, taking into account his/her the age and degree of maturity.

(4) Officials working with unaccompanied minors shall have appropriate training to respond to the needs of children.

(5) Guided by the principle of the best interest of the child and taking into account the opinion of the unaccompanied minor, his/her age and degree of maturity, the competent authorities shall, as soon as possible, undertake different measures with a view to tracing his/her family members.

(6) In case if the life or integrity of the minor or his/her close relatives is threatened, especially if the latter are in the country of origin, necessary measures shall be undertaken to ensure that gathering, processing and sharing of information regarding these persons is carried out pursuant to the principle of confidentiality to avoid threats to their security.

Article 67. Appointment of a legal representative

(1) The Refugee Directorate shall initiate the procedure for appointing a legal representative within 15 days from the date of registration of the unaccompanied minor.

(2) The competent guardianship authority shall appoint, in accordance with the legislation, a representative to act as a guardian for every unaccompanied asylum-seeker under the age of 18.

(3) The asylum procedure is suspended pending the appointment of a legal representative for the unaccompanied minor asylum-seeker. Throughout the suspension period the minor shall enjoy all the rights granted to asylum-seekers.

(4) The Refugee Directorate shall take measures, as soon as possible, to ensure that unaccompanied minors who were granted refugee status or humanitarian protection are represented in accordance with the legislation in force.

Article 68. Medical examination

(1) In case of serious doubts regarding the age of an unaccompanied minor, which cannot be determined by any other means, the Refugee Directorate shall request, with a prior written consent of the minor and his/her legal representative, a forensic examination with a view to determining the age of the applicant.

(2) The Refugee Directorate shall inform the legal representative and the unaccompanied minor asylum-seeker in a language which the latter is reasonably presumed to speak of the possibility of a medical examination in order to establish his/her age. The information must also contain details regarding the methods used for the medical examination, possible consequences of the result of such an examination and effects of an eventual refusal to undergo a medical examination.

(3) In case if the unaccompanied minor refuses, without a valid reason, to undergo the medical examination to determine the age, he/she shall be considered an adult on the date of the application for asylum.

(4) Refusal to undergo the medical examination to establish the age of an unaccompanied minor shall not be the sole reason for rejecting his/her application for asylum.

(5) In case of an unaccompanied minor, the asylum procedure shall be suspended pending the receipt of results of the forensic examination by the Refugee Directorate. Throughout the suspension period the minor shall enjoy all the rights granted to asylum-seekers.

Article 69. Submission of application for asylum by a minor

(1) The interests of an unaccompanied minor asylum-seeker shall be protected by his/her legal representative.

(2) A minor applicant under the age of 14 shall submit an application for asylum through his/her legal representative, and, in the case of a minor who has turned 14, the application for asylum can be submitted by him/her personally, assisted, by all means, by his/her legal representative.

(3) The unaccompanied minor who has expressed, in writing or verbally, his/her will to obtain a form of protection before the competent authorities, shall be registered as an asylum-seeker and the application for asylum shall be submitted as soon as a legal representative is appointed.

(4) In the case when the unaccompanied minor has expressed, in writing or verbally, his/her will to obtain a form of protection before the competent authorities provided by art. 52 b) - d), the latter shall notify on the same day the Refugee Directorate which shall ensure transportation of the minor.

Article 70. Interviewing of unaccompanied minor asylum-seekers

(1) Interviews with minors shall be conducted in the presence of their legal representatives by an eligibility officer with special training.

(2) Interviewing of minors, including unaccompanied asylum-seekers, shall be conducted in all possible cases.

(3) Prior to the interview, the legal representative shall take the necessary steps to prepare the minor for being interviewed.

(4) The eligibility officer shall inform the minor regarding the purpose and possible consequences of the interview.

(5) Throughout the interview the eligibility officer shall take into consideration the degree of intellectual development and maturity of the minor.

Article 71. Accommodation of unaccompanied minors

The Refugee Directorate shall order the accommodation of the unaccompanied minor in an accommodation centre or, in accordance with the principle of the best interest of the child, shall request the competent authority to identify a form of protection for the minors left without parental care, provided by the legislation of the Republic of Moldova.

Article 72. Victims of torture or violence

When an asylum-seeker provides information or has signs of the application of torture or other inhuman and degrading treatment, or of being a victim of any form of violence, the Refugee Directorate shall order a forensic examination.

Article 73. Persons with psychological disorder (mental diseases or deficiencies)

(1) In the situation in which there are serious doubts regarding the mental capacity of an asylum-seeker, the Refugee Directorate shall request a psychiatric examination, pursuant to the provisions of the legislation in force.

(2) Should the psychiatric examination confirm the lack of mental capacity of the asylum-seeker, the Refugee Directorate shall initiate the appointment of a guardian under the same conditions as provided by law for citizens of the Republic of Moldova.

(3) The determination of the application for asylum is suspended until the appointment of a guardian. Throughout the suspension of the procedure for granting a form of protection, the applicant is entitled to the rights granted to asylum-seekers.

(4) The application of the asylum-seeker with no mental capacity is submitted by the guardian after the latter is appointed.

(5) When it is possible to conduct an interview to determine refugee status, the guardian shall take necessary measures to prepare the applicant for being interviewed.

(6) The eligibility officer will inform the asylum-seeker lacking mental capacity and the legal representative about the purpose and the possible consequences of the interview.

(7) The interview will be conducted by an eligibility officer with special training to interview persons with special needs.

Section 5. Procedure for family reunification

Article 74. Family reunification

(1) A refugee or beneficiary of humanitarian protection can request family reunification on the territory of the Republic of Moldova, confirming by a signed declaration that his/her family members do not fall under the exclusion clauses.

(2) The reunification procedure shall not be initiated in relation to a foreigner who does not have an irrevocable decision on his/her application.

(3) The family reunification procedure shall be applicable to a refugee or beneficiary of humanitarian protection who holds a valid document in relation to which there are grounded reasons to believe that it will be extended.

Article 75. Asylum application

(1) The application shall be submitted by the refugee or beneficiary of humanitarian protection to the Refugee Directorate on behalf of the following family members who are outside of the territory of the Republic of Moldova:

a) husband (or wife); and/or
b) children, regardless of whether they are born in or out of wedlock or have been adopted in accordance with the legislation of the country of origin.

(2) The marriage of the refugee or beneficiary of humanitarian protection must have been concluded prior to his/her entry into the territory of the Republic of Moldova.

(3) The application shall be accompanied by documents certifying the family relationship.

(4) If need be, in order to obtain proofs of the family relationship, the Refugee Directorate can:

(a) conduct interviews with the refugee or beneficiary of humanitarian protection;
(b) carry out other investigations which are deemed necessary.

Article 76. Decision of granting permission for family reunification

(1) The decision of granting permission for family reunification is taken by the Head of the Refugee Directorate.

(2) At the request of the Migration and Asylum Bureau the Ministry of Foreign Affairs and European Integration, diplomatic missions or consular offices of the Republic of Moldova shall issue entry visas to the family members of the refugee or beneficiary of humanitarian protection after the permission provided for in para. (1) was granted.

(3) Upon entry into the territory of the Republic of Moldova of the family members, their applications for asylum shall be examined, in accordance with the provisions of this Law, subject to their consent to apply for asylum.

(4) When the conditions for family reunification provided by this Law are not met, the Refugee Directorate shall take a decision of rejecting the application for asylum. The rejection of the application shall not be based solely on the absence of documents certifying marriage or family connection.

(5) Following the examination of the application for asylum, a decision shall be taken in the shortest possible period, but not later than nine months from the date of submission of the application. In exceptional circumstances, due to the complex nature of processing of the applications, this term can be extended.

(6) If no decision is taken until the expiry of the nine-month period, the person shall be:

(a) informed in writing about the delay;
(b) upon request, informed of the term a decision on his/her application is expected to be taken.

Article 77. Family reunification in the case of unaccompanied minors

(1) Family reunification of unaccompanied minors refugees or beneficiaries of humanitarian protection shall be carried out with due regard to the best interests of the child.

(2) The Refugee Directorate shall initiate *ex officio* the family reunification procedure. If the procedure for family reunification is initiated *ex officio*, the consent of the legal representative or, if need be, of the unaccompanied minor is necessary. In all cases the opinion of the unaccompanied minor shall be taken into consideration and given the appropriate importance.

(3) When the family of the unaccompanied minor has been traced, the Refugee Directorate shall analyse the possibility and conditions to carry out the reunification and shall issue a motivated decision, which can be appealed in the administrative procedure without complying with the requirement of a preliminary procedure.

Section 6. Examination of a new application for granting a form of protection

Article 78. Submission of a new application for granting a form of protection

(1) A new application for granting a form of protection shall be submitted only in case of existence of a final decision, taken by the competent authorities, or an order regarding cessation of the examination of the case.

(2) A new application for granting a form of protection shall be received only if the following conditions are alternatively met:

a) new elements have arisen, which could not have been presented by the asylum-seeker during the previous procedure due to reasons beyond the applicant's control, as long as these elements are not the result of actions provoked in order to obtain a form of protection. The applicant is obliged to demonstrate the existence of newly invoked reasons, as well as the impossibility of having presented them prior to the date of submission of the new application;

b) new circumstances of a political, social, military or legislative nature in the country of origin, which pose a threat to the applicant's life or freedom, have arisen.

(3) New applications submitted to the authorities provided in art. 52 b) - d) shall be transferred on the same day to the Refugee Directorate.

Article 79. Examination of the application for granting access to a new procedure

(1) The application for granting access to a new asylum procedure, submitted under the conditions of art. 78, shall be assessed with priority within the maximum term of 10 days.

(2) Throughout the period indicated in para. (1), the foreigner is granted permission to stay on the territory of the Republic of Moldova.

Article 80. Decision on the application for granting access to a new procedure

(1) The decision of granting or rejecting access to a new procedure shall be taken by the Head of the Directorate for Refugee on the basis of the applicant's reasoned application, submitted documents and taking into consideration all the elements contained in his/her personal file.

(2) The decision shall be communicated to the applicant in writing in person or to the address indicated in the new application for granting a form of protection.

(3) Pending the decision of granting access to a new asylum procedure the provisions of the provisions regulating the regime of foreigners shall apply to the foreigner.

(4) The foreigner who has been granted access to a new asylum procedure shall have the rights and obligations as provided in art. 28 and 31.

CHAPTER VII

Procedure for ceasing and cancelling a form of protection

Section 1. Procedure for ceasing and cancelling refugee status

Article 81. Cessation of refugee status

(1) Refugee status shall cease when the foreigner:

a) has voluntarily re-availed himself or herself of the protection of the country of nationality;

b) after having lost his or her nationality, has voluntarily re-acquired it;

c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality;

d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution;

e) can no longer continue to refuse to avail himself or herself of the protection of the country of nationality because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist;

(f) has renounced the refugee status granted to him/her pursuant to the provisions of this Law.

(2) When considering the applicability of para. (1) letter e) the competent authorities shall assess if the change in the circumstances is a significant one and not of a temporary nature so that the refugee's fear of persecution can no longer be justified.

(3) The provisions contained in para. (1) letter (e) shall not apply to the person whose refugee status has been recognised and who, owing to compelling reasons related to previous persecutions, refuse the protection of his/her country of origin.

Article 82. Cancellation of refugee status

Refugee status shall be cancelled if:

a) such a status was granted based on false statements, the foreigner refused to provide certain data, or used false documents which were taken into consideration during the examination of his/her application for asylum and which were decisive for the recognition of the form protection and there are no other reasons that would maintain refugee status;

b) after being granted refugee status he/she committed one of the acts provided for in art. 18, or it has been ascertained that he/she had committed such an act before the decision of granting refugee status to him/her became final.

Article 83. The procedure for ceasing or cancelling the refugee status

(1) The procedure for ceasing or cancelling the refugee status shall be initiated upon an order issued by the Head of the Refugee Directorate.

(2) Re-examination of the case shall be carried out in an ordinary procedure.

(3) The refugee shall be informed in writing about:

a) re-examination of his/her case; or

b) his/her right to legal assistance, free interpreter, be informed about the possibility to contact representatives of UNHCR, be counselled and assisted by a representative of a non-governmental organisation.

(4) An eligibility officer shall conduct an interview with the refugee to clarify his/her situation.

(5) Refusal to be interviewed shall not exclude the possibility of a decision being taken on the basis of the documents and information available in the file.

Article 84. Decision to cease or cancel the refugee status

(1) After interviewing the refugee, on the basis of the information prepared by the Refugee Directorate, the Head of the Directorate shall take one of the following decisions:

a) to maintain refugee status;

b) to cease refugee status;

c) to cancel refugee status.

(2) The decisions taken by the Refugee Directorate, provided in para. (1), may be appealed in an administrative procedure without complying with the requirement of a preliminary procedure.

Article 85. Consequences of cessation or cancellation of refugee status

(1) Cessation or cancellation of refugee status shall not have automatic legal effects with regard to the foreigner's family members.

(2) Provisions regulating the regime of foreigners shall apply to the foreigner whose refugee status ceased or was cancelled by a final decision.

Section 2. The procedure for ceasing or cancelling humanitarian protection

Article 86. Cessation of humanitarian protection

(1) Humanitarian protection shall cease when:

a) the circumstances in connection with which he or she has been granted humanitarian protection have ceased to exist or have changed to such an extent that this protection is no longer justified;

b) the beneficiary has voluntarily reacquired his/her former citizenship or acquired new one and enjoys the protection of the state whose citizenship he/she acquired;

c) the beneficiary has legalised in a different way his/her stay on the territory of the Republic of Moldova;

d) the beneficiary has renounced the protection granted to him pursuant to this Law;

(2) The competent authorities shall assess if the change in the circumstances is a significant one and not of a temporary nature so that the refugee's fear of being subject to a serious risk can no longer be justified.

Article 87. Cancellation of humanitarian protection

(1) Humanitarian protection shall be cancelled when:

a) it was granted based on false statements, the foreigner refused to provide certain data, or used false documents which were taken into consideration during the examination of

his/her application for asylum and which were decisive for the recognition of humanitarian protection and there are no other reasons that would maintain humanitarian protection;

b) after being granted humanitarian status the beneficiary committed one of the acts provided for in art. 20 or it has been ascertained that he/she had committed such an act before the decision of granting protection to him/her became final.

(2) The procedure for ceasing or cancelling humanitarian protection is carried out pursuant to art. 83.

Article 88. Decision to cease or cancel humanitarian protection

(1) After interviewing the beneficiary of humanitarian protection, on the basis of the information prepared by the Refugee Directorate, the Head of the Directorate shall take one of the following decisions:

- a) to maintain humanitarian protection;
- b) to cease humanitarian protection;
- c) to cancel humanitarian protection.

(2) The decisions taken by the Refugee Directorate, provided in para. (1), may be appealed in an administrative procedure without complying with the requirement of a preliminary procedure.

Article 89. Consequences of cessation or cancellation of humanitarian protection

(1) Cessation or cancellation of humanitarian protection shall not have automatic legal effects with regard to the foreigner's family members.

(2) The provisions regulating the regime of foreigners shall apply to the foreigner whose humanitarian protection ceased or was cancelled by a final decision.

**CHAPTER VIII
Accountability**

Article 90. Accountability for violating this Law

Persons guilty of violating this Law shall be held accountable pursuant to the provisions of civil, administrative or criminal legislation.

**CHAPTER VIII
Transitory and final provisions**

Article 91.

(1) This Law enters into force as of the date of its publication.

(2) Within 3 months following the entry into force of this Law the Government:

a) shall submit to the Parliament proposals with a view to bringing the legislation in force in conformity with the provisions of this Law;

b) shall bring its normative acts in line with this Law

(3) The Government shall establish annually the amount of assistance granted to beneficiaries of refugee status and humanitarian protection, in accordance with art. 33, para (2), depending on the amount of budget allocations for this purpose.

(4) On the date of entry of this Law into force Law no. 1286-XV dated 25.07.2002 on the Status of Refugees (Monitorul Oficial of the Republic of Moldova, 2002, no. 126-127, Art. 1003), with subsequent amendments, shall be abrogated.

SPEAKER OF THE PARLIAMENT

Marian LUPU

Chisinau, 18 December 2008

No. 270-XVI