

LAW No. 122 from 4 May 2006

on the Asylum in Romania

Issued by: PARLIAMENT OF ROMANIA
Published in: Official Journal No. 428 from 18 May 2006

the Parliament of Romania hereby adopts the present law.

CHAPTER I
GENERAL PROVISIONS

Art. 1

Object of Regulation

The present law regulates the legal status of the aliens who apply for a form of protection in Romania, the legal status of the aliens who hold a form of protection in Romania, the procedures for granting, termination and annulment of a form of protection in Romania, as well as the procedure for determining the responsible EU Member State for examining the asylum application.

Art. 2

Definition of terminology

In the sense of the present law, the terms and phrases mentioned below shall be understood as follows:

- a) "Form of protection" – any form of protection granted by the Romanian state, i.e.: refugee status, subsidiary protection, temporary protection or temporary humanitarian protection;
- b) "Applicant" or "asylum applicant" – aliens or stateless persons who express their will to be granted a form of protection in Romania, as long as her or his application has not been resolved by means of an irrevocable court decision;
- c) "Alien" – foreign national or stateless person;
- d) "Application for being granted a form of protection" or "asylum application" – the application submitted by an alien or a stateless person in order to be granted protection by the Romanian authorities;
- e) "Country of origin" – in case of aliens, the country whose citizens they are, or in case they have several different nationalities, each country they are nationals of, and for the case of stateless persons, their country or countries of residence;
- f) "Asylum procedure" – totality of documents and formal procedures performed, as well as the actions carried out by the competent authorities aimed at the recognition of the refugee status or, as the case may be, granting subsidiary protection;
- g) "Refugee status" – form of protection, recognized by the Romanian state, granted to the aliens or stateless persons who meet the requirements stipulated in the Convention on the refugee status, concluded in Geneva on 28 July 1951, hereinafter called "Geneva Convention", to which Romania adhered by Law no 46/1991 on Romania's accession to the Convention on the refugee status and the Protocol on refugee status;
- h) "Subsidiary protection" – form of protection granted to aliens or stateless persons by the Romanian state for other reasons than those provided by the Geneva Convention;
- i) "Temporary protection" – represents a procedure of exceptional character which ensures, in the event of a mass inflow or an imminent mass influx of displaced persons from a third country, unable to return to the country of origin, immediate and temporary protection to such persons, especially if there is an additional risk that the asylum system may not be able to process such an inflow without counter effects to its effective functioning, in the interest of the persons under reference as well as of other persons who need protection;
- j) "Family members" – as far as, by the date the main applicant submits an application and his family exists in the country of origin, following persons shall benefit from the refugee status or subsidiary protection:
 - i. spouse of the holder of refugee status or subsidiary protection;
 - ii. underage children dependant of the holder of refugee status or subsidiary protection, as long as they are single, without regard whether they originate from the holder's marriage or not or have been adopted according to the national legislation of the country of origin;
- k) "Unaccompanied minor" – minor aliens or stateless persons, who entered Romania unaccompanied by parents or legal representatives or who are not under supervision of any other person, according to the legislation, as well as minors who remain unaccompanied after entering the territory of Romania;
- l) "Displaced persons" - citizens of third countries or stateless persons who have been forced to leave their countries or regions of origin or have been evacuated, especially as a response to appeals of international organizations and who are not able to return

safely to the country under reference due to a persisting situation which may be qualified according to the provisions art. 1 A of the Geneva Convention or with other national or international instruments Romania is liable to observe, through which international protection shall be granted, especially to:

- i. persons who escaped areas of armed conflict or generalized violence;
- ii. persons exposed to major risks or who have been victims of systematic or generalized infringements of their rights;
- m) “Mass inflow” represents the arrival on the territory of the European Union, of a significant number of displaced persons, who originate from a specific country or geographic region, irrespective of a spontaneous or assisted arrival to the European Union;
- n) “Transit zone” – area situated at the state border or in its neighborhood, meant for stationing of persons who have not been allowed to enter the territory, as well as of transportation means and goods until their legal status at the state border crossing is established. In case of international airports, the term “transit zone” defines the area situated between the boarding/unboarding points and the border control area;
- o) “Accommodation centre” – any premises used for common accommodation of asylum applicants.

Art. 3

Romanian Office for Immigration

(1) **ABROGATED** The central authority responsible for implementing the Romanian policies in the field of asylum as well as putting into effect the provision of the present Law, is the National Refugee Office, subordinated to the Ministry of Administration and Interior, which:

- a) Is a legal entity with Headquarters in Bucharest;
- b) Benefits from allowances from budget of the Ministry of Administration and Interior, its Director is enabled to order budgetary expenditures
- c) is able to use, according to the law, funds or goods proceeding from donations and sponsorships or obtained on the basis of internal or international agreements;
- d) consists of central and territorial bodies;
- e) may conclude agreements with similar foreign institutions and with international organizations, according to the law.

(2) In order to enforce the provisions of the present law, regional processing and accommodation centers for asylum applicants and persons who have been granted a form of protection in Romania, subordinated to the Romanian Office for Immigration, may be created by Order of the Ministry of Interior Administrative Reform

(3) The expenditures related to the establishment, functioning and maintenance of the centers mentioned under paragraph (2) shall be covered out of the budget of the Ministry of Administration and Interior, taking into account the effective costs incurred, within the ceiling of allocated funds from the state budget within the defined budget position.

(4) The Ministry of Administration and Interior is responsible, through the r for disbursement of Romania’s voluntary contribution to the United Nations High Commissioner for Refugees (UNHCR).

(5) The Ministry of Administration and Interior may suggest, through the Romanian Office for Immigration, the transfer of refugees from the territory of other countries to the territory of Romania, if they have been granted this status according to the Geneva Convention. The number of persons and requirements for the transfer are set out by Government Decision. These persons shall have the same rights and liabilities in Romania as the refugees recognized by Romania.

CHAPTER II

PROCEDURAL PRINCIPLES AND GUARANTEES

Art. 4

Access to the asylum procedure

The competent authorities grant any alien or stateless person located on the territory of Romanian or at the state border the access to the asylum procedure, starting from the moment of expressing her or his will, either verbally or in writing, from which shall result that she or he applies for protection from the Romanian state, excepting the situations specially foreseen in the present law.

Art. 5

Non-discrimination

The provisions of the present law shall apply without discrimination, regardless of race, nationality, ethnic origin, language, religion, social status, beliefs, sex, sexual orientation, age, disability, non-contagious chronic disease, HIV infection or being part of a disadvantaged category, material status, status at birth or achieved status or any other distinction.

Art. 6

Non return

(1) It is not allowed to take measures of expulsion, extradition or forced return from the Romanian border against an asylum applicant, except from the cases foreseen in art. 44 Law No. 535/2004 on prevention and fighting terrorism.

(2) The person recognized as refugee or who has been granted subsidiary protection is protected against expulsion, extradition or return to the origin country or to other state where her of his life or freedom would be in danger or would be subject to tortures, inhuman or degrading treatments.

(3) Without disregarding the provisions in paragraph (2) and without automatically altering the form of protection granted, the person who has been granted refugee status or who has received subsidiary protection may be removed from the Romanian territory if:

a) there are serious reasons to consider the alien to represent a danger for the state security of Romania ;

b) the alien has been convicted by an irrevocable Court order for committing a serious crime and thus represents a danger for the Romanian public order.

(4) To the effect of the present law, the term “serious crime” shall define any crime for which the law provides a sentence with imprisonment with a special maximum that exceeds 5 years.

Art. 7

Family entity

Romanian authorities ensure the observance of the family entity principle, according to the provisions of the present law.

Art. 8

Higher interest of children

While enforcing the provisions of the present law, all the decisions regarding minors are made under consideration of the higher interest of children.

Art. 9

Duration of form of protection

Refugee status and subsidiary protection shall be granted for an indefinite period of time. Temporary humanitarian protection shall be granted for a limited period of time that should not exceed 2 years.

Art. 10

Confidentiality

All data and information concerning the asylum application are confidential. The obligation to respect confidentiality applies to all the authorities, organisations which perform actions in the field of asylum or third persons involved in the asylum procedure or who accidentally enter into possession of such data.

Art. 11

Causes which remove the penal character of the offence

Romanian authorities shall not apply penal sanctions for the reason of illegal entrance or residence to the asylum applicants who enter or reside, without authorization, on the Romanian territory.

Art. 12

Active role

Competent authorities responsible for resolving the asylum application may investigate, ex officio, any de facto or legitimate circumstance which could lead to resolution of the cause, even if such circumstances have not been referred to or mentioned in the asylum application or complaint.

Art. 13

Examination of the asylum application

(1) The decision on resolution of the asylum application is made upon a corresponding examination, by specially appointed civil servants, with relevant qualification in asylum matters, of the applicant’s case. This implies:

a) individual examination of each asylum application and making an objective and impartial decision; and

b) examination of information from the country of origin, obtained from various sources, necessary for the assessment of the personal situation of the asylum applicant.

(2) Any asylum application is analyzed individually and subsequently from the perspective of the refugee status and subsidiary protection according to the provisions of the present law, except from the case of initiating the procedure of granting a temporary humanitarian protection.

Art. 14

Decision made with regard to an asylum applications

(1) The decision that resolves the asylum application shall be formulated and shall necessarily include both the factual and the legitimate situation, as well as information regarding the modalities of legal action the aliens may use to attack the decision, the time limit for submitting the complaint as well as the legal body where the complaint against a rejection decision shall be registered.

(2) In the case of asylum applications submitted by the a legal representative in the name of several persons, based on the same reasons invoked for being granted a form of protection, the applications shall be connected for pronouncing a single decision.

Art. 15

Presumption of good intent

When a part or all the reasons on which the asylum application is based, which would justify granting form of protection, are not supported by documents or other proofs, the presumption of good intent shall be granted in case the following requirements are met cumulatively:

- a) the applicant has carried out all possible efforts in order to support his asylum application;
- b) all relevant elements, available to the applicant, have been submitted, and the lack of such elements has been reasonably justified;
- c) the applicant's statements are considered coherent and plausible and do not contradict the information from the country of origin, relevant to the case;
- d) the applicant has submitted the asylum application as soon as possible, and a possible delay is reasonably justified;
- e) the general credibility of the applicant has been determined.

Art. 16

Guarantees regarding the unaccompanied underage asylum applicants

(1) The asylum application of an unaccompanied minor shall be examined with priority.

(2) The Romanian Office for Immigration shall take measures in order to appoint a legal representative, within the shortest time possible, who shall assist the unaccompanied underage asylum applicant during the asylum procedure.

(3) There is no need to appoint a legal representative for the unaccompanied underage asylum applicant in case she or he shall reach the adult age within 15 days from the date of submission of the application.

(4) The Romanian Office for Immigration shall inform the legal representative and the unaccompanied underage asylum applicant, using a language known to him, about the possibility to perform a medical expertise in order to determine the age. Such information should also include explanations regarding the methods of the medical examination, possible consequences of its result and effects of an eventual refuse to be subject to it.

**CHAPTER III
RIGHTS AND OBLIGATIONS**

SECTION 1

RIGHTS AND OBLIGATIONS OF THE ASYLUM APPLICANTS

Art. 17

Rights

(1) During the asylum procedure, aliens who apply for being granted a form of protection have the following rights:

- a) to remain in Romania, within a time limit of 15 days term from the conclusion of the asylum procedure, except from the case the asylum application has been rejected as a result of its processing in accelerated procedure or in the procedure at the Border Control Point, event in which the alien must leave the territory of Romania as soon as the asylum procedure has been concluded. In case of the procedure of determination of the Member State responsible for examining the asylum application, the right to remain on the Romanian territory ceases from the date of communication of the decision on denial of access to the asylum procedure, issued by the Romanian Office for Immigration;
- b) to be assisted by a legal counsel in any phase of the asylum procedure;
- c) to be provided with an interpreter, free of charge, during any phase of the asylum procedure;
- d) to contact and be assisted by a representative of the United Nations High Commissioner for Refugees during any phase of the asylum procedure;
- e) to be advised and assisted by a representative of Romanian or foreign non-governmental organizations, during any phase of the asylum procedure;

f) to be informed, in a language she or he knows or it is reasonably supposed to be known, about her or his rights and liabilities during any phase of the asylum procedure, upon submission of the application;

g) to protection of personal data and of any other details concerning her or his application;

h) to be issued a temporary identity document, the validity of which shall be extended periodically by the Romanian Office for Immigration. In the absence of documents to certify the applicant's identity, the temporary identity document shall mention the declared identity. Such a document shall not be issued to:

(i) aliens who have applied for asylum at a Border Control Point, as far as they have not been granted the access to the territory by a decision of the Romanian Office for Immigration;

(ii) aliens who are under public custody for reasons of national security and public order, who apply for asylum, as far as such measure is maintained;

i) to take part in cultural assimilation activities;

j) to benefit, upon request, from necessary subsistence support in case the alien does not possess the necessary financial means, the amounts to be granted for food, accommodation and other expenditures shall be established by Governmental Decision and provided from the state budget through the budget of the Ministry of Administration and Interior;

k) to be accommodated in the reception and accommodation centers, subordinated to the Romanian Office for Immigration, until the right to remain on the territory of Romania ceases, in the case of the asylum applicant does not have the needed material means for subsistence;

l) asylum applicants with special needs shall benefit from adjusted accommodation facilities and assistance within the accommodation centres;

m) to receive primary and emergency stationary medical aid free of charge, as well as medical assistance and free of charge treatment in the case of acute or chronic diseases that imminently endanger their life;

n) to receive an adequate medical assistance, in the case of asylum applicants with special needs,

o) to be granted access to the labour market according to the law in the same conditions as Romanian citizens, within the limit of one year from submission of the asylum application, if the alien is still a subject to the procedure of determining a form of protection, case in which the asylum applicant is conferred a personal numeric code shall be inscribed in the identity card;

p) in the case of underage asylum applicants, to be granted access to the compulsory education system under the same conditions as underage Romanian citizens.

(2) If the asylum applicant is accommodated in reception and accommodation centers of the Ministry of Administration and Interior, the amounts foreseen by paragraph (1) letter j), covering accommodation expenses, shall not be granted.

(3) The necessary funds to cover expenditures provided by the rights foreseen under paragraphs (1) letters c), f), g), h), i), k), l), m) and n) shall be ensured from the state budget through budget of the Ministry of Administration and Interior.

(4) Unaccompanied minors shall benefit from the same protection that is offered to Romanian minors in difficulty as provided by the law.

(5) If the applicant does not possess material means, the Romanian Office for Immigration may designate for him or her a place of residence and ensure the material aid necessary for the subsistence of the applicant for the entire duration of the procedure.

(6) For justified reasons pertaining to public interest, national safety, public order, the protection of public health and morality and the protection of the rights and freedoms of other persons - even if aliens possess material means to ensure their subsistence - the Romanian Office for Immigration may designate a place of residence for applicants for the entire duration of the procedure for granting refugee status, and may order their accompanied transportation to that place, upon request of the competent authorities.

(7) The asylum procedure foreseen upon paragraph (1) shall be concluded, with exception of the applications resolved in accelerated procedure or procedure at the Border Control Point when the procedure is finalized immediately, within 7 days from the date of communication on file closure, or from the date of communication from the Romanian Office for Immigration on its decision to grant the refugee status, or the date of expiry of the legal time limit for submitting a complaint or appeal, as the case might be, or from the date the decision of the appeal court has been pronounced.

Art. 18

Access to education for the underage asylum applicants

(1) In order to facilitate the access to the Romanian educational system, underage asylum applicants shall benefit from a free preparatory course to enable them to enroll in the national educational system, during the time of one academic year.

(2) The preparatory course foreseen under paragraph (1) shall be organized by the Ministry of Education and Research in cooperation with the Romanian Office for Immigration.

(3) The underage asylum applicant shall be enrolled to the preparatory course within three months from submission of the asylum application.

(4) Upon finalization of the initiation course for Romanian language, an evaluation board, whose members and functioning are established by Order of the Minister of Education and Research, assesses the level of Romanian language knowledge and decides upon the enrollment of the minors who have been granted a form of protection in Romania into the corresponding academic year.

Art. 19

Obligations

During the asylum procedure, aliens who apply for a form of protection have the following obligations:

- a) to submit, in writing, to the territorial units of the Ministry of Administration and Interior a justified application, alongside with the relevant information required by the relevant body where the application is submitted, as well accept to be photographed and fingerprinted. Fingerprinting shall not be conducted in case of aliens under the age of 14;
- b) to supply to the competent authorities complete and real personal information as well as information concerning the asylum application;
- c) to submit all the documents they have in possession which may be relevant with regard to the alien's personal situation;
- d) to hand in the travel document used for crossing the state border, in order to be issued the document foreseen by art. 17 paragraph (1) letter h;
- e) to check on the status of the procedure and to inform the competent authorities on any changes of residence;
- f) to respond to the requests of bodies with attributions in the field of asylum;
- g) not to leave the place of residence without having authorisation from the Romanian Office for Immigration. The Romanian Office for Immigration shall issue such an authorisation based on individual, objective and impartial examination, and in the case of refusal to grant such an authorisation, this refusal shall be justified;
- h) to undergo the medical examinations considered to be necessary;
- i) to observe the laws of Romania, as well as the measures set by Romanian bodies competent in asylum matters;
- j) to leave the territory of Romania within 15 days from finalisation of the asylum procedure, in case the applicant has not been granted the requested form of protection, with exception of the case in which the asylum application has been rejected as evidently unfounded after being processed in accelerated procedure, case in which the alien shall leave the territory of Romania immediately upon finalisation of the asylum procedure.

SECTION 2

RIGHTS AND OBLIGATIONS OF HOLDERS OF A FORM OF PROTECTION

Art. 20

Rights of the holders of a form of protection

- (1) The recognition of the refugee status or being granted subsidiary protection confer to the beneficiary following rights:
 - a) to remain on the territory of Romania and be issued the adequate documents for proving the identity and for crossing the state border. The holder of a form of protection shall be conferred a numerical code number which shall be inscribed in the identity card and the travel document
 - b) to choose a place of residence and to move freely, in the conditions established by the law on aliens;
 - c) to be employed by natural persons or legal entities, to perform unpaid activities, to carry out liberal professions and enact legal documents; to perform commercial acts and deeds, including independent economic activities, under the same conditions as Romanian citizens;
 - d) to transfer his goods imported into Romania, to the territory of a third country, for the purpose of relocation;
 - e) to enjoy the most favourable treatment stipulated by the law for foreign citizens with regard to the acquisition of movable and immovable property;
 - f) to enjoy the protection of intellectual property under the conditions stipulated by law;
 - g) to benefit from social security, social welfare, and social health insurance under the conditions provided by the law for Romanian citizens;
 - h) to access all forms of education, under the conditions stipulated by law for Romanian citizens,
 - i) to benefit from a treatment equal to Romanian citizens with regard to freedom of religion and religious education for children;
 - j) to benefit from the right of protection of personal data as well as from any other details related to her or his case;
 - k) to enjoy the right to free association in non-political, non-profit organisations and trade unions, under the conditions stipulated by law for Romanian citizens;
 - l) to enjoy free access to the courts of law and to administrative assistance;
 - m) to receive, upon request, and within the limitations of the state financial reserves, reimbursable aid, set at the level of the minimum gross wage at national level, for a period of up to six months, if, for objective reasons, they lack the means for subsistence. For well founded reasons, this aid can be extended for a further period of three months maximum;
 - n) to take part, upon request, to the integration programs and to be accommodated within the Romanian Office for Immigration centres according to the law;
 - o) to establish legal residence in Romania, according to the provisions of the law on legal regime of aliens;

- p) to be able to benefit, upon request, from assistance in order to be voluntarily repatriated.
- (2) Unaccompanied minors shall benefit from the same protection that is offered to Romanian minors in difficulty as provided by the law.
- (3) Aliens who have been recognised the refugee status or have been granted subsidiary protection shall benefit from a form of protection from the date of issue or, as the case might be, from the date the decision through which the asylum procedure finalizes has been pronounced.
- (4) The person who has been granted a form of protection shall benefit from the rights foreseen under paragraph (1) within 5 days time from the date of communication to the Romanian Office for Immigration of the decision to grant the refugee status, or from the date of expiry of the time limit for appeal against the Romanian Office for Immigration's decision for granting subsidiary protection or from the date of the Court Sentence on finalisation of the asylum procedure has been passed.
- (5) The necessary funds for granting the reimbursable aid foreseen under paragraph (1) letter m) shall be provided from the budget of the Ministry of Labour, Social Solidarity and Family.
- (6) The identity documents foreseen under paragraph (1) letter a) shall be issued for a period of three years with the possibility of extension for persons who have been recognized the refugee status, and for a period of one year with possibility of extension in case of the persons who have been granted subsidiary protection. The travel documents foreseen under paragraph (1) letter a) shall be issued to the persons who have been granted the refugee status or subsidiary protection for a period of one year with possibility of extension. In the case of aliens who have been granted a form of protection and who are subject to the provisions of art 6 paragraph (3), the temporary residence permit shall not be issued or its validity shall cease or shall not be extended, as the case might be.

Art. 21

Obligations of the beneficiaries of a form of protection

- (1) Beneficiaries of a form of protection shall have the following obligations:
- to respect the provisions of the Constitution of Romania, as well as the laws and any other normative acts issued by the Romanian authorities;
 - to have a correct and civilised conduct, to observe the measures set by Romanian bodies competent in refugee matters, and to respond to their requests;
 - to observe the internal regulations within the Romanian Office for Immigration centres, if they are accommodated in such centres;
 - to refrain from provoking any situation of conflict or any incident against the local population, or from committing acts that may fall under penal law;
 - to be subject to the regulations concerning the legal status of aliens, as long as the law does not provide otherwise.
- (2) Persons who have been granted a form of protection are liable to reimburse any aid received according to the provisions of art. 20, paragraph (1), letter m), if they have attained an income that makes such reimbursement possible, without affecting their own subsistence or that of their family. The amounts reimbursed shall become an income to the state budget.

CHAPTER IV FORMS OF PROTECTION

Art. 22

Forms of protection

Under the provisions of the present law, aliens may be:

- recognised the refugee status; or
- granted subsidiary protection; or
- granted temporary protection, or temporary humanitarian protection respectively.

Art. 23

Refugee status

- (1) Refugee status may be granted, upon request, to an alien who, based on a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is away from his country of origin and is unable, or, due to such fear, unwilling to be under the protection of that country, as well as to stateless persons who are outside their country of usual residence due to the same reasons mentioned above and who are not able or, due to such fear, are unwilling to return.
- (2) The provisions of paragraph (1) shall not be applied to aliens who benefit from protection or assistance from a United Nation body or institution, other than the United Nations High Commissioner for Refugees (UNHCR). When this protection has ceased,

for any reason, before the situation of these persons having been permanently regulated, according to the relevant resolutions adopted by the United Nations General Assembly, these persons shall benefit from the provisions of the present law.

Art. 24

Recognition of refugee status for family members

- (1) Refugee status shall be also granted, upon request, to the family members foreseen under art. 2 letter j), who are on the territory of Romania, except from the cases the persons under reference are in one of the situations foreseen at the art. 25.
- (2) For the husband or wife, respectively, the provisions under paragraph (1) shall apply only if the person who has been granted refugee status according to art. 23 concluded the marriage before entering the territory of Romania.
- (3) In the case the family member does not meet the requirements under paragraph (1) and paragraph (2), as the case might be, her or his asylum application shall be examined from the perspective of the provisions under art. 23 and 26.

Art. 25

Reasons for exclusion from recognition of the refugee status

- (1) Refugee status shall not be granted to aliens and stateless persons if there are solid reasons to suppose that they:
 - a) have committed a crime against peace and humanity, a war crime or other crime as defined according to the relevant international conventions to which Romania is a party or other international document Romania is liable to respect;
 - b) have committed a serious common law offence outside the territory of Romania prior to their admission to the territory of Romania;
 - c) have committed acts contrary to the purposes and principles defined in the Preamble and art. 1 and 2 of the Charter of the United Nations;
 - d) have instigated or have been accomplice to committing the deeds foreseen under letters a) – c).
- (2) At the same time, refugee status shall not be granted to aliens and stateless persons who planned, facilitated or took part in the perpetration of terrorism acts as defined in the international instruments to which Romania is a party.

Art. 26

Subsidiary protection

- (1) Subsidiary protection shall be granted to aliens or stateless persons who fail to meet the requirements for being recognised the refugee status and regarding to whom there are solid reasons to suppose that they, in the event of being returned to their country of origin or to the country of usual residence, shall be under serious threat, in the sense of the provisions under paragraph (2), and who are not able or, due to such threat, are unwilling to be granted the protection of the country under reference.
- (2) The term “serious threat” shall mean, to the effect of paragraph (1):
 1. death penalty or execution of such penalty; or
 2. torture, inhuman or degrading treatments or punishments; or
 3. serious threats to individual life or integrity, as a consequence of generalized violence within internal or international armed conflicts, if the applicant belongs to the civilian population.

Art. 27

Granting subsidiary protection to family members

- (1) Subsidiary protection shall be also granted, upon request, to the family members foreseen under art. 2 letter j) who are on the territory of Romania, except from the cases in which the respective persons fall into one of the situations provided by art. 28.
- (2) In the case of spouses, the provisions under paragraph (1) shall apply only if the person who has been granted subsidiary protection under art. 26 concluded marriage before entering the territory of Romania.
- (3) In case the family member fails to meet the requirements foreseen under paragraph (1) and (2), as the case might be, her or his asylum application shall be examined from the perspective of art. 23 and 26.

Art. 28

Cases for exclusion from granting subsidiary protection

- (1) Subsidiary protection shall not be granted to aliens and stateless persons with regard to whom there are solid reasons to suppose that they:
 - a) have committed a crime against peace and humanity, a war crime or other crime as defined in the relevant international conventions to which Romania is a party or other international document Romania is liable to respect;
 - b) have committed a serious common law offence before entering the territory of Romania;
 - c) have committed acts contrary to the purposes and principles defined under the Preamble and art. 1 and 2 of United Nations Charter;
 - d) represent a danger against the Romanian public order and national safety;

e) have instigated or have been accomplices to committing the deeds foreseen under letters a) – d).

(2) At the same time, subsidiary protection shall not be granted to aliens and stateless persons who planned, facilitated or took part in the perpetration of terrorism acts as defined in the international instruments to which Romania is a party.

Art. 29

Temporary humanitarian protection

During periods of armed conflicts, to which Romania is not a party, temporary humanitarian protection may be granted to the persons who originate from conflict areas.

Art. 30

Procedure for granting the temporary humanitarian protection

(1) In the cases provided under art. 29, before establishing the measures and duration for which the protection is being granted, the Romanian Office for Immigration may decide to suspend the asylum procedure for the persons originating from conflict areas and who are supposed to be granted temporary humanitarian protection.

(2) Persons originating from a conflict area shall have the rights and obligations provided under art. 17-19, up to the moment the measures and duration for which temporary humanitarian protection is being granted have been established.

(3) Temporary humanitarian protection shall be granted by Government Decision, formulated by the Ministry of Administration and Interior at the Romanian Office for Immigration's proposal, if there are indications or information that a massive and spontaneous inflow of persons who need protection may be expected from the conflict area.

(4) The term "person who needs protection" shall designate any person belonging to the civilian population and who has abandoned their country of origin as a consequence of an armed conflict and unable to return safely and with dignity to the country of origin.

(5) The term "massive and spontaneous inflow of people who need protection" shall designate the movement towards the territory of Romania of a significant number of people who exceed the capacity of the Romanian Office for Immigration to resolve the individual applications, under the provisions and within the time limits defined by the present law.

(6) Temporary humanitarian protection shall be granted for a determined duration, which may not exceed 2 years.

(7) The persons who benefit from a temporary humanitarian protection may individually submit an asylum application only after this form of protection ceases.

Art. 31

Rights of the persons who have been granted temporary humanitarian protection

(1) The Government Decision mentioned under art. 30 paragraph (3) shall regulate the measures and duration, for which the temporary humanitarian protection is being granted as well as the source of funding for the expenditures related to granting temporary protection.

(2) The treatment to the persons who enjoy temporary humanitarian protection based on the Government Decision shall not be less favourable than that ensured for recognizing the following rights:

a) to be informed, in a language they are supposed to understand, about the rights they enjoy during the time they benefit from temporary humanitarian protection;

b) to be employed by individual or legal persons, to perform unpaid work, to practice liberal professions and to independently perform commercial activities, under the conditions of the law concerning the status of aliens;

c) to have access to adequate accommodation or, if necessary, to receive financial means in order to ensure such an accommodation;

d) to receive free primary and emergency stationary medical aid, as well as medical assistance and free treatment in the case of acute or chronic diseases that put their life in imminent danger;

e) the right of persons with special needs to benefit from adjusted accommodation and assistance conditions within the accommodation areas established by Governmental Decision;

f) in case of minors who have been granted the temporary protection, to have access to the compulsory education system enjoying the same conditions like the underage Romanian citizens;

Art. 32

Maintaining family unity in case of persons who have been granted temporary humanitarian protection

(1) Temporary humanitarian protection shall also be granted, upon request, to the family members of the beneficiaries of this form of protection, foreseen under art. 2 letter j), in case they are on the territory of Romania.

(2) The provisions under paragraph (1) shall not apply to the family members if they fall into one of the cases foreseen under art. 33.

Art. 33

Cases excluding granting of temporary humanitarian protection

Aliens and stateless persons who fall into one of the situations foreseen under art 28 shall be excluded from granting temporary humanitarian protection.

**CHAPTER V
ASYLUM PROCEDURE**

**SECTION 1
ORDINARY PROCEDURE**

Art. 34

Commencement of the procedure

- (1) A person shall be considered an asylum applicant from the moment she or he expresses, in writing or verbally, in front of the competent authorities, her or his will to request protection on behalf of the Romanian state.
- (2) From the moment of expressing the will under the conditions provided under paragraph (1), the asylum applicant shall be subject to the rights and obligations foreseen under art. 17 – 19 of the present law.

Art. 35

Competence for receiving the asylum applications

The competent authorities able to receive an asylum application are the following:

- a) Romanian Office for Immigration and its territorial offices;
- b) Structures of the Romanian Border Police;
- c) Structures of the Romanian Police;
- d) structures of the National Administration for Penitentiaries within the Ministry of Justice.

Art. 36

Moment of submission of the asylum application

- (1) The asylum application shall be submitted as soon as:
 - a) the applicant appears in person at the border control point in order to cross the state border;
 - b) the applicant has entered the territory of Romania;
 - c) the occurrence, in the applicant's country of origin, of events that force him to apply for protection, in case of aliens who enjoy the right to stay in Romania.
- (2) The asylum applications submitted outside the territory of Romania shall not be accepted.
- (3) The competent authorities shall not refuse the reception of the asylum application due to the fact it has been submitted with delay.

Art. 37

Asylum application

- (1) The asylum application is individual and it shall be submitted personally by the applicant or by a tutor or legal representative.
- (2) The asylum application shall be filled using the Romanian language or a language the applicant knows.
- (3) Collective asylum applications shall not be accepted.

Art. 38

The asylum application submitted to the territorial structures of the Ministry of Administration and Interior

- (1) In case the asylum application has been submitted to the territorial structures of the Ministry of Administration and Interior' units, foreseen under art. 35, the applicant shall be informed about the fact that she or he must appear before the specialized structure on asylum within the Romanian Office for Immigration
- (2) If the asylum application has been submitted to one of the territorial structures of the Border Police in one of its Border Control Points, the applicant, who has been granted the access to the territory by a decision of the Romanian Office for Immigration, shall be informed that she or he must appear before the specialized structure on asylum within the Romanian Office for Immigration
- (3) The asylum applicant shall meet the expenses for transportation to the Romanian Office for Immigration or to one of its territorial bodies, as the case might be. In case the applicant shall not dispose of the needed amount to cover the transportation expenses, the respective amount shall be paid by the Romanian Office for Immigration.

(4) In the situation provided under paragraphs (1) and (2), for justified reasons pertaining to public interest, national safety, public order, the protection of public health and morality and the protection of rights and freedoms of third persons, the National Refugee Office shall ensure the transportation of the asylum applicant to one of its territorial bodies.

(5) The asylum applications submitted at a Border Control Point, at the Authority for Aliens and the bodies of the National Administration of Penitentiaries within the Ministry of Justice shall be registered in special records.

Art. 39

Applications submitted by minors

(1) The interests of a minor alien shall be represented by her or his own legal representative.

(2) The minor alien shall submit an asylum application by means of an own legal representative, and in the case the minor is aged at least 14, the asylum application may be submitted in person.

(3) In case an unaccompanied minor alien expressed, verbally or in writing, the will to be granted asylum, in front of the competent authorities, he shall be registered as an asylum applicant and his application shall be submitted upon appointment of a legal representative.

(4) In case the unaccompanied minor alien has expressed, verbally or in writing, the wish to be granted asylum, in front of the competent authorities, other than National Refugee Office, the territorial structure of the specialised unit of the Ministry of Administration and Interior or Ministry of Justice which has been notified, shall immediately inform the National Refugee Office which shall ensure transportation of the applicant to the competent body in order to examine the application.

Art. 40

Appointing the legal representative

(1) Upon registering the unaccompanied minor alien as asylum applicant, the National Refugee Office shall immediately notify the competent child protection authority in whose territorial jurisdiction the accommodation centre where the asylum application shall be submitted is situated, in order to start the procedure of appointing a legal representative.

(2) In case of an unaccompanied minor alien, the asylum procedure shall be suspended until the appointment of a legal representative. During the period of suspension of the asylum procedure, the minor shall benefit from the rights foreseen under art. 17 and 18.

Art. 41

Determining the age of the minor asylum applicant

(1) In case the asylum applicant declares she or he is a minor and there are no serious doubts regarding her or his being underage, she or he shall be considered minor.

(2) In case the unaccompanied minor is not able to prove her or his age and there are serious doubts regarding her or his being underage, the Romanian Office for Immigration shall request a forensic expertise in order to evaluate the age of the asylum applicant, upon previous written consent of the minor and her or his own legal representative.

(3) In case the asylum applicant and/or legal representative refuse to carry out the forensic expertise in order to evaluate the age and there is no convincing proof regarding her or his age, she or he shall be considered of adult age.

(4) In the case foreseen under paragraph (3), it shall be considered that the respective person has reached the age of 18 at the date of submitting the asylum application.

(5) The provisions under paragraph (3) shall not apply in the case there are convincing reasons, determined as a result of an examination carried out by a psychologist within the Romanian Office for Immigration, to refuse the forensic expertise in order to establish the real age.

Art. 42

Appointing the curators

(1) In the event there are serious doubts regarding the accountability of the major asylum applicant, the specialized staff of Romanian Office for Immigration shall request a forensic expertise for this purpose.

(2) In the event the asylum applicant is not proved, by the forensic expertise, to be unaccountable for her or his actions, the officer mentioned under art. 48 paragraph (2), responsible for the case, requests the appointment of a curator, under the same conditions provided by the law for Romanian citizens.

(3) The procedure of processing the asylum application shall be suspended until a curator is appointed. During the period of time the procedure for granting a form of protection is suspended, the applicant shall benefit from the rights foreseen under art. 17 and 18.

(4) After being appointed, the curator shall submit the application in the name of the asylum applicant who is unaccountable for her or his actions.

(5) In the case it is possible to carry out an interview for determining the refugee status, the curator shall inform the asylum applicant on the purpose and possible consequences of the personal interview and shall undertake the necessary steps in order to prepare the applicant for the interview.

Art. 43

The Questionnaire

Upon registration of the asylum application by the Romanian Office for Immigration or its territorial offices, the applicant shall fill in a questionnaire in order to clarify personal details of the applicant as well as of the family members, the travel route from the country of origin to Romania, information regarding possible asylum applications submitted in third countries or an EU Member State, as well as identity or travel document in the applicant's possession.

Art. 44

Fingerprinting the asylum applicants

(1) Upon submission of the asylum application, the Romanian Office for Immigration or the other competent authorities mentioned under art. 35 shall fingerprint all the asylum applicants who, according to their statements, have reached the age of 14, subsequently submitting and storing this data, on paper support, at the National Refugee Office card index and, on electronic support, in the AFIS (Automated Fingerprint Identification Systems) national database.

(2) The fingerprinting and forwarding of the fingerprints of the asylum applicants shall be performed by observing the provisions of the principle of confidentiality and personal data protection. The person under reference shall be notified in writing on this matter.

Starting from the date of Romania's accession to the European Union, the fingerprints collected according to the provisions of paragraph (1) shall also be submitted and filed by EURODAC database (European Automated Fingerprint Identification Systems).

Art. 45

Interview for determining a form of protection

(1) The interview for determining a form of protection consists of a hearing of the asylum applicant by an officer of the Romanian Office for Immigration, specially appointed according to art. 48 paragraph (2).

(2) The interview shall not be compulsory for the asylum applicants in the following cases:

a) Romanian Office for Immigration may take a favourable decision on the basis of the supporting documents existing in the file;

b) when it is determined that the asylum applicant falls under one of the cases mentioned by art. 42. In this case, efforts shall be made in order to acquire additional information necessary to the case resolution.

(3) The interview is recorded in writing and is supposed to clarify all necessary aspects to examine the asylum application, such as: identification data of the applicant, name of the appointed officer who conducts the interview, name of the interpreter and legal representative, curator and/or lawyer who assists the applicant, as the case might be, language used during the interview, reasons for asylum, applicant's statement to confirm all the data and information presented during the interview.

(4) In case there is reason to believe that the asylum applicant has knowledge of another language in which she or he is able to communicate, the interview may be conducted in that language.

(5) The asylum applicant may not object to the interview to be carried out because of the absence of a legal counsel. It is possible to reschedule the interview only once for reasons of absence of a legal counsel if there are well grounded reasons to justify this absence.

(6) If the applicant refuses to sign the interview protocol, the reasons for her or his refusal shall also be recorded.

(7) The refuse of the applicant to sign the interview protocol shall not prevent the Romanian Office for Immigration from making a decision concerning the asylum application.

(8) If necessary, the officer of the Romanian Office for Immigration, in charge of the case, may conduct a new interview.

(9) Should the applicant fail to show up for the interview at the set date and fails to supply well grounded reasons for her or his absence before that time limit, the officer of the Romanian Office for Immigration in charge of the case shall draw up a minute of those ascertained.

(10) The copy of the interview protocol shall be made available to the applicant upon communication by the Romanian Office for Immigration on the decision of rejection of the asylum application.

Art. 46

Interviewing asylum applicants with special needs

Specialised civil servants of the Romanian Office for Immigration shall conduct interviews for asylum applicants with special needs, whose special situation shall be taken into account for this purpose.

Art. 47

Interviewing underage asylum applicants

- (1) The underage asylum applicants shall be interviewed in the presence of their legal representative.
- (2) The legal representative informs the underage asylum applicant about the purpose and possible consequences of the personal interview and shall undertake the necessary steps in order to prepare the minor for the interview;
- (3) The underage asylum applicants as well as the underage unaccompanied asylum applicants shall be interviewed in all the cases, only if possible, according to their physical development.
- (4) When conducting an interview with an underage asylum applicant, his intellectual development level and degree of maturity shall be taken into consideration.

Art. 48

Competence for resolving asylum applications

- (1) The Romanian Office for Immigration is the competent body responsible for conducting interviews, analysing the reasons set forth and making decisions regarding the asylum applications.
- (2) These activities shall be carried out by specially appointed officers of the Romanian Office for Immigration.
- (3) The case officers are appointed by order of the Director of the Romanian Office for Immigration.

Art. 49

Collecting relevant information in order to resolve asylum applications

- (1) Within the decision-making process, the officers mentioned under art. 48 paragraph (2) shall have the right to request expertise and consult specialist experts.
- (2) The Romanian Office for Immigration may request any public institution, agency or organisations functioning on the territory of Romania any necessary documents for the assessment of the applicant's case and processing the asylum application, while observing the principles of confidentiality according to the provisions of art. 10. The consent of the applicant shall not be needed in such cases.
- (3) The Ministry of Foreign Affairs shall regularly supply briefings on the situation in countries of origin of asylum applicants, as well as answers to certain requests of the Romanian Office for Immigration, necessary for resolving the asylum applications.
- (4) The Romanian Office for Immigration consults the Ministry of Foreign Affairs in order to establish the safe countries of origin as well as the safe third countries.

Art. 50

Resolving the asylum application

- (1) The asylum application shall be resolved on the basis of the existing supporting documents in the applicant's file and of the motivations presented by the applicant, which are analysed in comparison to the specific situation in the country of origin and with the applicant's credibility.
- (2) While processing the applications of underage asylum applicants, their intellectual level of development and degree of maturity shall be taken into consideration.
- (3) While processing the applications of major unaccountable asylum applicants, their statements shall be examined taking into account the level in which their accountability is affected.
- (4) In the cases foreseen under art. 45 paragraphs (2) and (9), the asylum application shall be resolved on the basis of the existing supporting documents in the file.

Art. 51

Withdrawal of the asylum application during the processing phase

- (1) The asylum applicant who deliberately withdraws the application during the processing phase shall be informed about the consequences of the withdrawal action.
- (2) In the case foreseen under paragraph (1), the officer mentioned under art. 48 paragraph (2) shall issue a decision to close the file;
- (3) The decision to close the file shall be immediately communicated, in writing, to the applicant, by the representatives of the Romanian Office for Immigration or by dispatching the notification by post to her or his last declared residence.
- (4) The decision to conclude the file foreseen under paragraph (2) shall not be subject to appeal.
- (5) The applicant shall have the rights and liabilities foreseen under art. 17-19, until the expiry of the 7 days term from the moment the decision to close the file has been communicated.
- (6) In case the applicant withdraws the asylum application during the processing phase, she or he is subject to leave the territory of Romania upon expiry of the term of 15 days from finalisation of the asylum procedure.

(7) The provisions under paragraph (6) shall not apply in case the applicant has a legal right to stay according to the law on the status of aliens.

Art. 52

Term for resolving the asylum procedure

- (1) The officer foreseen under art. 48 paragraph (2) shall conduct the interview, examine the reasons invoked by the applicant and decides on the application within 30 days from starting to process the case.
- (2) The term foreseen under paragraph (1) may be extended by a maximum of 30 days if additional documentation shall be needed in order to resolve the asylum application.
- (3) The term foreseen under paragraph (1) shall be suspended during the procedure of determining the member state responsible for examining such asylum application or during the procedure for the third safe country, as the case might be.
- (4) In case of underage unaccompanied asylum applicants, the term foreseen under paragraph (1) shall be suspended until a legal representative is appointed.

Art. 53

Decision of resolving the asylum application

- (1) The officer mentioned under Art. 48 paragraph (2) shall issue a decision by which:
 - a) the refugee status is recognized; or
 - b) the subsidiary protection is granted; or
 - c) the asylum application is rejected.
- (2) The decision of granting subsidiary protection shall also include the reasons for not granting refugee status.
- (3) The decision of rejecting the asylum application includes the corresponding reasons for each form of protection foreseen under art. 23 and 24, art. 26 or 27, as well as the mention regarding the obligation to leave the territory of Romania. Aliens are obliged to leave the territory of Romania within 15 days from the date the asylum procedure has been completed, except from the case the asylum application was rejected as evidently unfounded upon its resolving on accelerated procedure, case in which aliens are obliged to leave the territory of Romania as soon as the asylum procedure has been finalized.

Art. 54

Communication of the decision on the asylum application

- (1) The admission or rejection of the asylum application shall be made by means of a decision, which is immediately communicated, in writing, to the applicant; the representatives of the Romanian Office for Immigration shall communicate the decision directly or by post to the last declared residence of the applicant.
- (2) In case the applicant has been evacuated from an accommodation centre subordinated to the Romanian Office for Immigration and has not notified the new residence, the decision shall be considered to be communicated from the date it is acknowledged, through an official report formulated by the officer mentioned under art. 48 paragraph (2), that the alien does not reside at the last declared residence.
- (3) The reasons for granting a form of protection shall not be communicated.

Art. 55

Term for appealing on the decision

- (1) The decision stipulated under art 53 paragraph (1) letters b) and c) can be appealed against within 10 days from receiving proof of notification or the document stating that the applicant can no longer be found at her or his last declared residence.
- (2) In case the appeal has been submitted within the term foreseen under paragraph (1), the applicant shall have the right to remain on the territory of Romania during the period of time of processing the appeal.

Art. 56

Submission of appeals

- (1) The justified complaint shall be submitted only to the Romanian Office for Immigration or by its territorial bodies, which formulated the rejection decision and shall be accompanied by the copy of the decision of rejection of the asylum application, the reasons of the complaint and supporting documents or other elements the complaint is based on. The complaint shall be immediately forwarded to the competent court of justice.
- (2) In the case of minors, the first appeal shall be submitted by their legal representative, on their behalf. Minors who have reached the age of 16 may submit the appeal in their own name.
- (3) In the case of unaccountable aliens, the curator shall submit the complaint.

Art. 57

Contents of the complaint

- (1) The complaint shall contain:
1. applicant's name and residence, name and premises of the competent body that resolved the application in an administrative procedure;
 2. object of the application;
 3. presentation of the factual and judicial reasons the complaint is based on;
 4. indication of the evidence that supports the complaint;
 5. signature.
- (2) In case the evidence is provided by supporting documents, a copy of such documents shall be attached for each plaintiff and the Court. The copies, shall be certified by the plaintiff as being conform to the original,

Art. 58

Confidentiality during the Court proceedings

- (1) During the Court proceedings for processing the asylum applications, the debates shall be held in secret session.
- (2) During the Court proceedings, the asylum procedure shall be carried out by observing the principle of confidentiality.

Art. 59

Exertion of the rights of procedure

The procedure' rights shall be exerted only personally or being assisted by a legal counsel.

Art. 60

Parties

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

- a) Romanian Office for Immigration;
- b) asylum applicant whose application has been rejected entirely or partially.

Art. 61

Counterclaim

The counterclaim shall include:

1. exceptions of procedure that the indictee may raise to the complaint formulated by the plaintiff;
2. answer to all factual and legal circumstances of the complaint
3. proofs against each position of the complaint. Should any proof by statements of witnesses be necessary, the indictee shall indicate their name and place of residence;
4. signature.

Art. 62

Hearings and debates

- (1) The causes having as object asylum applications are processed with priority above all the other civil causes, within a term of 30 days.
- (2) The Court shall grant a single term for lack of defence, solidly motivated.

Art. 63

Hearing

The Court may dispose the hearing of the asylum applicant when it is considered to be useful for resolving the cause.

Art. 64

Processing the complaint

- (1) The complaint shall be resolved by the Court under the jurisdiction of which the Romanian Office for Immigration territorial body that issued the decision is situated.
- (2) The court shall decide on the case within 30 days from registration of the complaint.
- (3) The courts shall motivate the decision within 5 days from its delivery.

Art. 65

Costs of the courts proceedings

The complaint, as well as all other procedural documents related to its resolution, shall be exempted from the judicial fee and there will be no possibility to demand reimbursement of costs for the court proceedings.

Art. 66

Term for submission of the appeal

- (1) The plaintiff or Romanian Office for Immigration may appeal against the court's decision within 5 days from its pronouncement.
- (2) In the case of minors, their legal representatives shall appeal. Minors who reached the age of 16 years may appeal in their own name.
- (3) In the case of unaccountable aliens, the curator shall appeal.
- (4) In the case of appealing within the term defined under paragraph (1), the applicant shall have the right to remain on the territory of Romania during the time of processing the appeal.
- (5) Motivation of the appeal shall be made within 10 days from communication of the decision.

Art. 67

Processing the appeal

The legal proceedings for the appeal shall be performed by Administrative Litigation Department of the Court under the jurisdiction of which the Court of First Instance is situated.

Art. 68

Withdrawal of the claim

- (1) Plaintiffs may withdraw the claim anytime either verbally, during the procedure, or by written request.
- (2) The withdrawal is acknowledged by the court through a decision that may be appealed against within 5 days from its delivery.

Art. 69

Appealing beyond the legal term

- (1) In case of the complaint or the appeal are submitted after expiry of the legal term, the applicant may request a suspension of enacting the decision to returning. The request of suspension shall be processed within 7 days from its registration by the competent court, and shall be pronounced in the Council Chamber, without subpoenaing the parties, by an irrevocable decision.
- (2) Up to the moment the request of suspending of enacting the decision of returning has been decided upon, the alien shall not be expelled from the territory of Romania.
- (3) In case the court accepts the request to suspend the execution of the decision of returning, the suspension effect shall be granted until the decision on the request for reinstating the term has been delivered.
- (4) The alien shall benefit from all the rights stipulated under art 17 and 18 from the moment of the admittance of the request for reinstating the term.

Art. 70

Decision of returning

- (1) In the case the alien has not obtained a form of protection after finalizing the asylum procedure, the Romanian Office for Immigration, pursuing the provisions under art. 53 paragraph (3), respectively under art. 51 paragraph (6), shall issue and enforce the decision of returning.
- (2) In the sense of paragraph (1), the asylum procedure shall finalize within 7 days from the notification on the decision of file closure, from the date of expiry of the legal term for submission of a complaint or an appeal, or from the date the court of appeal decided on rejection of the appeal.
- (3) In case that, due to objective reasons, the alien is not able to leave the territory of Romania within the established period of time as mentioned at art. 53 paragraph (3) or, as the case might be, under art. 51 paragraph (6), the competent authorities shall allow her or him to stay on the territory of Romania, under the conditions foreseen by the legal regulations on the status of aliens in Romania.

SECTION 2
FAMILY REUNIFICATION

Art. 71

Family reunification

- (1) The person who has been granted a form of protection under the conditions of the art. 23 and 26 of the present law may submit an asylum application for her or his family members stipulated under art.2 letter j), in case these persons do not reside on the territory of Romania.
- (2) These applications shall be submitted to the specialized structures within Romanian Office for Immigration.

(3) In the case the officer foreseen under art. 48 paragraph (2) estimates that the family relation or, as the case may be, the marriage being concluded before entering the territory of Romania, has been proven by the beneficiary of the form of protection, he shall request the Ministry of Foreign Affairs to issue a visa and relevant travel documents for the family members mentioned under paragraph (1).

(4) After the family members enter the territory of Romania, in the case of their agreement concerning the asylum application, the application shall be resolved complying with the provisions of the present law.

Art. 72

Family reunification in the case of unaccompanied minors

(1) Family reunification in the case of unaccompanied minors who benefit from a form of protection shall be made for the higher interest of the child.

(2) The Romanian Office for Immigration shall initiate, ex officio, the procedure for family reunification. When the procedure for family reunification is initiated ex officio, the agreement of the legal representative and, if the case, of the unaccompanied minor, as the case might be, shall be requested. In all the cases the opinion of the unaccompanied minor shall be taken into account and shall be considered accordingly.

(3) In the case the family of the unaccompanied minor has been identified, the officer foreseen under art. 48, paragraph (2) shall analyse the possibility and requirements for reunification and deliver a justified decision to this effect.

(4) The decision mentioned under paragraph (3) shall be subject to appeal according to the provisions under art. 58 – 69.

Art. 73

Family identification in the case of unaccompanied underage asylum applicants

(1) The Romanian Office for Immigration shall immediately proceed to identifying the family of the unaccompanied underage asylum applicants.

(2) The opinion of the unaccompanied underage asylum applicant regarding the identification of her or his family shall be taken into account and be considered accordingly, according to the age and level of maturity of the minor.

Art. 74

Family reunification in the case of beneficiaries of temporary humanitarian protection

(1) Persons who benefit from temporary humanitarian protection may request family reunification for the family members foreseen under art 2 letter j), if these persons are outside the territory of Romania.

(2) The request for reunification shall be resolved by the officer foreseen under art. 48 paragraph (2), who issues a justified decision to this effect.

(3) The decision foreseen under paragraph (2) shall be subject to appeal pursuant to art. 58 – 69.

(4) Family reunification in the case of unaccompanied minors who benefit from temporary humanitarian protection shall be carried out under the provisions stipulated by art. 72.

SECTION 3 ACCELERATED PROCEDURE

Art. 75

Applications subject to the accelerated procedure

(1) The accelerated procedure shall be applied in the following cases:

- a) evidently unfounded asylum applications;
- b) asylum applications of persons who, due to their activity or affiliation to a certain group, represent a risk for the national security or public order of Romania;
- c) asylum applications of persons who arrive from a safe country of origin.

(2) The asylum applications of unaccompanied minors cannot be resolved by accelerated procedure.

Art. 76

Evidently unfounded applications

(1) An asylum application shall be considered as evidently unfounded if the following are established:

- a) lack of grounds while invoking the fear of being persecuted or exposed to a serious risk in the country of origin, under the stipulations of art. 23 paragraph (1) or of art. 26;
- b) deliberately misleading of the competent authorities in refugee matters or resorting to the asylum procedure in an abusive or ill-willing manner,.

(2) The lack of grounds while invoking the fear of persecution or exposure to a serious risk in the country of origin shall exist in the following cases:

- a) the applicant does not invoke any fear of persecution in the sense of art. 23 paragraph (1) or any exposure to a serious risk to the effect of art. 26;
- b) the applicant does not provide data and information that would justify her or his exposure to a fear of persecution of a serious risk or her or his accounts do not contain circumstantial or personal details;
- c) the application clearly lacks credibility, meaning that the applicant's account lacks coherence, is contradictory or visibly untruthful with respect to the situation in the country of origin;
- d) the applicant had the possibility of internal refuge, also recognized by the United Nations High Commissioner for Refugees (UNHCR).

(3) Deliberate misleading the competent authorities in refugee matters or resorting to the asylum procedure in an abusive or ill-willing manner shall be recorded in all the cases when the applicant, without providing a plausible explanation, finds herself or himself in one of the following situations:

- a) has submitted the application using a false identity or has presented false or forged documents, claiming their authenticity;
- b) after submitting the application, deliberately presented false elements related to it;
- c) ill-willingly destroyed, deteriorated, discarded or transferred the travel document or a document relevant for the application, either for establishing a false identity for the purpose to request and be granted the refugee status, or in order to hamper the processing of the application;
- d) deliberately concealed the information about previous submission of an asylum application in one or several other countries, especially when having claimed a false identity;
- e) has submitted an application for being granted the refugee status with the obvious purpose to hinder the imminent enforcement of a measure ordered by the competent authorities of removal from the country, extradition or expulsion, despite the fact that previously to such a measure the alien had the opportunity to submit such an application;
- f) has flagrantly violated the obligations pursuing art. 21;
- g) has submitted the asylum application subsequently to having been rejected an asylum application, as a result of an examination containing the adequate procedural guarantees according to the provisions of the Geneva Convention, in a third safe country.

(4) The reasons enumerated under paragraph (1), as well as the applications foreseen under art. 75 paragraph (1) letter b) and c) shall not prevail over a well- founded fear of persecution as per art. 23 paragraph (1) or to the exposure of a serious risk to the effect of art. 26.

Art. 77

Safe countries of origin

(1) The following countries shall be considered safe countries of origin: member states of the European Union, as well as other states defined as such, at the suggestion of the Romanian Office for Immigration, by order of the Minister of Administration and Interior, on the basis of the following criteria:

- a) the number of asylum applications formulated by the citizens of the respective country and coefficients of granting a form of protection;
- b) the status of observance of fundamental human rights;
- c) the functioning of the democratic principles, political pluralism and free elections, as well as the existence of functioning democratic institutions to guarantee the observance and respect of the fundamental human rights;
- d) the existence of stability factors.

(2) Other evaluation criteria except from the ones foreseen under paragraph (1) may also be taken into consideration.

(3) The asylum application of an alien coming from a safe country of origin shall be rejected as being clearly unfounded, except from the case in which the factual situation or the evidence presented by the applicant demonstrate the existence of a well founded fear from persecution to the effect of art. 23 paragraph (1). In this situation, the applicant shall have access to the ordinary procedure.

Art. 78

The moment of initiating the accelerated procedure

The accelerated procedure may be initiated during the ordinary procedure on the date when the specially appointed officer ascertains the existence of one of the situations foreseen under art 75.

Art. 79

Resolving the asylum applications that are subject to the accelerated procedure

The officer foreseen under art 48 paragraph (2), shall decide, after conducting the interview and analyzing the reasons on which the asylum application is based, within 3 days from initiation of the accelerated procedure.

Art. 80

Means of appeal

- (1) In the case a decision of rejecting an asylum application as evidently unfounded has been issued, the term for appeal is of 2 days from the date of communication. In case the complaint is filed within the legal term, the applicant has the right to stay on the territory of Romania during the period of processing the complaint,
- (2) The complaint falls into the competence of the court under the jurisdiction of which the relevant structure of the Romanian Office for Immigration, which delivered the decision, is located.

Art. 81

Decision of a Court Instance

- (1) The court shall resolve the complaint within 10 days and deliver a justified decision by means of which:
 - a) It accepts the complaint and processes it in ordinary procedure;
 - b) It maintains the Romanian Office for Immigration's decision.
- (2) The decision of the court foreseen under paragraph (1) letter b) is irrevocable.
- (3) In the case the asylum application has been rejected by an irrevocable decision, the provisions under art. 70 shall be enacted.

SECTION 4 PROCEDURE AT THE BORDER

Art. 82

Submitting an asylum application at the state border control points

The asylum application submitted to the territorial bodies of the Border Police at the control point for state border shall be immediately forwarded to the competent body of the Romanian Office for Immigration which shall examine it and deliver a decision within 3 days from the date of receipt.

Art. 83

Resolving the asylum applications submitted at the state border control points

- (1) The officer mentioned under art. 48 paragraph (2) decides, after conducting the interview and examining the invoked reasons for being granted a form of protection, according to the information on the situation in the country of origin, on:
 - a) granting a form of protection and access to the territory; or
 - b) granting the access to the territory and to the ordinary asylum procedure, if the application cannot be rejected due to one of the reasons foreseen under art. 76 paragraph (1); or
 - c) rejecting the application as evidently unfounded.
- (2) In the situation foreseen under paragraph (1) letter b), the asylum application shall be examined according to the provisions of the present law that regulates the ordinary procedure.

Art. 84

Unaccompanied underage asylum applicants

- (1) The asylum applications submitted by unaccompanied minors shall not be subject to the procedure at the border.
- (2) The unaccompanied underage asylum applicants shall be granted access to the territory and to the ordinary procedure.

Art. 85

Means of appeal

- (1) The alien may file a complaint against the decision of rejecting the application within two days from communication.
- (2) The complaint shall be filed at the Romanian Office for Immigration body which made the decision, which shall immediately forward it to the court under the jurisdictional area of which it is located.

Art. 86

The decision of the court

- (1) The court shall process the complaint within 5 days and deliver a justified decision by which:
 - a) It accepts the complaint, grants access to the territory and solves it in ordinary procedure; or
 - b) maintains the decision of the Romanian Office for Immigration.
- (2) The decision of the court foreseen under paragraph (1) letter b) is irrevocable.

(3) In the case the asylum application has been rejected by an irrevocable decision, the General Inspectorate of the Border Police shall take measures with the view to return the alien.

Art. 86

Accommodation of the asylum applicants at the state border control points

- (1) The alien who applies for a form of protection in Romania shall remain in the transit area of the state border control point until receipt of decision to be allowed to enter Romania or, as the case might be, up to the moment the final decision of rejecting the asylum application becomes irrevocable, but not longer than 20 days from entering the transit area.
- (2) The asylum applicant may be accommodated within the special reception and accommodation centres situated in the neighbourhood of the state border control point, established by order of the Minister of Administration and Interior and having the legal status of the transit area.
- (3) Asylum applicants who are accommodated within the centers foreseen under paragraph (2), will receive free of charge boarding, in accordance with the conditions defined by Governmental Decision.
- (4) The persons foreseen under paragraph (3) are not under the incidence of the provisions of art. 17 paragraph (1) letter j) with regard to allowance for free of charge boarding.
- (5) Upon expiry of the time limit foreseen under paragraph (1), the alien shall be allowed to enter the country if the application is not resolved by an irrevocable decision.
- (6) During the period of time the asylum applicant is at the border control point for crossing the border, she or he is entitled to legal and social assistance as well and to humanitarian aid from the non-governmental organizations competent in refugee matters, as well as from the United Nations High Commissioner for Refugees (UNHCR) representative in Romania and, at the same time, has the rights and liabilities as referred to in art. 17-19, except from the ones that contradict the provisions of this procedure.

SECTION 5

PROCEDURE FOR PROCESSING THE APPLICATION FOR BEING GRANTED THE ACCESS TO A NEW ASYLUM PROCEDURE

Art. 88

Conditions for submitting the application for being granted the access to a new asylum procedure

- (1) The application for being granted the access to a new asylum procedure may be submitted only in case the following requirements are fulfilled cumulatively:
 - a) To be submitted in person, the person must be on the territory of Romania; and
 - b) the previous procedure for resolving the asylum application or, as the case might be, the application for being granted the access to a new asylum procedure, should have been finalized without the alien being granted a form of protection, or the procedure of annulment or termination as a result of which the form of protection has been annulled or has terminated. The previous procedure shall be considered as finalized on the date the decision of the file closure has been communicated, upon expiry of the legal time limit for filing a complaint against the Romanian Office for Immigration's decision, upon expiry of the time limit for appeal or, as the case might be, on the moment the court of appeal delivers the decision.
- (2) The access to a new asylum procedure shall be granted if the following conditions are fulfilled alternatively:
 - a) During the procedure of resolving the previous complaint or after the previous application had been resolved of by means of an irrevocable decision or, as the case might be, by a decision of file closure, the applicant invokes new elements which could not have been presented, out of reasons which are beyond of the applicant's control, providing that these elements are not the result of a set of actions carried out in order to obtain a form of protection from Romania. The applicant is liable to prove the existence of the newly invoked reasons and of the impossibility to present them before submission of an application for being granted the access to a new asylum procedure;
 - b) From the date of finalization of the previous asylum procedure, in the sense of paragraph (1) letter b), political, social, military or legal changes have taken place in the country of origin and may have serious consequences for the applicant.
- (3) The personal submission of the application shall not be compulsory for the aliens who are in public custody by the Romanian Office for Immigration and its territorial offices or are imprisoned before trial or are executing a sentence with imprisonment.
- (4) The applications for granting the access to a new asylum procedure, submitted by aliens who are in the situations mentioned under paragraph (3) shall be immediately forwarded to the Romanian Office for Immigration by the institutions where they are in custody or where they are arrested or detained.

Art. 89

Granting permission to remain on the territory of Romania

(1) In case the conditions mentioned under art. 88 paragraph (1) are fulfilled, the alien is allowed to remain on the territory of Romania for a period of time of 5 days from the date of registration of his application for being granted the access to a new asylum procedure.

(2) The provisions of paragraph (1) shall not apply if the supporting documents in the file indicate that the application has been abusively submitted in order to obstruct the displacement of the alien from the territory of Romania.

(3) In the case foreseen under paragraph (2) a decision shall be immediately made in order to justify the refusal to allow the alien to remain on the territory of Romania. Such decision shall be directly communicated to the alien, who has been informed on the date she or he has to appear before the specialized structure within Romanian Office for Immigration. In case the alien does not appear on the set date and does not present reasons to justify her or his absence, the officer foreseen under art. 48 paragraph (2) shall formulate a minute which will be considered as proof of communication.

(4) The decision referred to in paragraph (3) may be appealed against within 2 days from communication.

(5) The court whose territorial jurisdiction includes the competent body of the Romanian Office for Immigration that delivered the decision is responsible for the complaint.

(6) The decision of the court foreseen under paragraph (5) is irrevocable.

Art. 90

Examination of the application for being granted the access to a new procedure

The officer foreseen under art. 48 paragraph (2) of the present law shall be responsible for processing the application for access to a new asylum procedure submitted under the conditions of art. 88.

Art. 91

Decision for resolving the application for access to a new asylum procedure

(1) The decision shall be delivered within 5 days from registering the application, on the basis of a justified request submitted by the alien, alongside with the relevant supporting documents, based on the existing elements in the alien's personal file. The decision shall be communicated in writing, personally or to the address mentioned in the application for being granted the access to a new asylum procedure.

(2) The civil servant foreseen at art. 90 delivers a decision by means of which:

- a) grants the access to a new asylum procedure; or
- b) rejects the alien's application as inadmissible.

(3) In case the requirements foreseen at art. 88 paragraph (1) are not fulfilled, the Romanian Office for Immigration shall inform the alien, in writing, on the legal instruments the alien may use to submit a request for being granted the access to a new asylum procedure.

Art. 92

Effects of the decision of granting the access to a new asylum procedure

In the case the alien receives the access to a new asylum procedure, she or he has the rights provided under art. 17 – 19.

Art. 93

Means of appeal

(1) A complaint may be filed against the decision of rejection of the application for being granted access to a new asylum procedure as inadmissible within 10 days since it has been communicated.

(2) The complaint shall be solved by the Court whose territorial jurisdiction includes the Romanian Office for Immigration's competent body that issued the decision.

(3) The exertion of a way of attack against the decision of the Romanian Office for Immigration shall not imply the permission to remain on the territory of Romania.

(4) In case of having filed a complaint, the alien may request permission to remain on the territory of Romania. The application for being granted permission to remain on the territory of Romania shall be urgently resolved by the competent court of justice that shall pronounce in the Chamber of Council, without subpoenaing the parties, through an irrevocable decision.

(5) The alien has the right to remain on the territory of Romania until the court pronounces on the application foreseen under paragraph (4).

(6) The permission to remain on the territory of Romania shall be granted until the moment the court has delivered a decision on the complaint.

Art. 94

Resolving the complaint

- (1) The court shall process the complaint, without hearing of the alien, within 30 days, and pronounces a justified decision by means of which:
- a) it rejects the complaint; or
 - b) accepts the complaint, grants the access to a new asylum procedure and disposes that the competent body of the Romanian Office for Immigration that delivered the decision shall examine the application in ordinary procedure.
- (2) The decision of the court provided under paragraph (1) is irrevocable.

SECTION 6 SAFE THIRD COUNTRY PROCEDURE

Art. 95

Initiating the procedure

- (1) In case the alien has previously transited a safe third country and has already been offered protection by that particular country or had the opportunity, at the border or on the territory of that country, to contact the authorities in order to be granted protection, the Romanian Office for Immigration may decide to return the alien to that country, without analyzing in detail her or his application.
- (2) Romanian Office for Immigration may analyze the application submitted by the alien irrespective of whether she or he finds herself or himself in the situation foreseen under paragraph (1), having the manifest agreement of the applicant.
- (3) If the applicant finds herself or himself in the situation foreseen under paragraph (1) and the state from the third safe countries' list agrees to reaccept the applicant to its territory and to ensure her or his access to the asylum procedure, Romanian Office for Immigration shall reject the access to the asylum procedure in Romania through a justified decision that is communicated to the applicant and requests the competent Romanian authorities to proceed to return the applicant to the third country.
- (4) Subsequently to communication of the decision for refusal of access to the asylum procedure, the Romanian Office for Immigration shall inform the authorities from the third state on the fact that the application has not been examined in detail.
- (5) The applicant may file a complaint against the decision as referred to in art. 58-69.
- (6) The alien shall have the rights and liabilities foreseen under art. 17 – 19 from the date the Romanian Office for Immigration has delivered a decision to reject the access to the asylum procedure as well as the receipt of notification from the third state on the acceptance of the alien on its territory.
- (7) In the case in which the transfer of the applicant could not be carried out, or there is no possibility to obtain the agreement of the third country to reaccept the applicant, the Romanian Office for Immigration shall grant the access to the asylum procedure and shall examine the asylum application in accordance with the procedures foreseen in the present law.
- (8) Up to the moment the alien is transferred to the authorities of the safe third country or, as the case might be, up to the moment the provisions of paragraph (6) are enforced, the alien shall have the rights and liabilities provided under art. 17-19.

Art. 96

External requests for taking over the asylum applicants in accordance with the procedure of the safe third country

According to the procedure of the safe third country, the Romanian Office for Immigration may decide to readmit aliens on the territory of Romania, in the situations in which Romania is declared to be a safe third country for these persons by the requesting state.

Art. 97

Safe Third Countries

- (1) The following countries shall be considered as safe third countries: member states of the European Union, as well as other states established by order of the Minister of Administration and Interior, at the suggestion of the Romanian Office for Immigration, complying with the following requirements:
- a) On their territory the life or freedom of the applicant is and shall not be threatened, in the sense of art. 33 of the Geneva Convention;
 - b) On the territory of such countries, the alien shall not risk to be subject to torture or inhuman and degrading treatments;
 - c) In the countries under reference, the alien shall be granted effective protection against return to the country of origin, in the sense of the provisions of the Geneva Convention, as well as on the basis of the notifications formulated by the United Nations High Commissioner for Refugees (UNHCR) on the practice of enforcing the principle of non-return.
- (2) From the date of accession of Romania to the European Union, the procedure of the safe third country shall no longer be applied in the case of the member states of the European Union or other states which convened by special agreements, to take part in the mechanism of determining the responsible state, as referred to in Chapter VIII of the present law.

CHAPTER VI
PROCEDURE OF TERMINATION OR ANNULLMENT OF THE FORM OF PROTECTION

Art. 98

Termination of the refugee status

- (1) The refugee status, recognized in accordance with art. 23 or 24, is terminated when the beneficiary:
- (a) has voluntarily re-entered under the protection of the country of nationality; or
 - (b) having lost his or her nationality, has voluntarily re-acquired it; or
 - (c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or
 - (d) has voluntarily re-located to the country which he or she had left and outside which he or she resided out of fear of persecution; or
 - (e) can no longer refuse the protection offered by the country of his nationality, as the circumstances due to which he or she has been recognized as a refugee have ceased to exist;
 - (f) being a stateless person with no nationality, he or she is able, to return to the country of former residence as the circumstances in connection with which he or she has been recognized as a refugee have ceased to exist.
- (2) The provisions under paragraph (1) letter e) shall not be applicable to the person who has been recognized the refugee status and who, due to serious reasons that refer to previous persecutions, refuses the protection of the country which nationality he has.
- (3) The provisions under paragraph (1) letter f) shall not be applicable to the person who has been recognized the refugee status and who, due to serious reasons that refer to previous persecutions, refuses to return to the country where she or he used to reside.

Art. 99

Termination of the subsidiary protection

The subsidiary protection granted in accordance with art. 26 or 27 ceases when the circumstances which led to the granting of subsidiary protection have ceased to exist or have changed to such a degree that this form of protection is no longer necessary.

Art. 100

Annulment of the refugee status

The refugee status shall be annulled in the following cases:

- a) if the person who has been granted refugee status has presented false statements, or has omitted to provide relevant information or used false documents, that were decisive for being granted the form of protection and there are no other reasons to maintain the refugee status;
- b) after granting the form of protection, it has been noticed that the alien finds himself in one of the situations foreseen under art. 25.

Art. 101

Annulment of the subsidiary protection

The subsidiary protection shall be annulled in the following situations:

- a) subsequently to being granted the subsidiary protection, it has been noticed that the alien finds himself in one of the situations foreseen under art. 28;
- b) the person who has been granted subsidiary protection has presented false statements, has omitted to provide relevant information or used false documents, that were decisive for being recognized the form of protection and there are no other reasons to maintain the subsidiary protection.

Art. 102

Initiation of the termination or annulment procedure

The Romanian Office for Immigration shall initiate the termination or annulment of the form of protection granted ex officio or at the proposals of one of the competent institutions in the field of national security or public order.

Art. 103

Reexamination of the situation of the persons who have been granted a form of protection

- (1) The public servant foreseen under art. 48 paragraph (2), responsible for the case, requests the beneficiary of the form of protection to appear at the Romanian Office for Immigration headquarters or at one of its territorial offices in order to conduct the interview for clarifying her or his case. The beneficiary of the form of protection shall be also informed on the initiation of the termination procedure or, as the case may be, the annulment procedure, and on the rights and liabilities she or he has during the procedure.
- (2) During the termination or annulment procedure, the beneficiary of the form of protection shall have the right:

- a) to be assisted by a lawyer during any stage of the procedure;
 - b) to be provided with free interpretation services, during any stage of the procedure;
 - c) to contact and be assisted by a representative of the United Nations High Commissioner for Refugees (UNHCR) during any stage of the procedure;
 - d) to be advised and assisted by a representative of the Romanian or foreign non-governmental organisations during any stage of the procedure.
- (3) There is no need to conduct an interview with the beneficiary of a form of protection should he fall under the situations foreseen under art. 98 paragraph (1) letter c), in case she or he has acquired Romanian nationality.
- (4) In the case the beneficiary of the form of protection does not appear to the interview, the officer shall solve the case on the basis of the existing supporting documents available in his personal file.
- (5) The case shall be reexamined in ordinary or accelerated procedure. The public servant foreseen under art. 48 paragraph (2) shall decide on the reexamination of the case in accelerated procedure by fulfilling the requirements of art. 75.

Art. 104

Decision of termination or annulment of the form of protection

- (1) As a consequence of the examination of the existing elements available in the file and, if the case, of the reasons invoked during the interview, the officer foreseen under art. 48 paragraph (2) shall make a justified decision by means of which:
- a) the granted form of protection shall be maintained; or
 - b) the termination of the form of protection is ascertained; or
 - c) the annulment of the form of protection is disposed.
- (2) The termination or the annulment of the form of protection does not have effects on the family members of the person with regard to whom the decision foreseen under paragraph (1) has been rendered.
- (3) Depending on the reasons at the basis on the decision for termination or annulment of the form of protection, the specially appointed officer foreseen under art. 48 paragraph (2) may mention the obligation of the alien to leave the territory, if the case.
- (4) When the decision foreseen under paragraph (3) includes the mention of the obligation to leave the territory of Romania, the Romanian Office for Immigration shall issue and implement, the decision of return..

Art. 105

Means of appeal

The alien may appeal against the decisions foreseen under art. 104 paragraph (1) letter b) and c), as set out in the conditions of the present law.

Art. 106

Status of the person subject to termination or annulment of the form of protection

- (1) If continuing to remain on the territory of Romania subsequent to the finalization of the procedure of termination or annulment of a form of protection, the person subject to termination or annulment of the protection granted will observe the legal provisions on the legal status of aliens in Romania.
- (2) The legal regime foreseen at paragraph (1) shall not apply to the persons whose form of protection has ceased as a consequence of acquiring the Romanian citizenship.

CHAPTER VII

PROCEDURE REGARDING THE TRANSFER OF RESPONSABILITY ON THE REFUGEE STATUS

Art.107

The competency to apply the European Agreement on the transfer of responsibility regarding the refugees

The Ministry of Administration and Interior through the Romanian Office for Immigration is the authority competent to implement the provisions of the European Agreement on transfer of responsibility regarding refugees, adopted in Strasbourg on October 16th 1980, hereinafter called European Agreement, ratified through Law no. 88/2000 for the ratification of the European Agreement on transfer of responsibility regarding refugees, adopted in Strasbourg on October 16th 1980.

Art.108

Initiation of the procedure

The procedure of the transfer of responsibility on the refugee status is initiated by Romanian Office for Immigration under the following conditions:

- a) when it is notified through a written request by the alien or stateless who is on the Romanian territory and his/her refugee status was recognized by a European Agreement signatory state;

- b) *ex officio*, when it is noted that the conditions on taking the responsibility on the refugee status recognized in Romania by a European Agreement signatory state have been met;
- c) when a European Agreement signatory state notifies the Romanian Office for Immigration to take the responsibility on refugee status on behalf of Romania

Art.109

Submission of the request for the approval of transfer of responsibility

- (1) The request for the approval of transfer of responsibility mentioned by art. 108 letter a) shall be submitted in person with the Romanian Office for Immigration or its territorial structures, while mentioning in writing the reasons for the approval of transfer of responsibility on the refugee status, as well as the proof of having being recognized the refugee status in a European Agreement signatory state.
- (2) The final decision on granting the refugee status and the travel document issued to refugees in compliance with Geneva Convention by the authorities of a European Agreement signatory state shall constitute the proof of the recognition of refugee status.
- (3) When the documents mentioned under paragraph (2) cannot be presented, additional verifications shall be carried out.

Art.110

The decision regarding the transfer of responsibility

- (1) The officer of the Romanian Office for Immigration appointed on the basis of art. 48 paragraph (2) shall analyze the request in compliance with the provisions of European Agreement and shall render a decision within 30 days:
 - a) to accept the request regarding transfer of responsibility, or
 - b) to reject the request regarding transfer of responsibility.
- (2) The alien may file a complaint against the decision to reject the request for transfer of responsibility regarding the refugee status within 10 days from notification of the decision.
- (3) In case the request regarding transfer of responsibility is accepted, the Romanian Office for Immigration shall inform the authorities of the European Agreement signatory state that the transfer of responsibility regarding the refugee status has taken place.

Art.111

Means of appeal

- (1) The solution to the complaint against the decision to reject the request falls within the competence of the court responsible for the area where Romanian Office for Immigration or its territorial structure issuing the decision is situated.
- (2) The court mentioned under paragraph (1) shall analyze the complaint and, within 30 days from the day when the complaint was registered with the respective court, shall render a justified decision:
 - a) to admit the complaint and approve the transfer of responsibility regarding the refugee status, or
 - b) to reject the complaint.
- (3) The decision made by the court is final and irrevocable.

Art.112

Effects of the decision on ascertaining the transfer of responsibility

- (1) In case the request on transfer of responsibility is admitted, the alien shall have the rights and obligations provided under art. 20 and 21.
- (2) If the request on transfer of responsibility is rejected, the alien shall comply with the provisions of the Romanian law on the legal status of aliens.

Art.113

Transfer of responsibility in case of refugees recognized in Romania

- (1) In the conditions mentioned by art. 108 letter b), the officer appointed on the basis of art. 48 paragraph (2) shall issue, *ex officio*, a decision ascertaining that the conditions on transfer of responsibility provided for by the European Agreement have been met and the Romanian state ceases to be responsible for the refugee status recognized by the Romanian authorities.
- (2) The decision under paragraph (1) shall be issued within 30 days from the date when the conditions on transfer of responsibility to a European Agreement signatory state were met.
- (3) Within 20 days from the date of issue of the decision under paragraph (1), the Romanian Office for Immigration shall inform the authorities of the European Agreement signatory state that the responsibility of the Romanian state related to the refugee status has ceased.

Art.114

Requests of re-admission regarding refugees recognized in Romania

(1) In order to determine the responsibility of Romania to re-accept on its territory a recognized refugee, following the requests of re-admission addressed to the Romanian state on the grounds of the provisions of the European Agreement, the Romanian Office for Immigration may request the authorities of the European Agreement signatory state, which requested the re-admission, additional information regarding the refugee for whom the re-admission was requested.

(2) If it is decided that the responsibility for the refugee status rests with the Romanian state in compliance with the provisions of the European Agreement, the Romanian Office for Immigration shall inform the authorities of the applicant state that the refugee will be re-admitted on the Romanian territory.

(3) If it is decided that the responsibility for the refugee status does not rest with the Romanian state in compliance with the provisions of the European Agreement, the Romanian Office for Immigration shall inform the authorities of the applicant state that the refugee will not be re-admitted on the Romanian territory. In this latter case the Romanian Office for Immigration shall issue a decision in compliance with the provisions of art. 108 letter b) and art. 113 paragraph (1).

CHAPTER VIII

THE PROCEDURE OF THE RESPONSIBLE MEMBER STATE

SECTION 1

GENERAL PROVISIONS REGARDING THE RESPONSIBLE MEMBER STATE

Art.115

Pre-eminence of directly applicable acts

(1) Starting with the date of entry into force of the EU Accession Treaty, Romania shall apply the provisions of EU directly applicable conventions and acts which establish the criteria and mechanisms to determine the responsible state for examining the asylum application lodged with one of the Member States by a citizen of a third country.

(2) Starting with the same date, Romania shall apply the provisions of EU directly applicable acts on setting up the EURODAC system to compare fingerprints in order to effectively implement the conventions and acts under previous paragraph. The competencies and functions of the institutions involved in the implementation of EURODAC system shall be defined through an Order of the Minister of Administration and Interior

Art.116

Access to asylum procedure

An asylum applicant may be refused the access to asylum procedure in Romania if, in compliance with EU directly applicable conventions and acts, another state is responsible with examining the asylum application.

Art.117

Coordinating authority

The central authority responsible for the implementation of the provisions of EU directly applicable conventions and acts which present the criteria and mechanisms to establish the state responsible with examining the asylum application/request lodged with one of the Member States by a citizen of a third country and coordination of the activity of the other institutions involved at national level is Ministry of Administration and Interior through Romanian Office for Immigration.

SECTION 2

COMMON PROVISIONS REGARDING THE RESPONSIBLE MEMBER STATE

Art.118

The obligation to inform

Subsequently to registering the asylum request, the applicant shall be notified in writing by the public servant within the authority where the application has been submitted, regarding that data related to himself, including fingerprints collected, may be object to data exchange among European Union member states or among other states convened through a special agreement to take part in this mechanism, with the exclusive purpose to establish the member state responsible with examining an asylum application.

Art.119

The procedure to establish the responsible state in case of asylum applicants

(1) In case there are circumstantial evidence or arguments which lead to another state being responsible, in compliance with EU directly applicable conventions and acts, Romanian Office for Immigration shall undertake the necessary measures to verify the situation of the asylum applicants, subsequently to the submission of the asylum application, but not later than the moment a decision has been made according to the national asylum procedure.

(2) Up to the moment a decision has been made on the asylum application for the purpose of establishment of a responsible member state through a final decision, the procedures and deadlines set by EU directly applicable conventions and acts shall apply.

Art.120

The decision establishing the responsible state

(1)The assessment of requests to establish the responsible member state falls within the competency of officers appointed for this purpose through the order of the Director of Romanian Office for Immigration.

(2)After analyzing circumstantial evidence and arguments in the file as well as the reply received from the applicant state, the officer under paragraph (1) may decide:

a) To refuse the access to asylum procedure in Romania and to order the transfer of the alien to responsible state;

b) To grant the access to asylum procedure in Romania

(3)The decision of the Romanian Office for Immigration shall be substantiated, *de facto* and *de jure*, in compliance with EU directly applicable conventions and acts which provide the criteria and mechanisms to establish the state responsible with examining the asylum application submitted by a citizen of a third country.

(4)The decision to refuse the access to asylum procedure in Romania shall include the reasons for refusing the access and the order to transfer of the alien to the member state responsible with examining his/her asylum application.

(5)The applicant shall be immediately informed in writing about the decision by the representatives of Romanian Office for Immigration who shall directly communicate him/her the decision or by post to the last communicated address of the applicant.

(6)The decision of Romanian Office for Immigration is executory.

Art.121

Means of appeal

(1) A complaint may be filed against the decision under art 120(3), within 2 days from the date of receiving the communication or proof showing the applicant does not reside any longer at his/her last communicated residence. Filing a complaint within the specified deadline shall not suspend the execution of the order of transfer to the responsible member state.

(2) The complaint shall be filed in person with the Romanian Office for Immigration and a copy of the decision refusing the access to asylum procedure in Romania shall be attached.

(3) The complaint shall be immediately forwarded to the court in the jurisdiction of which the structure of the Romanian Office for Immigration issuing the decision is situated.

(4) The court shall process the complaint within 5 days and shall issue a motivated decision:

a. to reject the complaint and to keep in force the decision of the Romanian Office for Immigration

b. to accept the complaint, to cancel the order of transfer to the responsible state and to grant the access to asylum procedure in Romania.

(5) The decision of the court is final and irrevocable.

(6) If by its decision the court accepted the complaint and granted the access to national asylum procedure and the asylum applicant has already been transferred to the responsible member state, Romanian Office for Immigration shall take the necessary measures in order to re-admit the applicant to the Romanian territory.

Art.122

Procedure to establish the responsible state in case of foreign citizens

(1) The foreign citizens illegally residing shall be notified in writing by the public servant within the authority where the application has been submitted, regarding that data related to himself, including fingerprints collected, may be object to data exchange among European Union member states or among other states, which convened through a special agreement, to take part in this mechanism, with the exclusive purpose to establish the member state responsible with examining the asylum application

(2) In order to check if an alien illegally residing on the Romanian territory has previously submitted an asylum application in a different Member State or other state which convened through a special agreement, to take part in this mechanism the Romanian Office for Immigration shall undertake the necessary steps in order to exclusively establish the member responsible with processing the asylum request.

(3) In case the foreign citizen has been identified in another member state or there are proofs which lead to establishing the responsibility of another state the responsible structure within the Romanian Office for Immigration shall initiate the procedure foreseen under conventions and documents of the European union directly applicable.

(4) The conditions for verification of the fingerprints of a foreign citizen in order to establish if he/she previously has submitted an asylum application with a different member state are met if:

- a) the alien states that he/she has submitted an asylum application without mentioning the member state,
- b) the alien does not apply for asylum but he/she refuses to return to his/her country arguing that he/she is in danger, or
- c) the alien tries to stop his/her removal refusing to cooperate in establishing his/her identity, especially by presenting counterfeit ID's or no ID.

(5) After analyzing circumstantial evidence and arguments available in the file as well as the reply from the applicant state, the officer especially appointed to the case may decide the transfer to the member state responsible with examining the asylum application through a motivated decision.

(6) The alien shall be immediately informed, in writing, about the decision foreseen under par. (5) by the representatives within Romanian Office for Immigration or by posting it to the last communicated residence.

(7) The decision foreseen under paragraph (5) is executory.

(8) If the notified member state does not recognize its responsibility or the circumstantial proof or arguments do not indicate the responsibility of a different state, the Romanian Office for Immigration shall undertake the legal measures regarding the legal regime of the aliens in Romania

Art.123

Means of appeal

(1) A complaint may be filed against the decision under art 122(6) within 2 days from the date of receiving the communication or proof that the alien is no longer to be found at his/her last communicated residence. Filing the complaint within the specified deadline shall not suspend the execution of the order of transfer to the responsible member state.

(2) The complaint shall be filed with the specialized structure within the Romanian Office for Immigration and a copy of the decision to leave the Romanian territory for the transfer to the member state responsible with examining the asylum application shall be attached.

(3) The complaint shall be immediately forwarded to the court responsible for the area where the competent structure of the Romanian Office for Immigration issuing the decision is situated.

(4) The court shall deliver a solution within 5 days and shall issue a motivated decision:

- a. to reject the complaint and keep in force the decision made by the Romanian Office for Immigration
- b. to accept the complaint and to cancel the order of transfer to the responsible state.

(5) The decision of the court is final and irrevocable.

(6) If the decision of the court the complaint is accepted and is cancelled the order of transfer to the responsible state and the alien has already been transferred to the respective state, the Romanian Office for Immigration shall take the necessary measures in order to re-admit the alien on the Romanian territory.

Art.124

Requests addressed to Romania

(1) In case of requests for transfer or re-admission to the territory of Romania, the especially appointed officers within the Romanian Office for Immigration shall examine both the factual and legal arguments mentioned in the request from the perspective of EU directly applicable conventions and acts.

(2) In order to establish the responsibility of Romania to take over or re-admit an alien, the officers specially appointed shall have the right to consult and verify the information received from the applicant member state in the database of Ministry of Administration and Interior.

(3) If the verifications carried out indicate that Romania is responsible according to at least one criterion stipulated by EU directly applicable conventions and acts, the officers specially appointed shall issue a decision through which Romania accepts its responsibility, indicating practical details for the transfer of the alien.

(4) If the request for taking over or re-admission is not sufficiently supported by circumstantial proof and arguments indicating the responsibility of Romania, the officers specially appointed shall issue a decision refusing the responsibility to analyze the asylum application.

(5) The applicant member state shall be informed immediately about the decision with the observance of deadlines stipulated by EU directly applicable conventions and documents.

Art.125

Transfers

(1) The transfer of persons who are subject to the procedure stipulated in this chapter shall be carried out in compliance with EU directly applicable conventions and documents, the coordination at national level of the implementation of transfers shall rest with Ministry of Administration and Interior through Romanian Office for Immigration.

(2) On the basis of art. 120 paragraph (2) letter a), art. 122 paragraph (6) and art. 124 paragraph (3), the Romanian Office for Immigration shall carry out the transfer to and from the responsible member state.

(3) For the purpose of transfer of persons to the responsible member state, Romanian Office for Immigration shall issue *laissez-passer* to which EU directly applicable conventions and acts refer.

(4) The necessary amounts to cover the expenses incurred by domestic and international transport of transferred persons, their protection and escort during the transfer, the issue of *laissez-passer* to cross the external borders, under the conditions stipulated by EU directly applicable conventions and acts shall be covered by the Ministry of Administration and Interior budget through the Romanian Office for Immigration, depending on actual costs, within the limit of funds allocated for this purpose from the state budget.

Art.126

Electronic means of transmission - DubliNet

(1) Public servants in charge with the analysis of cases that are the object of the procedure to establish the responsible member state shall be entitled to use the secure electronic means of transmission – DubliNet, to which EU directly applicable conventions and acts refer.

(2) The authority responsible with processing received data, transmission of data, issue of certificates for receiving each transmission of data and ensuring continuous operation of secure electronic means of transmission – DubliNet, is the Romanian Office for Immigration.

(3) The Ministry of Administration and Interior through the Romanian Office for Immigration shall cover from the state budget the amounts necessary to ensure continuous operation of secure electronic means of transmission – DubliNet, as well as system management and maintenance and renewal of digital certificates to use the electronic signature by the appointed officers and system administrator.

SECTION 3

RIGHTS AND OBLIGATIONS OF PERSONS DURING THE PROCEDURE TO ESTABLISH THE RESPONSIBLE MEMBER STATE

Art.127

Rights and obligations of asylum applicants

The rights and obligations of asylum applicants who are subject to the procedure stipulated by EU directly applicable conventions and documents, which present the criteria and mechanisms to establish the member state responsible with examining an asylum application submitted in one of the Member States by a citizen of a third country, are those stipulated under art 17-19.

Art.128

Right and obligations of foreign citizens

The rights and duties of foreign citizens who are subject to the procedure stipulated by EU directly applicable conventions and documents are those stipulated by the law on the judicial status of aliens on the Romanian territory, during the whole procedure to establish the responsible member state mentioned in art 122 and 123.

Art.129

Protection against return

No measures of forced expulsion or return from the Romanian territory may be taken against aliens, who are the subject of the procedure to establish the responsible member state, from the moment of the information/notification mentioned under art 122 paragraph (3) and until the communication mentioned in art 122 paragraph (9).

CHAPTER IX TEMPORARY PROTECTION

Art.130

Duration of temporary protection

(1) Without infringe the provisions of art. 132, the duration of temporary protection is of one year. If it does not cease in the sense of art. 132 letter b), temporary protection may be extended automatically every 6 months, to a maximum of one year.

(2) If reasons for temporary protection continue to exist, the Romanian Government on the proposal of Romanian Office for Immigration may submit to the European Commission a proposal addressed to the Council of the European Union to extend the temporary protection to up to one year.

Art.131

Granting temporary protection

- (1) The existence of a great inflow of displaced persons is established through a Decision of EU Council.
- (2) Romania may suggest to the Council to issue a decision acknowledging the existence of a great inflow of displaced persons. The proposal shall contain a description of the specific groups of persons to be granted temporary protection, the date on which temporary protection enters into force and an assessment of movement scale of displaced persons.
- (3) Aliens granted temporary protection shall benefit from this form of protection from the date mentioned in the Decision of the Council of the European Union.
- (4) If temporary protection is granted through the decision of the EU Council, the Government of Romania, on suggestion of the Romanian Office for Immigration, shall issue a decision stipulating the specific conditions to grant temporary protection to persons displaced to the Romanian territory, as well as the source of financing for expenses incurred while ensuring temporary protection.

Art.132

Termination of temporary protection

- (1) Temporary protection shall terminate:
 - (a) when the maximum duration has been reached, or
 - (b) anytime through a Decision of EU Council adopted to this effect.

Art. 133

The rights of beneficiaries of temporary protection

- (1) During the whole duration of temporary protection, the beneficiaries of this form of protection shall have the following rights:
 - a) the right to be issued a document granting the permission to stay on Romanian territory;
 - b) the right to be informed, in writing, about provisions on temporary protection, in a language that the person in question is supposed to understand;
 - c) the right to be employed by individual or legal persons, to carry out independent activities observing the rules applicable to the respective profession, as well as activities such as educational opportunities for adults, vocational training and practical work experience under the legal conditions;
 - d) the right to benefit, upon request, from necessary subsistence support when he/she does not have the necessary material means;
 - e) the right to free of charge primary and appropriate treatment ,emergency medical assistance as well as free of charge medical assistance and treatment in case of acute or chronic disease which pose an imminent risk to their life, by emergency medical treatment and prime qualified care national system;
 - f) the right of beneficiaries of temporary protection having special needs to receive an adequate medical assistance;
 - g) in case of beneficiaries of temporary protection who are under 18 years old, the right to have access to public educational system according to the provisions of the law for Romanian citizens.
- (2) The amounts allocated for food, accommodation, medical assistance, the rights under paragraph (1) letter f), as well as other expenses, shall be established by Government Decision issued under the conditions of art. 131 paragraph (4) and covered from the state budget through the Ministry of Administration and Interior budget and/or European funds.
- (3) Where it is necessary, persons to be admitted on the Romanian territory for temporary protection shall benefit from any facility to obtain the necessary visa, including transit visa. To this effect Romanian Office for Immigration shall request the Ministry of Foreign Affairs to issue the entry visa in the shortest time possible considering the urgency of the situation. The visa shall be free of charge or its cost shall be reduced to minimum.
- (4) In the case presented in paragraph (1) letter c), due to reasons regarding labor market policy, EU citizens, citizens from states obliged by the Agreement on European Economic Space and citizens from third states staying legally and receiving unemployment benefit may be granted priority .

Art.134

Record

Romanian Office for Immigration shall record personal data of beneficiaries of temporary protection in the Romanian territory.

Art.135

Family reunification

- (1) For the purpose of the article herein, if families were already formed in the origin countries and were separated due to circumstances which occurred during a mass inflow, the following persons shall be considered family members of the beneficiary of temporary protection:

- (a) spouse;
- (b) unmarried underage offspring of beneficiary or of her spouse, no matter if the child was born during or outside the marriage or adopted.
- (2) If the members of separated family are granted temporary protection in different member states, family members shall be reunited taking into account their expressed wish
- (3) When one or more family members of the beneficiary of temporary protection are not yet on the territory of Romania, the family shall be reunited if it is considered they need protection and are not in one of the cases under art. 141.
- (4) In order to establish the state where the family will be reunited, Romanian Office for Immigration shall cooperate with similar institutions from responsible member states.
- (5) If the family shall be reunited in Romania, family members of the beneficiary of temporary protection shall be issued documents granting the permission to stay on the territory of Romania.
- (6) If the family shall not be reunited in Romania, on the date of transfer of the family members to the territory of the relevant member state for the purpose of family reunification, the documents issued according to art. 133 paragraph (1) letter a) shall be withdrawn and the obligation of the Romanian to grant temporary protection the respective persons shall terminate.
- (7) In order to apply the provisions of this article, the Romanian Office for Immigration may cooperate with relevant international organisations.
- (8) The Romanian Office for Immigration shall provide, upon request of similar institutions of member states, information regarding beneficiaries of temporary protection, if such information is necessary to apply the provisions of this article.

Art.136

Unaccompanied minors who are beneficiaries of temporary protection

- (1) In case of unaccompanied minors who are granted temporary protection, Romanian Office for Immigration shall request the competent authorities to appoint a legal representative in the shortest possible time.
- (2) During the temporary protection, the unaccompanied minors may reside:
 - (a) with adult relatives;
 - (b) with a host family;
 - (c) in accommodation centres with special facilities for minors or other accommodation centres suitable for minors;
 - (d) with the person taking care of the child when he/she left the origin country.
- (3) In order to apply the provisions of paragraph (2), the consent of the adult person or persons in question is needed. The opinion of the underage child is taken into account depending on the age and maturity of the child.

Art.137

Asylum application

- (1) The beneficiaries of temporary protection may apply for asylum anytime.
- (2) The examination of an asylum application which was not solved before the expiry of temporary protection period shall be completed on the date this period expires.
- (3) Temporary protection shall not be granted simultaneously with the status of asylum applicant while the applications are under examination.
- (4) If, subsequently to processing the asylum application, the refugee status is not granted and subsidiary protection to an eligible person to temporary protection is not granted either, this person shall benefit or, as the case may be, shall continue to benefit from temporary protection until the duration of this form of protection has expired.
- (5) The provisions of paragraph (4) shall apply without infringement of the provisions of art. 141.

Art.138

Voluntary repatriation

- (1) Persons benefiting or having benefited from temporary protection and requesting to return to their country shall be assisted to this effect by the authorities of the Romanian state. The return of these persons shall observe human dignity conditions. Persons requesting to return shall be informed on the possible consequences of such request.
- (2) As long as the duration of temporary protection has not elapsed and on the basis of circumstances still in force in the country of origin, the beneficiaries of temporary protection who have exercised their right to voluntary repatriation may request to be re-admitted on the Romanian territory. If these requests are accepted, the persons who are admitted again on the Romanian territory shall benefit from temporary protection until this period has expired.

Art. 139

European funds

In order to enforce the measures foreseen under the chapter hereby, the Ministry of Administration and Interior informs the Government with a view to notify the European Commission to attract financing from the European Fund for Refugees under the conditions foreseen by the relevant Community decision.

Art. 140

Transfer of the beneficiaries of temporary protection

- (1) During the temporary protection, Romania shall cooperate in order to transfer the beneficiaries of temporary protection to Romania or to other state, according to the provisions of the present law. The transfer of the beneficiaries of the temporary protection shall be performed only in the case the persons concerned give their consent.
- (2) Romania shall communicate the applications for transfer to other member states and notify the United Nations High Commissioner for Refugees (UNHCR).
- (3) In the case of requests for transfer addressed to Romania by other member states, Romania shall inform the petitioner member state on its capacity to receive such transfers.
- (4) The Romanian Office for Immigration, on request of similar institutions from other member states, shall provide information on the beneficiary of temporary protection, in case such information is needed in order to put into effect the provisions of the present article.
- (5) On the date the transfer of a beneficiary of temporary protection to another member state is performed, the documents issued according to art. 133 paragraph (1) letter a) shall be withdrawn and Romania's liabilities as far as the temporary protection for these persons concerns shall cease.
- (6) In the case a beneficiary of temporary protection is transferred to the territory of Romania, for the purpose of family reunification, Romania shall grant temporary protection to the person concerned.
- (7) For the purpose of performing the transfer referred to in paragraph (5), the Romanian Office for Immigration issues a document to the beneficiary of temporary protection according to the Community regulation.

Art. 141

Reasons for Exclusion

- (1) An alien is excluded from being granted temporary protection if:
 - a) there are serious reasons to consider that:
 - i. the person under reference has committed a serious crime against peace, a war crime, or against humanity, as they are defined by international instruments formulated in order to regulate such crimes;
 - ii. has committed a serious offence, other than those provided under point i., outside Romania, before entering Romania, as a person enjoying temporary protection;
 - iii. he is guilty of deeds against the purposes and principles of United Nations
 - b) there are serious reasons to consider that the alien represents a risk for the Romanian security, or to the Romanian public order, due to having been convicted by a final Court decision for having committed a serious crime.
- (2) The reasons for exclusion, as referred to in paragraph (1) shall be based only on the individual behaviour of the concerned person. The exclusion decisions shall be based on the principle of proportionality.

Art. 142

Means of appeal

- (1) Aliens that have been excluded from being granted the temporary protection or the family reunification may file a complaint against the rejection decision delivered by Romanian Office for Immigration.
- (2) Romanian Office for Immigration shall immediately communicate to the applicant, in writing, the decision foreseen under paragraph (1), by personal communication or post delivery to the last declared residence of the person under reference.
- (3) The time frame for submitting the complaint is 10 days from the date of communication of the decision.
- (4) The complaint shall be resolved by the court which jurisdictional area includes the competent body of the Romanian Office for Immigration that delivered the decision.
- (5) The court shall pronounce a justified decision within a period of 30 days.
- (6) The decision stipulated under paragraph (5) is irrevocable.
- (7) During the processing of the complaint, aliens are allowed to remain on the territory of Romania.

CHAPTER X FINAL AND TRANSITORY PROVISIONS

Art. 143

Issuing documents

Romanian Office for Immigration has the competence to issue the documents foreseen under art. 17 paragraph (1) letter h), art. 20 paragraph (1) letter a) and art. 125 paragraph (4).

Art. 144

Principle of the responsible member state

Starting from the date of accession of Romania to the European Union, in the case of asylum applications submitted at a state border control point, the applicant shall be informed by the Border Police, in writing, in a language she or he is supposed to reasonably know, on the fact that information concerning her or his application and person, including the fingerprints collected, may be subject to the exchange of information between the European Union member states or other states that have made an understanding by a special agreement to take part in this mechanism, aiming exclusively at establishing the member state responsible for examining such an asylum application.

Art. 145

Personal status

- (1) The personal status of the alien who has acquired a form of protection on the basis of the provisions of the present law is regulated by the legislation of the country of origin.
- (2) The rights resulting from the personal status, previously achieved by the alien who has been granted a form of protection on the basis of the provisions of the present law, are recognized by Romania, according to the law.

Art. 146

Establishing the residence in Romania

The Ministry of Administration and Interior, through the Romanian Office for Immigration, may grant the beneficiaries of refugee status or subsidiary protection during their stay on the Romanian territory, and taking into account their level of integration within society, the right of establishing the residence in the country, with respecting the legal provisions of the status of aliens in Romania.

Art. 147

Moment of entering into force

- (1) The provisions of the Government Ordinance no. 102/2000 on the status and regime of the refugees in Romania, republished, shall continue to apply in the case of the applications submitted at a previous moment, before the present law enters into force.
- (2) The provisions stipulated under art. 29 – 33 and art. 74 of the present law shall continue to apply to aliens who benefit from temporary humanitarian protection at the date of accession of Romania to the European Union.

Art. 148

Replacement of terms

The following terms foreseen in the legislation relevant to the field of asylum shall be replaced as follows, from the date the present law enters into force:

- a) “application for being granted the refugee status” by “asylum application”;
- b) “applicant for refugee status” by “asylum applicant”;
- c) “procedure for granting the refugee status” by “asylum procedure”;
- d) “conditioned humanitarian protection” by “subsidiary protection”.

Art. 149

Legal aspect of the sending norm

As often as a special law or a previous legal regulation shall refer to the *Governmental Ordinance no. 102/2000 on the status and regime of refugees in Romania*, the reference shall be correspond to the respective provisions of the present law.

Art. 150

Drawing up the methodological norms

In order to put into effect the present law, the Minister of Administration and Interior shall formulate the methodological norms that shall be passed by Governmental Decision, within 90 days from the moment the present law has been published in the Official Journal of Romania, Part I.

Art. 151

Provisions applicable from the date of accession of Romania to the European Union

(1) The provisions under art. 115 – 129 and art. 130 – 142 of the present law shall come into force on the date of accession of Romania to the European Union.

(2) The provisions under art. 29 – 33 and art. 74 of the present law shall be abolished on the date of accession Romania to the European Union.

Art. 152

Entering into force

(1) The present law shall come into force within 90 days from its publication in the Official Gazette of Romania, Part I.

(2) On the date the present law comes into force, the Government Ordinance no. 102/2000 on the status and regime of the refugees in Romania, approved with updates by Law No. 323/2001, republished in the Official Journal, Part I no. 1136 from 1 December 2004 and the Government Decision no. 622/2001 on the approval of the Methodological norms for putting into effect the Government Ordinance no. 102/2000 on the status and regime of the refugees in Romania, republished in the Official Journal, Part I no. 198 from 9 March 2005, shall be abolished, as well as other opposite provisions.

The present law transposes:

- Council Directive 2001/55/EC on minimum standards for granting temporary protection in the event of a mass inflow of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;
- Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;
- Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

This law has been adopted by the Parliament of Romania, observing the provisions of art. 75 and art. 76 paragraph (2) of the Romanian Constitution, republished.

PRESIDENT OF THE DEPUTY CHAMBER
Bogdan Olteanu

PRESIDENT OF THE SENATE
Nicolae Văcăroiu

București, 4 May 2006
Nr. 122