FREE ACCESS TO NON-LITIGATIONS PROCEDURES FOR ASYLUM SEEKERS

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ABSTRACT

To streamline the asylum system are the main existing instruments at international, European and national level which guarantees access to the asylum procedure. At European level reform legislation regarding common procedures for granting and withdrawing international protection and establishing standards for the reception of applicants for international protection, the State responsible for examining an asylum visas to family members, to implement a system Common European Asylum efficient, which is why Romania has complied and amended its national legislation.

Bodies which promotes the rights of asylum seekers and refugees then collaborate effectively for improving reception conditions, avoiding the detention status of asylum seekers until final resolution of the asylum application.

In all stages of the procedure to consider the special needs of vulnerable groups such as children, victims of torture, sexual violence or human trafficking, persons with physical or mental disabilities, and those subject to certain risks that you would life-threatening.

In particular additional safeguards for asylum-seekers must be accompanied by minors. This includes the need to appoint a guardian or legal representative for the minor.

Unaccompanied minors will be given extra care and protection and shall be free from all forms of violence, abuse or exploitation. It is mandatory that they be fully accommodated a specialized center for children. They will be held in centers which are not adapted to the presence of children.

Key words: asylum seekers, refugees, European Regulation, national legislation, procedures.

1. History, definitions, concepts

Refuge was first used by the Hittites to provide protection in their sanctuaries to people who were accused of committing crimes with political character, belonging to neighboring peoples (Assyrians, Mitanni, Babylonians, Hurrians). Asylum was practiced by Egyptians since the time they were a great empire and

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was the privilege of the sovereign granted of priests in order to protect sacred sites, temples, shrines, altars etc. and their surroundings.

In terms of terminology the word "asylum" is of Latin origin (asylum) and originates from the Greek word "asylia" (inviolable, literally translated "prohibition against stealing") is a form of "asyllos" (inviolable). Etymologically the term "asyllos" comes from "a" (no) and "syle" (catch/arrest), and hence the term "asylum" (asylum) means "could not be pursued" or "not to be arrested", "protection against persecution", "place of refuge, shelter, refuge".

Over time, this has evolved to mean a place where a person chased (prosecuted) for various reasons able to find refuge and receive help and protection.

In ancient Greece, as each city had its own code of law order and the "inviolability" enjoyed all the people who were outside the jurisdiction of their own cities and worked as merchants, athletes, envoys, pilgrims, artists, athletes, etc. and it was recognized by all polis. Inviolability was characteristic of temples, altars, shrines and called "asyla hiera".

A person in need of protection who entered in a temple, sanctuary must accomplish the procedure by which a wanted person seek refuge called the institution of hiketeia or supplication (person in need of help sat down on the altar or at the image of the god holding a symbol identifying him as a suppliant, a freshly broken off twig or a strand of wool), at which point they became applicants for refuge. Through this request asylum seekers qualify for leniency from the city to his pursuers and became part of the sacred sanctuary that was because the Greeks considered a sacred temples and supplication belong to gods and became a divine law and was valid for citizens and strangers as well, because no one could entered in such places to harm or arrest the supplicant but it just inside the city (polis). To qualify for leniency the asylum seeker must convince the priests of the temple that he deserve protection of the temple, otherwise will be removed from the temple or shrine or handed over his pursuers and could even lose his life. Priests were listening the applicants and took a decision based on political motivation of its request, the possibility of revenge pursuers, what kind of crime committed to find out what punishment awaits for him etc. Rejecting a person who need protection and begged for it counted as sacrilege, not everyone who sought and received refuge was, they had to convince the priests meriting protection the new city, and the crime was political.

4 Idem, p. 72.
For a good organization inside the temples to preserve hygiene, cleanliness, to supply sanctuaries with food and water to continue functioning temple for its original purpose, priests have limited movement of asylum seekers in certain areas specifically bounded.

When the Romans took over Greece, they used asylum as a means to achieving domination. Once they established themselves in Greece, they put restrictions on asylum, and its abuses were no longer permitted. The Greek city structure was revised, and not many temples retained the right to give asylum. They curtailed the right of temples to grant asylum in the interest of order and under the reign of Tiberius in 22 AD, the Roman Senate required temples to produce to the Senate legal proof of their right to grant asylum. For this reason the majority were stripped of their status as "asylia". And all of this because the importance of protection stemmed less from the refuge it afforded to local criminals, or to exiles who had been forced to leave their home states, than from the shelter it gave to fugitives who had fled abroad and were sought for extradition.

In Rome asylum provided temporary protection and saved the fugitive from the immediate vengeance, immunity from prosecution until evidence could be gathered and a formal trial could be held in front of a magistrates and if he was condemned at this trial he has been punished. The procedure was to go not to a temple but to the busts of statues of the Caesars.

The Romans protected the slaves and considered that to shelter a slave who runaway from his master (who have the right to kill him, because Roman law considered the slaves "alieni juris", that he is a "good" of his master) is a theft and must return to his master, but a slave who runaway from his master to a temple or to a statue of Caesar is not considered a fugitive, but a asylum seeker. The Romans received the fugitives in this temple and refused to deliver them because, as they declared, they were directed by an oracle of Apollo to protect the asylum from violation. A fugitive slave could be given asylum, but he could not claim it as a right. A soldier could find asylum at the foot of the standards of the legions.

After Constantine’s Edictum Mediolanense of Toleration in 313 AC, signed by the two Roman emperors Constantine and Lycinius, which guaranteed religious

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9 Plutarch, Lives of the Noble Greeks and Romans, ed. by J. and W. Langhorne, p. 16, 1875.
10 C. Phillipson, „Greeks and Romans“, p. 356.
tolerance in the Roman Empire, Christian churches became places for asylum. In 392 AC is the first time mentioned this places „Sanctuary” and Emperor Theodosius stipulated that those who sought sanctuary in churches could not be removed by force. In addition to slaves complaining of mistreatment, churches began to shelter debtors and accused criminals for whom bishops would use their influence to intercede and plead for leniency. The main purpose of the Asylum was to protect the innocents, not the guilty persons and to granting asylum the judgement was that the supplicant had been submitted to an abuse of authority and that the punishment he or she faced was iniquitous. The Christian perspective governed the practice of asylum in medieval Europe and the church extended asylum to all fugitives including atrocious. The biblical six cities of Israel explicitly excluded from refuge intentional murderers as well as the sanctuaries of Rome, in 511 AC the Council of Orléans included “homicides, adulterers, and thieves” as potential recipients of sanctuary and extended the privilege to the bishop's residence and 35 paces beyond the walls of the building. In 638 AC., the Council of Toledo extended asylum to even the gravest of all offenders, such as traitors. As well in Germanic law, intentional murderers were frequently given immunity inside churches.

In 681, the Council of Toledo set a circumference of 35 steps from the church within which the persecution of the criminal was prohibited. The violators of the asylum were excommunicated by the church or condemned to some other spiritual pains. The earlier personal character of asylum was increasingly replaced by its territorial character. The places of asylum were increasingly expanded to include convents, monasteries, cemeteries, places of bishops and Canons, hospitals, such establishments as those of the Knights of Saint-John of Jerusalem and of Templars, and even the crosses placed along the way. In 535 AC Justinian confirmed the edicts of asylum made by his predecessors, refusing, however, asylum to murderers, adulterers and rapists.

In 1140, Pope Gratian codified the ecclesiastical law of asylum and this had been developed during the course of the 12th century. Certain crimes were excluded from the protection such as: return to Judaism, assassination in the church or a cemetery by a traitor or for a price, violation of the right of asylum

12 J. Bingham, „Antiquities of the Christiall Church and Other Works”, Vol. III, 1855, p. 214.
15 H. Wallon, „Du droit d'asyle”, vol. 1, 2, 1837, p. 67.
16 Justinian, XVII, XXXVII.
itself, counterfeiting the apostolic letters and money, and engaging in duels\footnote{E. Magnin, "Immunites eclesiastiques," in A. Vacant, „Dictionnaire de theologie catholique“, Vol. III, 1922, p. 1257-1258.}. After a period of struggle and breach of asylum, the canon law was again codified by the constitutions of Gregory XIV, 24 May 1591 (Cum Alias), and Benedict XIII, 8 June 1725 (Ex quo divina). These constitutions recognized the right of asylum in churches, chapels, monasteries, certain houses, the tower and the walls of the church, the palace of the bishop, and the seminary of the theologians. The violators of asylum were regarded sacrilegious and were excommunicated \textit{latae sententiae}\footnote{P. van der Haeghen, „Le droit d’asile“, 1858, p. 26-27.}. Limitations were put on the type of criminals entitled to asylum by the edicts of Clement XI (1712 and 1720)\footnote{Const. „Ad. Apost.“, 18 June 1712; and „Non Sine ingenti“, 5 January 1720.}, Benedict XIV (1750)\footnote{Const. „Officii Nostri“, 15 March 1750.}, and Clement XIII (1758)\footnote{Const. \textit{Inter graviores}, 30 September 1758.}. The divine character of the right of asylum was denied by the jurists and it was restrained. It was regarded as an institution created by man within the competence of the state for regulation or even abolition. In the Protestant countries the Church power decreased and their privileges began to fall. The new state-nation which arise in that period claimed the right to administrate the justice, to pursue the Reformation. The Europeans kings claimed to the Pope to curtail the privileges and the right of asylum, but the Court from Rome brushed-off, reasons for kings, starting with Louis XII of France to abolish it in 1515 and finally was abrogated under Francis I by the ordinance of Villers Cotterets of 1 August 1539\footnote{Article 166 of this ordinance in effect abolished asylum in civil matters and subordinated the penal asylum to the decision of the judge. Neron, \textit{Ordonnances des rois de France}, Vol. I, p. 254.}. Under the ordinance of 1547 of Henry II, criminals could be searched and seized in all churches and sanctuaries. In England\footnote{W. Blackstone, \textit{The Commentaries on the Laws of England}, Vol. IV, p. 347 (1765-1769); L. O. Pike, \textit{A History of Crime in England}, Vol. 11, p. 253 (1873-1876).}, the privilege of sanctuary was abolished in 1625 by an act of Parliament\footnote{\textit{Statute of Realm}, IV, s. 2, 1051, 1237.}. In Switzerland, the right of asylum is last mentioned in an act of 1528. In Spain Philip II issued an ordinance in 1570 abolishing asylum in Spain and its possessions, but it was not until 1835 that the law was able to effectively regulate\footnote{C. de Beaurepaire, „Essai sur l’asile religieux dans l’Empire romain et la monarchie francaise,” 4 \textit{Bibliotheque de l’Ecole des Chartes} (3-e serie) 351, 573, and 5 id. 151, 341 (1853-1854).}. In Italy, church asylum was extensively used until it was limited in 1741 to a small number of petty offenses\footnote{P. Colletta, „Histoire du Royaume de Naples“, Vol. 1, p. 89, 1834.}. In the Kingdom of Sardinia was abolished by the law of Siccardi of 9 April 1850, in Prussia in 1794, in Württemberg in 1804, in Bavaria in 1818, and in Saxony in 1827\footnote{C. Recht, „The Right of Asylum,” p. 9-10, (1935).}.
It is interesting to note that the mandatory regime in Palestine recognized the Mosque of Omar as a place of asylum for the Grand Mufti of Jerusalem\textsuperscript{28}.

The notion of asylum, based on historical and etymological aspects of it, which shows that the origins of the concept of asylum in the legal sphere were developed by Hugo Grotius\textsuperscript{29}, considered one of the fathers of public international law, in his writings stated that asylum „was deserved only by those whose mind is innocent\textsuperscript{30}, not those „whose life is full of wicked acts“, which is why he was considered to be a cause of war several times\textsuperscript{31}.

The doctrine (lore) was noted that the term "asylum" rather includes certain places, areas or territories where a person can not be arrested due to the fact that the space is protected by a national force.

In Europe the first state which enshrined the right to asylum in the fundamental law was France which in the French Constitution of 1793 (Acte constitutionnel du 24 juin 1793) promulgated but never applied, provided that granted "asylum to foreigners expelled from their homeland to the cause of freedom ")(would give asylum to those foreigners who had been banished in their homeland for the cause of liberty).

Further development of this institution was made so by law provisions of States and international cooperation on the path conclusion mainly bilateral treaties and adopting a declaration.

Internationally, the institution of asylum is generally discussed in terms of granting this status and state of persons who requests it. In terms of the State acceptance or refusal of asylum is an exclusive right of its being the expression of its sovereignty. International law to seek asylum recognized in the Universal Declaration of Human Rights adopted by the UN General Assembly on 10 December 1948 under article. 14 asylum, so „In case of persecution, everyone has the right to seek and enjoy asylum in other countries. This right may not be invoked in the case of prosecutions genuinely arising from a political crimes or from acts contrary to the purposes and principles of the United Nations.\textsuperscript{32}"

Although asylum is not explicitly guaranteed by international treaties globally, however it is protected in some regional based instruments. American Convention on Human Rights mention that under article. 22 para. 7 "Everyone has the right to seek and offer him asylum in a foreign territory, in accordance with State law and international conventions\textsuperscript{33}."

\textsuperscript{29} Hugo Grotius, „De jure belli ac pacis“, trad. A. C. Campbell, 1814, Hyperion Press 1979.
\textsuperscript{30} Idem, II.21.5.1.
\textsuperscript{31} Idem, II.21.4.6.
And the African Charter on Human and Peoples' Rights recognizes the right to asylum in art. 12 para. 3, according to him "everyone has the right, when persecuted, to seek, obtain asylum in other countries in accordance with their legislation and international conventions." In art. 28 of the Arab Charter on Human Rights is provided 'right to seek political asylum in another country in order persecution."

Jerzy Sztucki states that “the Convention (Convention relating to the Status of Refugees from 28 July 1951) with its definition is sometimes described as a Cold War product, 'Eurocentric' and, if only for these reasons, obsolete.” At its inception, the Convention certainly was a Cold War product. The Cold War atmosphere permeates the travaux préparatoires of the Convention, and is also reflected in the fact that no communist country participated in the Conference of the Plenipotentiaries of 1951 or (with the exception of Yugoslavia and China).

The Convention was certainly also 'Eurocentric' at its inception, as the problem of refugees, at the time of its adoption, was primarily if not exclusively European, since the persons in question were of European origin and had been displaced within Europe.

At European level the EU Charter of Fundamental Rights provides for the right of asylum to art. 18 that "The right to asylum is guaranteed with respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 on the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (named "Treaties") ."


36 Idem., p. 56.
37 http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:12012P/TXT&from=RO,
application for international protection lodged in one of the Member States by a third-country national or by a stateless person (recast) and EU Regulation. 603/2013 of the European Parliament and of the Council of 26 June 2013 concerning establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) no. 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and the demands of the law enforcement Member States and Europol for comparisons with EURODAC data to ensure law enforcement and amending Regulation (EU) no. 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (recast).

Asylum is defined as the place where someone finds protection, shelter, refuge, held inviolable who found refuge those sentenced, place of refuge, a place of safety where refuge and asylum to be granted the right to inviolability of a state of a foreign person persecuted in his country for political reasons (fr. asile, lat. *asylum*)

In Romania asylum is enshrined in art. 18 of the Constitution, which states in paragraph one that „foreign citizens and stateless persons living in Romania shall enjoy general protection of persons and property, guaranteed by the Constitution and other laws“ and at para. 2 states that „The right to asylum is granted and withdrawn under the law, in compliance with international treaties and conventions to which Romania is a party“. This right shall be granted and withdrawn under the provisions of Law 122 of 2006 on asylum in Romania respecting the Universal Declaration of Human Rights, the EU Charter of Fundamental Rights, international treaties and conventions to which we are party.

The term "asylum seeker" has been defined in art. 2 of Law no. 122 of 2006 on asylum in Romania as "foreign citizen or stateless person who has expressed a desire for a form of protection in Romania, while its application has not been resolved by a final judgment."

As we have seen so far in the world could not agree on a definition of asylum, based on its contents from reading legal instruments adopted in the sphere of cooperation of States and international intergovernmental level.

An important opinion asylum seeker defines as the natural person who, in his State of origin is prosecuted or persecuted for activities in favor of humanity, progress and peace. Asylum is granted only those wanted for political activities and not for common law offenses

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38 https://dexonline.ro/definitie/azil,
Specialized in legal literature is thought that both definitions are correct, stating that, legally, the asylum seeker is a person with vocation of granting asylum right40.

2. Principles and Procedural Guarantees of the Asylum Process

The asylum procedure is governed by the following main principles:
- free access to the asylum procedure of any foreign citizens or stateless, on the Romanian territory or at the border. This principle ensures that nobody is excluded from the asylum procedure and that regardless of the number of asylum applications lodged by one applicant in several member states, will be analyzed by one single Member State, first state where asylum seeker ask for asylum. A person could apply for asylum when arrives at borders, including territorial waters and transit zones41. Article 6 al. 1 from Directive requires states to register an application within three working days or within six working days, when an application is submitted to authorities other than those responsible for its registration. Article 6 al. 2 obliges states to ensure that individuals have an effective opportunity to lay down an application fast42.
- Non-discrimination. Procedures laid down in Community acquis will be conducted without discrimination, regardless of race, nationality, ethnicity, language, religion, social status, belief, sex, sexual orientation, age, disability, non-contagious disease, HIV infection or belonging to a category disadvantaged, property, birth or status acquired status or any other distinction43.
- Non-refoulement. Is the most important principle laid down by the Geneva Convention on the Status of Refugees of 195144 and the ban applies to all forms of forced removal from the country or rejection at the border.
- The principle that any person who has submitted an application for asylum has the right to be informed. The asylum seeker has the right to be informed at any stage of the proceedings.
- High Interests of the child;
- Confidentiality (relating to the data and information relating to the application for asylum). This principle applies with the lawyer and asylum seekers at all stages of determining a form of international protection. The lawyer has an obligation not address the authorities of the country of origin of the applicant, including that country’s diplomatic mission in Romania.
- Active role. Authorities competent in processing asylum applications can investigate ex officio any factual and legal circumstances that could lead to solving

40 M. Zlătescu, Pentru o cultură a păcii, democrației și toleranței în România II, Casa Editorială Calistrat Hogas, București, 2000, p. 40 și urm.
41 Article 3 from Directive 2013/32/EU.
42 Idem art. 6.
43 Art. 16 din Legea nr. 122/2006 privind azilul în România.
44 Art. 33 din Convenția de la Geneva din 1951.
the case, even if those circumstances had not been raised or mentioned in the request for asylum or complaint;

- Presumption of good faith. The burden of proof lies with the applicant in support of applications for asylum, but because most of the time it leaves the country in a hurry and the examiner must provide evidence in favor of the Applicant and its detriment. If the applicant reports seem credible and officer decisions are data to the contrary, to give benefit of doubt⁴⁵.

The procedural guarantees established by Law no. 122/2006 covers:

- The granting of a form of protection (refugee status and subsidiary protection are granted indefinitely; temporary humanitarian protection is granted for a specified period not exceeding 2 years);

- An asylum application couldn’t be refused only on the basis that it was not made as early as possible. Furthermore, EU countries must ensure the individual examination, objective and impartial requests,

- Applicants will have the right to remain in the country where their application is pending and all remedies expired.

- Causes eliminating the criminal nature of the act (Romanian authorities will not impose penalties for illegal entry or why asylum seekers entering without authorization or are in Romania);

- Examination of the application (application for asylum must be examined individually by specially appointed officials, skilled in this issue, so as to enable decision making in an objective and impartial);

- Decision on the asylum application (judgment making a decision on the asylum application is made in writing and shall include: the situation in fact and in law, information on appeals, the deadline for submission of the complaint, body or court to submit the complaint against a decision rejecting);

- Guarantees regarding unaccompanied minors seeking asylum (unaccompanied minor asylum application is discussed primarily by the appointment of a legal representative⁴⁶ who would represent him and/or will help in designing the request);

- If the procedure involves a personal interview, the representative shall be given the opportunity to explain the purpose of the interview minor;

- A person who knows the special needs of minors shall prepare the decision of the authority responsible for determining and, if necessary, conduct personal interviews.

Temporary humanitarian protection is granted for a specified period not exceeding two years, it is not given in the same time as refugee status or subsidiary protection.

⁴⁵ Art. 4-15 din Legea nr. 122/2006 privind azilul în România.
⁴⁶ Art. 17 din Legea nr. 122/2006 privind azilul în România.
3. Asylum Procedure

The asylum procedure in Romania is provided by Law no. 122/2006 on asylum in Romania and Government Decision no. 1251/2006 on rules for the application of Law no. 122/2006 on asylum in Romania amended and supplemented occurred. Authorities responsible for receiving applications for asylum in Romania are General Inspectorate for Immigration through Asylum and Integration Directorate, General Inspectorate of Romanian Police, General Inspectorate of the Border Police and National Administration of Penitentiaries. They cooperate to ensure and facilitate access to the asylum procedure, to ensure appropriate assistance to those seeking asylum because asylum seekers should not be returned before the completion of the asylum procedure or to support the safe return of applicants to whom it was dismissed irrevocably asylum application, to ensure data protection and the principle of confidentiality to help fight terrorism and to identify the various problems that may arise in connection with the phenomenon of asylum in Romania.

Processing asylum applications is made by officials specially designated to function as an officer of decision and are university graduates only legal with a license and have specialized knowledge in the field of asylum and under Directive 2013/32/ EU on asylum procedures which entered into force in July 2015 they are obliged to conduct training and preparation of the arrival of asylum applications and examining the application for international protection.

3.1 Forms of Procedure for Asylum

Forms of the asylum procedure are: the ordinary procedure; family reunification procedure; accelerated procedure; procedure at the border; procedure for handling the application for access to a new asylum procedure; procedure of safe third country.

A. Ordinary Procedure- Administrative Step

A person is considered asylum seeker from the moment of manifestation of will expressed in writing or orally before the competent authorities, showing that the person requesting the protection of the Romanian state, once showed up at a checkpoint of the state border after entering the territory of Romania or found in Romania is the country of origin of the asylum seeker events occurred which it determines to seek protection.

Filing the application for international protection is individual except in cases when the applicant is a minor and has been appointed a legal representative or the applicant has special needs and has been appointed a curator, they are who will fill in the Romanian language or a language that applicant knows and will file claims for asylum. From that moment it is considered an asylum seeker.
From now asylum seeking enjoy the following rights⁴⁷: a) the right to remain in Romania until the expiration of 15 days from the completion of the asylum procedure, unless the application for asylum was dismissed after resolving its accelerated procedure or the procedure at the border, where the alien must leave the country as soon as the Romanian asylum procedure has been completed. In the procedure for determining the Member State responsible for examining an asylum application, the right to remain on Romanian territory ceases from the date the decision was communicated to deny access to the asylum procedure, issued by the General Inspectorate for Immigration; b) the right to a lawyer at any stage of the asylum procedure; c) the right to be secure, free of charge, an interpreter at any stage of the asylum procedure; d) the right to contact and to be assisted by an official of the United Nations High Commissioner for Refugees (UNHCR) at any stage of the asylum procedure; e) the right to be advised and assisted by a representative of non-governmental organizations, Romanian or foreign, at any stage of the asylum procedure; f) the right to be informed in a language they know or reasonably assume that it knows, when filing the application, the rights and obligations they have during the asylum procedure; g) the right to protection of personal data and any other information in connection with its application; h) the right to be issued with a temporary identity document, whose validity will be extended periodically by the General Inspectorate for Immigration. In the absence of documents certifying identity of the applicant, the temporary identity document will be referred declared identity. Such document shall be issued: (i) aliens who have applied for asylum in a checkpoint for border crossing, as long as they were not granted access to the territory by a resolution of the General Inspectorate for Immigration and and (ii) aliens in detention for reasons of national security and public order, asylum seekers, as long as this measure is maintained; i) the right to participate in cultural adaptation activities; j) the right to receive, upon request, the necessary assistance for maintenance, if it lacks the necessary material resources, the amounts granted for food, accommodation and other expenses are determined by Government decision and secured from state budget through the Ministry of Internal Affairs; k) the right to be accommodated in reception centers and accommodation subordinated to the General Inspectorate for Immigration, to finish the right to stay in Romania, the asylum seeker who does not have the materials needed for maintenance; l) the right of asylum seekers with special needs to benefit from the adaptation of accommodation and assistance in accommodation centers; m) the right to receive free primary care and appropriate treatment, hospital care emergency and nurse and free treatment in cases of acute or chronic diseases that put their lives in imminent danger, through the national health emergency and qualified first aid. These services shall, where appropriate, the medical service of the accommodation centers and/or other health units accredited

⁴⁷ Art. 20 din Legea nr. 122/2006 privind azilul în România.
and authorized by law; n) the right of asylum seekers with special needs to receive adequate medical care; o) the right to receive access to the labor market under the conditions provided by law for Romanian citizens, after a period by nine months from the date of application for asylum, the asylum seeker is still in the process of determining a forms of protection, in which case the asylum seeker is assigned an identification number, which is part of the identity document; p) minor asylum seekers the right to have access to compulsory education under the same conditions as the underage Romanian citizens.

Asylum applications are individual, completed in Romanian or in a language that the applicant knows (not supported collective asylum applications) shall be submitted personally by aliens in Romania or in a checkpoint for passage State border at one of the following authorities: General Inspectorate for Immigration structures; Romanian Border Police structures; the Romanian Police; structures National Administration of Penitentiaries of the Ministry of Justice. If the applicant is illiterate, the official receiving the application will fill the appropriate form of oral declaration of the applicant and the application is signed by the applicant or it applies its digital impressions. Applications for asylum made outside of Romania are not admitted.

If foreign minors asylum seekers, asylum applications can be submitted by the legal representative who will be appointed later manifestation of will of the minor that it wants to submit asylum applications. Minors under the age of 14 can apply for asylum on his behalf. If an alien addresses an application / memorandum / petition stating that he wants some form of protection in Romania, shall be informed in writing that it is necessary to submit to competent authorities to receive such requests. If the asylum seeker unaccompanied minor asylum procedure is suspended until the appointment of a legal representative, and the minor enjoys all the rights of the asylum seeker. Accommodation of asylum seekers unaccompanied minors who have not attained the age of 16, will be centers General Directorate of Social Assistance and Child Protection, within whose territorial jurisdiction the specialized issues of asylum IGI, which registered application for asylum, or belonging to a private body authorized.

Asylum procedure in the case of unaccompanied minors, asylum seekers, is special. Also, if asylum seekers who belong to other vulnerable groups, asylum procedure has a number of features determined vulnerability of these persons and their need for treatment in an appropriate manner.

Unaccompanied minors and other vulnerable groups of people are asylum seekers from the time of manifestation of will in writing or orally to the competent authorities. Asylum applications of unaccompanied minors will always be

48 Art. 34 din Legea nr. 122/2006 privind azilul în România.
processed in the ordinary procedure. Unaccompanied minors, asylum request is a prerequisite for automated access to the territory, thereby ensuring access to the asylum procedure. Examining applications for asylum lodged by unaccompanied minors and other vulnerable groups of people will be carried out first. Unaccompanied minors and other vulnerable groups of persons who have applied for Romanian state protection are not criminally liable for illegal entry or stay in Romania.

If the manifestation of the will of an unaccompanied minor to seek asylum is made to other competent authorities receiving the application, it shall be informed as soon as the General Inspectorate for Immigration - Asylum and Integration Directorate (GII-AID), which will provide applicant to the specialized transport issues of asylum GII structure competent to examine the application. Unaccompanied minor will be issued a provisional certificate which will take the place of temporary identity document and the transportation will be provided to the competent structure of the IGI, where formalities will be listed in the paragraph above.

Asylum seekers will draw up a personal file will be photographed and fingerprinted (the fingerprinting is not performed for minors under 14 years) to be entered into AFIS (Automatic Fingerprint Identification), to establish the Member State responsible the resolution of the asylum application under the Dublin Regulation.

Unaccompanied minors, asylum seekers who have reached age 16 and who lack material means for maintenance, their accommodation can be made in accommodation centers for asylum seekers subordinated GII, by the deadline 15 days from the date on which it was handed down a final ruling rejecting the request of granting a form of protection.

Unaccompanied minors who received a form of protection in Romania according to the law, based on a final and irrevocable decision, are taken into child protection services system, organized county councils or local councils of Bucharest districts.

Where demand unaccompanied minor granting a form of protection under the law was rejected by a final ruling, minors will be taken by the General Directorate of Social Assistance and Child Protection, which will take steps prescribed by law for establishing a protection measure for it and inform the General Inspectorate for Immigration - Migration Directorate about his situation, which shall act according to law.

Also, asylum seekers will be informed about the rights and obligations they have and on the asylum procedure.

At the time of application for asylum, asylum seekers will be issued a temporary identity document (for unaccompanied minors this document will be issued after their registration at GII).
After completion and registration application for asylum is allocated for settlement officer’s decision of the General Inspectorate for Immigration, university graduates who are legal with a license and have specialized knowledge in the field of asylum\(^{50}\). To clarify all the aspects needed to address demand officer decision hears asylum seeker in a preliminary interview, to be listened to establish statement, family members, relatives or any person in a relationship of family nature, countries of transit home to Romania, information regarding any previous asylum proceedings conducted in another Member State or in a third country and on travel or identity documents in his possession. Preliminary result of the interview is recorded in writing, in a standard form.

Asylum seekers benefit from the confidentiality of all data and information related to their case. In order to solve the asylum application it is necessary to conduct an interview with the asylum seeker, giving him the opportunity to submit reasons led him to request a form of protection.

Analyzing the reasons adduced by the applicant for asylum based on data from file and applicant information reporting returns home (decision officers can inform the EASO situation in the country of origin).

Interview note includes data identifying the applicant, the name of the official, the interpreter, legal representative and the lawyer assisting him (if attorney), the language of the interview questions that answers the applicant, and after reading the interview is signed on each page by the applicant, an official and (where attended the interview), interpreter, lawyer, legal representative. When deemed necessary or has not been conclusively interview can be done a new interview.

The asylum seeker has the right to be assisted by a lawyer during the interview. Thus, the asylum seeker can to hire a lawyer. In certain situations, in selected cases by NGOs, asylum seekers may be assisted by counsel in these organizations and the UNHCR. During the interview asylum seekers and minors must attend his legal representative, and for those with special needs will be interviewed officials specialist GII. The interview is translated by an interpreter who is paid by asylum authorities.

The asylum application is resolved on the basis of existing documents in the applicant's file and the grounds relied on by the applicant, which are analyzed in relation to the concrete situation of the country of origin and credibility of the applicant.

In processing asylum applications of minor asylum seekers and take into account their degree of intellectual development and their maturity set by professionals in healthcare (forensic examination to determine the exact age)\(^{51}\).

\(^{50}\) Art. 17 din Hotărârea nr. 1251/2006 pentru aprobarea Normelor metodologice de aplicare a Legii nr. 122/2006 privind azilul în România.

In processing asylum applications of asylum major injudicious, their statements shall be valued taking into account the extent to which they affected discernment.

If the asylum seeker expressly renounces its request at the administrative stage (before issuing a ruling by the administrative - territorial structures GII), it is informed of the consequences of the act of renunciation and has an obligation to leave Romania, on the expiry of 15 days from the completion of the asylum procedure. These provisions shall not apply if the applicant has a right to stay covered under the law on the legal regime of foreigners in Romania.

Specially designated official shall issue a decision to close the file. The decision to close the file is immediately communicated in writing to the applicant, through direct communication by the representatives of the General Inspectorate for Immigration or by postal declared its last residence. The decision to close the file provided is not subject to appeal.

Specially appointed official interviewer, analyzes the reasons given by the applicant and the applicant decide on the application within 30 days of taking the case. If settlement of the application requires additional documentation, the term shall be extended by no more than 30 days.

Officer decision, after deemed analyzed all available information to file the asylum seeker issue a decision whereby: recognize refugee status, subsidiary protection granted asylum or withholding.

The decision to grant subsidiary protection reasons include denial of refugee status.

The decision to reject the asylum application contains adequate reasons for each form of protection and the indication on the obligation to leave Romania if not given tolerance. Aliens have the obligation to leave Romania within 15 days after completion of the asylum procedure, unless the application for asylum was rejected as manifestly unfounded after its settlement in accelerated procedure, in which case the alien is obliged to leave the Romanian territory, once completed the asylum procedure.

Acceptance or rejection of asylum is the judgment, which is immediately communicated in writing to the applicant: through direct communication by the representatives of the General Inspectorate for Immigration or by postal last residence declared it, which will be accompanied by an acknowledgment reception. Decision communicated is accompanied by written information, in Romanian and in a language that the applicant understands or is reasonably assume that understands. If the judgment IGI is not possible directly or through postal with receipt, it will be done by displaying the seat structure specialized in asylum issues the IGI which issued the decision of the notice which will include: the number of temporary identity document of the applicant (which is the same file number IGI), number and date of the solution on the asylum application, the
deadline for submission of the complaint and the competent court to resolve it, on decisions rejecting the application asylum and date display\textsuperscript{52}.

This information note will be displayed throughout the legal deadline for complaint filing against the judgment IGI, which are considered to be communicated to the display of the note. Calculating the Complaint against the judgment IGI will be the communication (whether it was carried out directly or by mail with return receipt / by displaying the information note). The grounds for granting a form of protection is not communicating.

The decision to reject the asylum application contains adequate reasons for each form of protection and the indication on the obligation to leave Romania within 15 days from the time of completion of the asylum procedure. Against a decision that has been granted subsidiary protection and the rejection of the asylum application can be filed within 10 days of receipt of proof of communication.

If the applicant has not obtained a form of protection, the General Inspectorate for Immigration issue and implement the decision of return. If, for objective reasons, the foreigner can not leave Romania within the statutory period, the General Inspectorate for Immigration grant him permission to remain in the territory, according to the regulations on foreigners in Romania.

Food and nutrition needs of asylum seekers are covered by monthly allowances\textsuperscript{53} granted from government resources, NGOs occasionally supplementing assistance to cover minimum standards of nutrition.

Practitioners in the field, refugees, Romanian citizens every year celebrate the International Refugee Day on June 20. On this occasion various events are organized in Bucharest and in the country various events (concerts, radio contests, information campaigns) aimed at raising awareness of the refugee problem in Romanian society\textsuperscript{54}.

\textbf{B. Family Reunification}

According to Directive 2003/86 / EC of 22 September 2003 on the right to family reunification\textsuperscript{55}, the beneficiary of a form of protection may apply for asylum for his family. After their entry into our country, family members may apply for asylum, and it will be resolved according to the law in the ordinary procedure. Family reunification procedure is triggered automatically on unaccompanied minors asking the consent of the legal representative and the unaccompanied minor interest principle of the minor. In all cases will take into account the views of the minor and his interest. If unaccompanied minor Immigration Inspectorate General take steps to locate the family, while protecting the interests of the child.

\textsuperscript{52} Art. 54 din Legea nr. 122/2006 privind azilul în România.


\textsuperscript{55} http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=CELEX:32003L0086&from=RO,
To clearly prove family ties, the person who has acquired refugee status or subsidiary protection will present original documents (birth certificates, marriage, passport) or other evidence to prove his family member. These documents will be verified in the country of origin of the family member. Family reunification procedure must be completed within 9 months of the request. This period may be extended by six months to carry out further checks.

Beneficiaries of a form of protection (refugee status or subsidiary protection) can apply for asylum on behalf of family members (spouse or, where appropriate, wife and minor children) are in the country of origin or to a third country\(^{56}\) being the only exception bill to be submitted personal request for asylum from aliens in Romania.

Family members STATUTORY asylum are: the extent that, on application by the lead, the family exists in the country of origin, the following members of the family of the beneficiary of refugee or subsidiary protection: the husband or, where appropriate, wife the beneficiary of refugee or subsidiary protection or minor children of the beneficiary of refugee or subsidiary protection dependents, provided that they are unmarried, whether in marriage or outside it or adopted by national legislation of the country of origin.

If the officer Decision considers to have been made proof of kinship by the beneficial form of protection or, where appropriate, of marriage prior to entry in Romania will ask the Ministry of Foreign Affairs issued a visa and issuance of travel for members the family covered above.

After entering Romania of those family members, where there is agreement on their application for asylum, with the request will be made under this Law concerning the ordinary.

In the procedure for checking for reunification family relationship / kinship form of protection being given to family members, provided the asylum law, except where they are applicable grounds for exclusion.

If the conditions are not met for family reunification officer issues a decision rejecting decision, which will be communicated to the beneficiary of a form of protection called for reunification.

Against that decision rejecting the foreigner can pursue two remedies on the same terms provided by law for the ordinary procedure.

Provisions on family reunification applies to persons receiving temporary humanitarian protection. If the officer Decision considers to have been made proof of kinship by the beneficial form of protection or, where appropriate, of marriage prior to entry in Romania will ask the Ministry of Foreign Affairs issued a visa and issuance of travel for members the family covered above.

After entering Romania of those family members, where there is agreement on their application for asylum, with the request will be made under this Law concerning the ordinary.

\(^{56}\) Art. 71 din Legea nr. 122/2006 privind azilul in România,
In the procedure for checking for reunification family relationship / kinship form of protection being given to family members, provided the asylum law, except where they are applicable grounds for exclusion.

If the conditions are not met for family reunification officer issues a decision rejecting decision, which will be communicated to the beneficiary of a form of protection called for reunification.

Against that decision rejecting the foreigner can pursue two remedies on the same terms provided by law for the ordinary procedure.

Provisions on family reunification applies to persons receiving temporary humanitarian protection.

C. Accelerated procedure

The accelerated procedure also browse, administrative stage and the judicial stage.

The accelerated procedure can be triggered during the regular procedure after the officer finds that the decision of one of the following: application for asylum is manifestly unfounded; application for asylum belongs to individuals who, through their work or membership in a certain group, poses a danger to national security or public order (DAECH); application for asylum belongs to a person who comes from a safe country of origin belonging to the EU or other safe third countries.

An application for asylum is manifestly unfounded when there is a fear of persecution in their home country, or if it exists does not affect the applicant or it prolong the asylum procedure, destroyed, damaged, dropped, sold papers identity to hinder its identification or use a false identity, provided a false identity, presented false or forged documents, and the officer identified this decision. The asylum seeker must provide data and personal information, consistent, truthful, verifiable, showing clearly that is subject to a fear of persecution in their country of origin or the country whose nationality. Another reason to consider that an application is manifestly unfounded is that hid that has submitted one or more asylum applications in one or more EU member states.

If administrative stage, officer decision after conducting interviews and analyzing the reasons invoked, decide within 3 days of the start of the accelerated procedure. Decision to reject an application as manifestly unfounded complaint may be appealed within two days of notification. The power belongs trial court of competent structures at the headquarters of the General Inspectorate for Immigration that issued the decision.

Can not be solved fast track asylum applications of unaccompanied minors.

D. Border procedures

Apply by border police staff asylum applications lodged by any foreign citizen or stateless. Asylum seekers are informed that a supposedly understand or clearly

57 Art. 75 din Legea nr. 122/2006 privind azilul in România.
understand that rights and obligations that we have in the new situation of asylum seekers. Asylum applications are taken from the territorial bodies of the Romanian Border Police and sent to the Inspectorate General for Immigration, after analysis by officers Decision shall, within 3 days of receipt: granting a form of protection and access to the territory, granting access to territory and asylum ordinary procedure or rejection of the application as manifestly unfounded.

Decision to reject an application may be subject to appeal within two days of notification. The complaint is settled by the court in whose constituency is situated structure Immigration Inspectorate General who issued the decision, within 5 days of the notification. Apply properly analyzed procedural rules in ordinary procedure.

If the asylum seeker has lodged an application for asylum in another Member State over the last nine months, the Dublin procedure, which has as main objective to determine a single Member State that is responsible for examining an asylum application submitted citizen of a third country in the territory of Member States, determines the Member State responsible for examining the application.

Pending the outcome of the application person will be accommodated in the transit area or in special accommodation centers near the border. If the asylum seeker is given access to the territory and the ordinary asylum procedure will be transported to one of the centers IGI accommodation nearby. Where is denying access to the asylum procedure ordinary so I will brings the knowledge-based protocol in the presence of an interpreter with information that can challenge response received by complaint to the border which will then be sent IGI sending it across the court in the resort where the IGI which resolved the application for asylum by refusal.

Not subject to the Border asylum applications lodged by unaccompanied minors. They receive access to the territory and ordinary procedure.

**E. Procedure for Settlement of Application for Granting Access to a New Procedure for Asylum**

Access to a new asylum procedure is granted if during a procedure for resolving previous application or after the settlement of the previous application by a final judgment or, where appropriate, by a decision to close the file, the applicant puts forward new elements that have it could be presented for reasons not attributable to him, provided that these items are not the result of actions provoked in order to obtain a form of protection from the Romanian state or the date of completion of the asylum procedure earlier occurred transformation of political, social, military legislative or country of origin, likely to have serious consequences for the applicant. The civil case shall be issued within 5 days of filing the application by a reasoned decision which, if applicable: giving access to a new asylum procedure or reject the request.
This latter decision may be appealed to the complaint within 10 days from notice. Jurisdiction to hear the complaint belongs to the court in whose territorial jurisdiction the structure of the General Inspectorate for Immigration that issued the decision. Such request shall be examined urgently, in the council chamber without summoning the parties. The court shall by a resolution irrevocable. The complaint shall be resolved within 30 days, without hearing the applicant.

F. Procedure of Third Safe Countries

Where, prior to coming to Romania, alien transited a safe third country where he was offered protection or had the opportunity to contact the authorities to obtain protection, the General Inspectorate for Immigration may decide to resend alien country or analysis application asylum.

Against this judgment the applicant may submit a complaint under the law. Resolve it is by the ordinary rules of procedure, which shall apply accordingly. If the transfer applicant has not been done, does not exist or can not get the consent of the third State to one readmit the applicant, the General Inspectorate for Immigration will consider the request for asylum. Since Romania joined the European Union, the procedure safe third countries no longer applies if the Member States of the European Union or other states which have through a special agreement to participate in the mechanism for determining the State responsible for the procedure the Member State responsible, procedure Dublin, which is mainly aimed at determining a single Member State that is responsible for examining an asylum application lodged by a citizen of a third country to the territory of the Member States. Dublin procedure takes between two weeks and two months under terms of EU law58.

After examining the evidence, the arguments circumstantial on file and the reply received from the State asked the officer for a decision from IGI may, as appropriate: the rejection of access to the asylum procedure and transfer the alien in the State responsible or granting access to the asylum procedure in Romania.

The judgment is enforceable and can be challenged by a complaint within two days of notification. The court shall pronounce a final judgment within five days of registration. The term is suspended during the process of determining the Member State responsible for examining an asylum application or, where appropriate, during the procedure safe third country.

4. Conclusion

The issues identified by officers of decision in taking decisions in asylum cases are related to: the credibility of the asylum seeker if he tell the truth or not, lack of knowledge about the country of origin adequate information about the situation in the area of origin of the asylum seeker being difficult to obtain as and the difficulty

58 Art. 97 din Legea nr. 122/2006 privind azilul in România.
of verifying the accuracy of information provided by asylum seekers, political decisions of government are sometimes impossible decisions correct legal decisions should be made based on the data and information in the file and not resent the home or personal front asylum seeker.

Asylum in a predictable fashion and fair, can only be done with respect to items such as: access to the system for granting international protection to be relieved, the existence of a definition of persecution broad enough to cover the risk of serious official dealing with processing asylum applications to specialize and be impartial, breach of privacy by the disclosure of evidence or the right to be heard in the presence of a lawyer, use the benefit of the doubt in favor of the asylum seeker, motivating legal, full of decisions, call the introduction of a legal possibility to reopen the case and to file a new application and humane treatment for applicants in case of any new data and information about the applicant.

The difficult task of making decisions in the cases of asylum applications can be supported through the development of common guidelines on the administration of evidences and focusing specifically on standards of evidence for inclusion, termination, exclusion and cancellation of refugee status, and aspects related.

Country of origin information provided by EASO is a source of information that is commonly used in the process of granting asylum. References that decision maker and make them relevant information on home and help assess human rights situation in objective and fair country of origin of the applicant.

As for the judiciary differences jurisprudential solutions led proposal to create a practical unit that would help unify solutions gave by judicial systems involved in and cooperation between professional national and international associations, UNHCR, academic institutions, NGO community and national authorities specialization officials who process applications for asylum, training and specialization of judges at international level in the field of refugees by creating courses within existing international institutions, drafting training materials and practical guidance in several languages.

Preparing Officers makers and judges should target more than a detailed study of the law and could benefit from an interdisciplinary approach and openings to psychology, anthropology, geography, history and use forensic methods such as DNA method.

Finally, it is suggested that it is necessary to improve the 1951 Convention and 1967 Protocol by a more precise definition of refugee.

Regarding the Romanian refugee protection system, while strengthening administrative capacity of managing the problem of asylum is considered that Romania should pay particular attention and appropriate segment of the judiciary. In this area is not enough editing a set of rules substantive or procedural, requiring the creation of a body of specialists who are involved in undergo periodic training and have multiple independent sources of information about the situation in the country of origin of applicants of asylum, such as the EASO, IOM, UNHCR.
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Free access to non-litigations procedures for asylum seekers

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