

**The Government of Romania**  
**THE EMERGENCY ORDINANCE OF THE ROMANIAN GOVERNMENT N°. 194**  
**Republished**  
**From December 12<sup>th</sup>, 2002**

**on the Regime of Aliens in Romania**

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\*) Republished on the basis of article 7, from GO no. 55/2007, regarding the establishment of The Romanian Immigration Office, through the redeployment of the Romanian Authority for Aliens and of the Romanian National Office for Refugees, as well as through the amendments made and the additions brought to several legislative acts and published in the Romanian Official Journal, Part I, no. 424 from June 26<sup>th</sup>, 2007; approved with all the afferent amendments and additions, through Law 347/2007, published in The Romanian Official Journal, part I, no. 851, from December 12<sup>th</sup>, 2007, with new numbering being attributed to the texts.

The Romanian Government's Emergency Ordinance no. 194/2002, was republished in The Romanian Official Journal, Part I, no. 201, from March 8<sup>th</sup>, 2004. GO 194/2002 has already been amended and added to, by means of:

- Law no. 309/2004, on the rules governing the free movement of nationals of EU Member States and of the EES on the territory of Romania, published in The Romanian Official Journal, Part I, no. 593 from July 1<sup>st</sup>, 2004, abated through GO 102/2005 on the rules governing the free movement of nationals of EU Member States and of the EEA on the territory of Romania, published in The Romanian Official Journal, Part I, no. 646 from July 21<sup>st</sup>, 2005, subsequently approved with all the amendments and additions, through Law no. 260/2005;
- Law 482/2004 that makes amendments and brings additions to GO 194/2002 on the regime of aliens in Romania, published in The Romanian Official Journal, Part I, no. 1.116 from November 27<sup>th</sup>, 2004;
- GO 113/2005 that makes amendments and brings additions to GO 194/2002 on the regime of aliens in Romania, published in The Romanian Official Journal, Part I, no. 658 from July 25<sup>th</sup>, 2005, approved with all the afferent amendments and additions, through Law 306/2005 and published in The Romanian Official Journal, Part I, no. 962 from October 31<sup>st</sup>, 2005;
- Law 56/2007 that makes amendments and brings additions to GO 194/2002 on the regime of aliens in Romania, published in The Romanian Official Journal, Part I, no. 201, from March 26<sup>th</sup>, 2007.

**Chapter I**  
**General Instructions**

**Art. 1 – Guidelines**

The present emergency ordinance represents the frame settling the conditions for the entry, stay and exit of aliens, in/out of the Romanian territory, their rights and obligations as well as specific measures for the management of immigration in accordance with the obligations undertaken by Romania in the international documents to which it is a signatory party.

**Art. 2 - Definitions**

For the purposes of the present emergency ordinance, the terms and expressions below herein have the following meanings:

- a) *alien* – an individual who does not hold the Romanian citizenship or the citizenship of another member state of the European Union or of the European Economic Area;
- b) *stateless person* – the person who does not have the citizenship of any state;

- c) *resident* – the alien who holds a temporary stay permit or a residence card, granted in accordance herewith;
- d) *permanent resident* – the alien who is holder of a permanent stay permit or of a permanent residence card, granted in accordance herewith;
- e) *sponsor* – the alien holding a legal stay right on the Romanian territory who submits an application for family reunification in accordance herewith;
- f) *The National Visa Center* – a specialized unit within the General Directorate for Consular Relations within the Ministry of Foreign Affairs which contributes to the establishment and implementation of the Romanian national visa policy, together with the other institutions within the central public administration, according to the competences granted by law;
- g) *visa* - authorization, consisting in a sticker or stamp affixed on a valid state border crossing document which enables the alien subject to such obligation to go to a border crossing point in order to request transit or temporary stay for a limited period, subject to the fulfillment of the conditions laid down herein;
- h) *airport transit visa* - authorization issued by the Romanian diplomatic missions or consular offices allowing the alien to cross the international transit zone of a Romanian airport, without entering the territory of the Romanian State, on the occasion of an intermediate stop or a transfer between two routes of an international flight;
- i) *stay right*- the right granted by competent authorities to the alien to stay on the Romanian territory for an established period of time under the provisions of the law;
- j) *stay permit* - identity document issued by The Romanian Immigration Office, according to law, to the alien whose stay right in Romania is renewed or to the alien to whom the permanent stay right is granted, as the case may be;
- k) *stay permit for work* – the identity document issued to the alien by the Romanian Immigration Office, according to law, which attests to the right to stay and to work on the Romanian territory;
- l) *marriage of convenience*- marriage concluded for the sole purpose of eluding the entry and stay conditions for aliens and of obtaining the right to stay on the Romanian territory;
- m) *interview* – the discussion between a representative of Romanian authorities and the person who applies for the Romanian visa or renewal of the stay right in accordance herewith, for the purpose of obtaining additional information on the data specified in the applications filed, the reasons for travel to and stay in Romania and the accuracy of the documents submitted;
- n) *interview officer* – the employee of the Romanian Immigration Office, with duties of establishing the existence of the elements of a marriage of convenience;
- o) *researcher* – the alien, holder of a academic graduation diploma which gives him/her access to PhD programmes and who is accepted in a research and development unit in order to perform scientific research activities within a project.

### **Art. 3 – Aliens’ Rights**

- (1) Aliens with legal stay in Romania shall benefit from the general protection of persons and wealth, secured by the Constitution and other laws, as well as from the rights provided for in the international treaties to which Romania is a party.
- (2) Aliens with legal stay in Romania may move freely and may establish their residence or, as the case may be, their domicile in any region of the Romanian territory.
- (3) Aliens with legal stay in Romania who temporarily leave the territory of the Romanian State shall have the right to re-enter the territory within the validity period of the stay permit.
- (4) Only aliens with residence or domicile in Romania may be beneficiaries of social security measures taken by the state, under the same conditions as the Romanian citizens.
- (5) Aliens who were issued a document by the Romanian Immigration Office shall have the right to check the personal data recorded in this document and, if necessary, to request the correction or removal of data that are not accurate.
- (6) Aliens attending the educational system at any level shall have access, without any restrictions, to the educational and training activities in society.

### **Art. 4 – Alien’s Obligations**

- (1) During their stay in Romania, aliens shall be bound to comply with the Romanian legislation.
- (2) Aliens may not organize political parties or other similar organizations or groups on the Romanian territory and may not take part in them, may not hold public positions and titles and cannot initiate,

organize or take part in demonstrations or meetings bringing prejudice to public order or national security.

(3) Aliens may not finance parties, organizations, groups, manifestations or meetings such as those provided in paragraph 2.

(4) Aliens on the Romanian territory shall be bound to comply with the purpose for which the right to enter and, as the case may be, the right to stay on the Romanian territory was granted, not to exceed the term for which the stay was approved and to make all the efforts necessary for leaving Romania before the term expires.

(5) Aliens entering or leaving the Romanian territory shall be bound to comply to the state border crossing control, according to the law.

(6) Aliens on the Romanian territory shall be bound to comply, under the restrictions of the law, to the control of the police authorities as well to the control of other competent public authorities for this purpose.

#### **Art. 5 – The Policy in the Field of Immigration**

(1) Yearly, the following shall be established by Government Decision:

a) the number of work authorizations that may be issued to aliens according to the special legislation on employment and transfer of aliens on the Romanian territory;

b) the amount of the allowances necessary for food, support and accommodation in centers as well as those for medical assistance and hospitalization;

c) the amounts representing the appropriate means both for support during the stay period and for the return to the country of origin or for the transit to another state, as laid down under article 6 (1) c);

(2) The Government may establish, by a decision, whenever required, the introduction or suspension of short-term facilities, upon granting of the entry right or upon renewal of the stay right on the Romanian territory, as the case may be, for certain categories of aliens, and the periods for which such facilities are granted or suspended. In the long run, the Government establishes the national strategy in the field of immigration.

(3) The Government of Romania, through its authorized institutions, sends to the European Commission and to the governments of the other member states, in due time, and no later than the time of publication, information in connection with the following:

a) the draft laws that propose measures on the workers in third countries and their family members, as regards the entry, stay and employment and the assurance of equal treatment under living and working conditions, salary rights and other economic rights, promotion of integration in the local labor force and in society and voluntary return to the country of origin of such persons;

b) draft agreements regarding the issues provided under letter a), and draft cooperation agreements which it intends to negotiate or renegotiate with third countries when such agreements include provisions regarding the items included under letter a);

c) draft agreements regarding the stay and employment conditions of its own citizens who work in third countries and of their family members which it intends to negotiate or renegotiate with the respective states.

(4) The Government of Romania shall send to the European Commission and the governments of the other member states the texts of the applicable laws and the texts of the agreements concluded with third countries which regulate the issues mentioned under paragraph (3) (a).

## **Chapter II**

### **General provisions regarding the entry, stay and exit of aliens**

#### **Section 1**

##### **The Entry of Aliens on the Romanian Territory**

#### **Art. 6 – Conditions regarding Aliens' Entry**

(1) Entry on the Romanian territory may be permitted to aliens complying with the following condition:

a) they shall hold a valid state border crossing document accepted by the Romanian State;

b) they shall hold the Romanian visa issued under the restrictions hereof, or, as the case may be, a valid stay permit, unless otherwise provided for by international agreements;

- c) they shall submit, under the restrictions hereof, the documents that justify the purpose and conditions of their stay and which prove the existence of appropriate means both for their support during the duration of their stay, and for the return to the state of origin or for the transit to another state where there is the certainty that they shall be allowed to enter;
  - d) they submit guarantees that their entry on the destination state is allowed or that they will leave the Romanian territory, in the case of aliens in transit;
  - e) They are not included in the category of aliens against whom the measure of interdicting the entry on the Romanian territory has been applied or who were declared undesirable;
  - f) They did not previously breach, with no reason, the purpose declared upon obtainment of the visa or upon entry or the Romanian territory, as the case may be, or did not attempt to cross the Romanian border with forged documents;
  - g) No alerts have been introduced on their name in the Schengen Information System that may lead to refusal of their entry;
  - h) They do not represent a danger to national defense and security, public order, health and moral probity.
- (2) The foreign citizens - family members of Romanian citizens, and aliens who hold a permanent stay right of the territory of the member states of the European Union are allowed to enter the Romanian territory without having to fulfill the conditions provided under paragraph (1) letters c) and d).
- (3) Aliens who stay in the international transit areas of the airports, in the state border crossing zones or in the accommodation centers which have the regime of transit zone or on ships or boats anchored in sea or river harbors shall not fall under the provisions hereof regarding the entry and stay conditions for aliens on the Romanian territory.
- (4) The aliens' entry on the Romanian territory may be made through any state border crossing point open to the international traffic of persons.
- (5) Aliens may also cross the state border through other places under the conditions set up by agreements and arrangements between Romania and other states.

#### **Art. 7 – Obligations of carriers**

- (1) Transportation companies shall be forbidden to bring to Romania aliens who do not comply with the conditions provided under Article 6 (1) (a) and (b).
- (2) If the provisions under paragraph 1 are not complied with, the respective transportation company shall be bound to ensure the immediate transport of the respective aliens to the boarding place or to another place which aliens accept and where aliens are accepted. If this is not possible, the carrier shall be bound to bear the expenses for accommodation and support, as well as all other expenses deriving from the removal of such persons from the Romanian territory, hereinafter referred to as removal.
- (3) The obligations under paragraph 2 shall be also apply to transportation companies bringing aliens in transit to Romania, if:
- a) The carrier that is to transport them to the country of destination refuses to board them;
  - b) The authorities of the country of destination do not allow the entry of aliens and return them to Romania.

#### **Art. 8 – The Refusal of the Entry of Aliens on Romanian Territory:**

- (1) Aliens' entry on the Romanian State territory shall be rejected if:
- a) They do not meet the conditions under Article 6(1);
  - b) They are reported by international organizations to which Romania is a party, as well as by institutions specialized in combating terrorism, to finance, organize or support in any possible way or commit terrorism acts;
  - c) There are indications that they are part of organized criminal groups of cross-border character or that they support, through any means, the activity of these groups;
  - d) There are serious reasons to consider that they have committed criminal offences or took part in committing criminal offences against peace and humanity, war crimes or crimes against humanity, laid down in the international conventions to which Romania is a party.
- (2) The border police bodies may also reject the entry of aliens on the territory of the Romanian State under the following circumstances:
- a) They committed criminal offences during other stays in Romania or abroad against the Romanian State or a Romanian citizen;
  - b) They introduced or tried to illegally introduce other aliens on the Romanian territory;

c) They suffer from diseases that may seriously endanger public health, as laid down by order of the health minister.

(3) The bodies and institutions holding data and information regarding certain cases as those provided under paragraphs 1 and 2 shall be bound to inform the General Inspectorate of Border Police and the Romanian Immigration Office or their territorial branches.

(4) The measure of not allowing aliens to enter the Romanian territory shall be justified by the border police authorities and shall be immediately notified to the respective person and to the General Directorate of Consular Relations within the Ministry of Foreign Affairs.

#### **Art. 9 – Aliens’ Obligations**

(1) The alien whose entry in Romania was withheld shall be bound to immediately leave the state border crossing point for the country of origin or any other destination that he wants, except for Romania.

(2) If the immediate leave of the alien from the state border crossing point provided under paragraph 1 is not possible, the border police bodies may take measures of accommodating the alien in a space arranged in this respect in the transit area and provided by the administrator of the border crossing point, until the reasons that make his leaving impossible cease, however, without exceeding 24 hours from the date of accommodation.

#### **Art. 10 - State Border Crossing Documents Accepted by the Romanian State**

(1) The following state border crossing documents shall be accepted by Romania provided that they certify the identity and citizenship or, if the case, the stateless status of the holder:

a) passports, travel titles, sailor books or other similar documents issued according to the standards required by the international practice, by the states, territories or international entities acknowledged by Romania;

b) identity card or other similar documents, based on reciprocity or unilaterally, for citizens belonging to the states established by the decision of the Romanian Government;

c) travel documents of refugees issued under the Geneva Convention of 1951 regarding the status of refugees and travel documents issued to aliens who were granted conditioned humanitarian protection;

d) travel documents of stateless persons issued by the states where they have their residence.

(2) Aliens included in a state border crossing document of another person may enter or leave Romania only accompanied by the holder of such document.

(3) Aliens may also enter and leave Romania on the basis of a collective passport, only in groups, provided that each member of the group has an individual document attesting his identity and containing a photograph of the holder, and that the leader of the group has an individual state border crossing document.

(4) Pupils who are residents in a member state of the European Union and travel or transit the Romanian territory within school trips, may enter and exit in/from Romania also based on the list of participants laid down under article 26 (3) ( b ), issued in accordance with Council Decision no. 94/795/JHA on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State, published in the Official Journal of the European Communities no. 327 of 19 December 1994, provided that the following conditions are fulfilled:

a) the list of participants should include a recent photograph for each participant who does not hold an individual document on which the holder’s photograph is affixed;

b) the responsible authority of the member state should confirm the statute of resident of the aliens included on the list of participants and the accuracy of the data submitted in such document;

c) the member state where pupils have their residence should inform the Romanian state on the trip and the list of participants which it wants to be acknowledged as a travel document for the crossing of the Romanian state border .

(5) At the suggestion of the Ministry of Foreign Affairs and the Ministry of Administration and Interior, the Government shall make public the list containing the state border crossing documents accepted by the Romanian State for entering the country, issued by states or international entities acknowledged by Romania.

(6) For humanitarian reasons or for implementation of international agreements or arrangements to which Romania is a party, the Romanian Government may also approve, by Government decision, other documents on the basis of which the entry on the Romanian territory may be permitted.

## **Section 2**

### **Aliens' Stay in Romania**

#### **Art. 11 – General Provisions Regarding the Stay of Aliens on the Romanian Territory**

- (1) Aliens which are legally in Romania for a temporary period may remain on the territory of the Romanian State no later than the expiry date of the right to stay granted by visa or, as the case may be, by the stay permit.
- (2) In the circumstances when international conventions or pieces of legislation which unilaterally dissolve the visa regime, do not lay down the period of which visas are dissolved, aliens who do not have the obligation of obtaining a visa for entering the Romanian territory shall be allowed to enter the territory of the Romanian State and may remain up to 90 days during a 6 month period, starting with the date of their first entry in the country.

#### **Art. 12 – Conditions regarding the Accommodation of Aliens**

- (1) The alien that entered the Romanian territory legally has the obligation to notify the police body of territorial competence thereof, within 3 days from the date of entry. Citizens of the member states of the European Union and the European Economic Area shall be exempted from such obligation.
- (2) If aliens are accommodated in hotels or other tourist premises, they shall fulfill the registration formalities at the administration of the respective premises which, within 24 hours, shall communicate the required data to the territorial competent police authority.

#### **Art. 13 - Notifying Authorities Concerning any Changes in the Aliens' Status**

- (1) During their stay in Romania, aliens shall be bound to declare to the territorial unit of the Romanian Immigration Office which granted their right to stay the following information:
  - a) any change in the personal status, especially the change of citizenship, concluding, ending, revoking a marriage, the birth of a child, the death of a family member on the Romanian territory;
  - b) any change related to his/her employment;
  - c) the loss, validity renewal or change of the state border crossing document.
- (2) The alien who changes his domicile or residence has the obligation to go to the Romanian Immigration Office unit with territorial competence, within 15 days from the date when he/she moves to the new address in order to be recorded and have the required changes made in his/her identity document.
- (3) The stealing or loss of the state border crossing documents shall be declared to the territorial competent police authority.
- (4) The statements under paragraph 1 shall be made within 30 days, and the statements under paragraph (3), within 48 hours.

## **Section 3**

### **Aliens leaving the Romanian Territory**

#### **Art. 14 – Aliens' leaving**

- (1) If the alien is no longer in possession of the state border crossing document on the basis of which he/she entered the Romanian territory, he/she must submit upon leaving Romania a new valid state border crossing document.
- (2) The exit from country shall be accepted for the aliens having citizenship of several states only upon submission of the state border crossing document on the basis of which they entered the country. In exceptional occasions, the border police bodies may allow aliens to leave the country also on the basis of the document certifying a different citizenship.

#### **Art. 15 – Exit Interdiction**

- (1) The aliens shall not be allowed to leave the country under the following circumstances:

- a) they are charged or indicted in a criminal case and the prosecutor decides to enforce the measure consisting in the interdiction of leaving the town or the country;
  - b) they were sentenced by final court decision and they have to carry a prison sentence.
- (2) In the circumstances provided under paragraph 1, the measure of not allowing the leaving from the Romanian territory shall be taken by the competent body within the Ministry of Administration and Interior only based on the written request of the prosecutor, courts of justice or the bodies provided by law which have powers to enforce the prison sentence.
- (3) In all the cases, the reasons that have led to the decision shall be specified and the supporting documents shall be submitted, as the case may be.
- (4) The interdiction of leaving the country shall be materialized as follows:
- a) The General Inspectorate of Border Police shall establish the nominal confinement in the traffic record system at the state border;
  - b) The Romanian Immigration Office and its territorial units shall append the stamp with the “C” symbol in the state border crossing documents.

#### **Art. 16 – Revocation of the Exit Interdiction Measure**

- (1) The revocation of this measure shall be made by canceling the nominal confinement or appending the stamp with the “L” symbol on the state border crossing document upon the written request of the public authority with such a competence according to law, for the cases provided under Article 15(1).
- (2) The measure of interdicting the leaving of the country shall be revoked de jure if the alien, subject to one of the circumstances provided under Article 15, proves by documents issued by the competent authorities, under the law, to the authorized body within the Ministry of Administration and Interior that:
- a) it was ordered that the criminal proceedings should not begin, should be terminated or should cease, they were found not guilty, or it was ordered that the criminal trial should cease;
  - b) they served the sentence, he was pardoned, he benefits from amnesty or he was convicted by final court decision, subject to conditioned suspension of sentence serving.

### **Chapter III**

#### **Visa Granting Conditions**

##### **Section 1**

##### **Guidelines**

#### **Art. 17 – Visa Form and Content**

The visa form, content and security elements shall be approved by decision of the Romanian Government at the proposal of the Ministry of Foreign Affairs after consulting the Ministry of Administration and Interior and in accordance with the standards of the European Union in this field.

#### **Art. 18 – Limits of the Rights Granted by Visa**

- (1) Visa shall entitle the holder to enter the territory of the Romanian State provided that, at the moment the alien presents himself at the border crossing point, the Romanian Border Police Authorities come to the conclusion that there is no reason to interdict the entry in Romania, in accordance with the reasons provided under Article 8 (1), (2).
- (2) The stay right granted by visa may be exercised only during the validity period of the visa.

#### **Art. 19 – Exemptions from the Mandatory Visa Regime**

- (1) Citizens of the states with which Romania has signed agreements in this respect are exempted from visa mandatory regime under the conditions and for the stay periods laid down in these agreements.
- (2) Aliens who are pilots of aircrafts and other members of the crew, holders of a flight license or of a crew certificate, as laid down in Annex 9 to the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, shall be exempted from the obligation to hold a passport and a visa provided that they are during their exercise of their duty and:
- a) do not leave the intermediate stop airport;
  - b) do not leave the airport of destination;
  - c) do not leave the territory of the city located nearby the airport ;
  - d) leave the airport only for the purpose to going to another Romanian airport.

(3) The Government may establish by decision, the unilateral exemption of certain categories of aliens from visa mandatory regime.

## **Section 2**

### **Types of Visas**

#### **Art. 20 - Types of Visas**

According to the purpose they are issued for, visas can be:

- a) airport transit visa, identified by A symbol;
- b) transit visa, identified by B symbol;
- c) short stay visa, identified by C symbol;
- d) long stay visa, identified by one of the following symbols, according to the activity the alien receiving the visa is to perform in Romania:
  - (i) economic activities, identified by D/AE symbol;
  - (ii) professional activities, identified by D/AP symbol;
  - (iii) commercial activities, identified by D/AC symbol;
  - (iv) employment, identified by D/AM symbol;
  - (v) studies, identified by D/SD symbol;
  - (vi) family reunification, identified by D/VF symbol;
  - (vii) religious or humanitarian activities, identified by D/RU symbol;
  - (viii) scientific research visa, identified by D/CS symbol;
  - (ix) diplomatic visa and service visa, identified by DS symbol
  - (x) other purposes, identified by D/AS symbol.

#### **Art. 21 – Airport Transit Visa**

The airport transit visa shall be mandatory for citizens of the states included in the list enclosed as Annex 3 to Common Consular Instructions issued by decision of the European Union Council or under the decisions of the European Union Council. The same regime shall also be applied to aliens who, without being citizens of these states, hold a border crossing document issued by the authorities of the respective states.

#### **Art. 22 – Transit Visa**

The transit visa shall be the visa that allows the alien to cross the Romanian territory. The transit visa may be issued for one, two or several transits, and the duration of each transit shall not exceed 5 days.

#### **Art. 23 – The Short-stay Visa**

(1) The short-stay visa is the visa that allows aliens to request entry on the Romanian territory, for reasons other than immigration, with a view to an uninterrupted stay or several stays whose total duration should not exceed 90 days within 6 months as of the first entry. Such type of visa may be issued with one or multiple entries.

(2) If the date of the entry on the Romanian territory cannot be established based on the specifications in the alien's travel document, the Romanian Immigration Office shall take the measures laid down in article 11 of Regulation No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), published in the Official Journal of the European Union (OJEU) no. L105 of 13 April 2006.

(3) In the case of aliens traveling frequently to Romania, for business co-operation relationships, upon the request of the central administrative authorities or the companies with a far-reaching economic and financial power, the short-stay visa with multiple entries may also be granted for one year and, under exceptional cases, for a period not exceeding 5 years. Also in this case, the duration of the stay may not exceed 90 days within 6 months.

(4) The short stay visa shall be granted for the following purposes:

- a) *mission*– to aliens who, for reasons related to their political, administrative or public utility function have to travel to Romania. This type of visa shall be issued to aliens occupying positions within governments, public administrations or international organizations as well as to those who, by reason

of their stay in Romania, are of interest for the relations between the Romanian State and the affiliation state. It can also be issued to the family members accompanying them;

b) *tourism*– to the alien who is to travel to Romania for tourist reasons;

c) *visit*– to the alien who intends to travel to Romania in order to visit Romanian citizens or aliens with a valid stay permit;

d) *business*– to the alien who intends to travel to Romania for economic or business purposes, for contracts or negotiations, to learn or to verify the use and operation of goods acquired or sold under commercial and industrial co-operation contracts and to the stranger who is or will become an associate or shareholder in a Romanian company;

e) *transportation*– to the alien who is to travel for short periods of time in order to carry out professional activities related to goods or persons transportation;

f) *sports*– to the alien who is to enter Romania for a limited period in order to participate in sports competitions;

g) *cultural, scientific, humanitarian activities, short-term medical treatment or other activities that do not breach the Romanian legislation*– under the conditions of justifying their presence in Romania.

(5) The right to stay in Romania, granted to the alien through the short stay visa, cannot be renewed.

#### **Art. 24 – The Long-stay Visa**

(1) The long stay visa shall be granted to aliens, upon request, for a period of 90 days with one or more entries, for the following purposes:

a) *Economic activities* - to aliens that are to carry out economic activities independently or within family associations under the law on the organization and performance of economic activities by natural persons;

b) *Professional activities* – to aliens who have the right to exercise professions individually on the Romanian territory on the basis of some special laws;

c) *Commercial activities* – to aliens who are or will become shareholders or associates with management and administration powers, in Romanian companies;

d) *Employment* – to aliens who are to enter Romania with the view to being employed. The visa granted for such purpose shall be also issued to sportsmen who are to perform in certain clubs or teams in Romania, on the basis on an individual labor contract or a civil agreement, according to law;

e) *Studies* - to aliens who are to enter Romania in order to attend high school, academic or post-graduate courses, as the case may be, or for obtaining scientific titles within state institutions or accredited private institutions under the law;

f) *Family reunification* – to aliens who are to enter Romania in order to regain family unity;

g) *Religious or humanitarian activities* - to aliens who are to enter Romania in order to carry out activities in the field of acknowledged cults, at their request, or for humanitarian purpose;

h) *Scientific research activities* – to aliens who are to enter Romania for the performance of scientific research activities;

i) *Other purposes*.

(2) Long-stay visa allows the aliens who entered the Romanian territory to request the renewal of the temporary stay right and obtain a stay permit.

#### **Art. 25 – Diplomatic Visa and Service Visa**

(1) The diplomatic visa and service visa shall allow the entry in Romania usually for a long stay period to the aliens holding a diplomatic, respectively service passport who are to hold an official position as members of a diplomatic representative office or of a consular office of the affiliation state in Romania.

(2) Such types of visas shall be issued to the holders of diplomatic, respectively service passports or assimilated to those, upon the request of the Ministry of Foreign Affairs of the submitting state or of its diplomatic or consular representative office, as well as to the family members with whom the holder lives and shall be valid for their mission period or in accordance with the bilateral agreements to which Romania is a party.

#### **Art. 26 – Collective Visa**

(1) The collective visa is a transit or short-stay visa granted for tourist purposes and for a period which should not exceed 30 days, issued to a group of aliens, established prior to the request, provided that its members enter, stay on and leave the Romanian territory in group.

(2) This type of visa shall be issued for groups consisting of no less than 5 persons and no more than 50 persons. The leader of the group should have an individual passport and, as the case may be, an individual visa.

(3) In case of organized groups of pupils citizens of the states for which the visa is compulsory and residents in a state which is a member state of the European Union, who travel to Romania in school trips or are in transit, their entry without a visa may be permitted provided that all of the following conditions are met:

- a) the group must be accompanied by a teacher from the school organizing the trip;
- b) there should be an official list of the participants according to which they could be identified;
- c) the participants should hold valid state border crossing documents.

### **Section 3**

#### **General Conditions for Granting Visas**

##### **Art. 27 – Granting the Romanian Visa**

(1) The Romanian visa may be granted, upon request, to aliens under the conditions and for the purposes laid down in this chapter.

(2) The Romanian visa shall be granted provided that:

- a) The conditions regarding the entry in Romania, provided under Article 6 (1) (a), (c) to (h) are met;
- b) There is no reason of interdicting the entry in Romania, as laid down in Article 8 (1) (b) to (d);
- c) No alert on the refusal to issue a visa was introduced, on the alien's name, in the Integration Information System on issues of migration, asylum and visas;
- d) No warnings on the alien's name have been received in connection with the refusal of entry from representatives of the member states of the European Union, the European Economic Area and the other states which are parties to the Agreement on the gradual abolition of checks at common borders, signed in Schengen on 14 June 1985, hereinafter referred to as the Schengen Agreement, within consular cooperation;
- e) There is no reason to believe that the visa is requested for illegal migration purposes;
- f) The alien was not finally sentenced for having committed offences abroad which are incompatible with the purpose for which he requests the visa;
- g) The general conditions provided for in this section, as well as the special conditions for visa granting depending on the purpose for which the visa is requested, are complied with.

##### **Art. 28 – Conditions regarding the Validity of Travel Documents**

(1) The validity term of the travel document on which the visa is to be affixed must exceed the validity term of the requested visa by at least 3 months.

(2) As an exception, for emergency, humanitarian or national interest reasons or pursuant to certain international obligations undertaken by Romania, visas may also be granted to the aliens holding state border crossing documents whose validity is shorter than the one provided under paragraph 1, subject to the condition that the validity term of the visa does not exceed that of the document.

##### **Art. 29 – Conditions for Visa Requests**

(1) The application for visa must be accompanied by the state border crossing document, valid according to Article 28, on which the visa can be applied, as well as by the documents that justify the purpose and the conditions of the travel, as well as the proof that he/she holds the means of support during their stay in Romania as well as for leaving Romania.

(2) Cash in convertible currency, travel cheques, cheque books over an account in foreign currency, credit cards with a statement of account thereof dated no more than 2 days before the request of visa or any other methods attesting to the existence of appropriate financial resources may be accepted as a proof of financial means.

(3) Upon submission of the application for Romanian visa, the applicant is usually called for an interview.

(4) The application for Romanian entry visa shall not be accepted in the following cases:

- a) it is not accompanied by the documents provided under paragraph (1);
- b) during the interview the applicant's good faith was not proved or it resulted that the alien does not fulfill the general and special conditions for granting the Romanian visa, as laid down herein.

(5) Upon requesting the entry visa for Romania, aliens must present themselves personally to the authorities competent in granting visas.

(6) An exception from the provisions of paragraphs (3) and (5) may be the important personalities in the social, cultural, political or economical field or the cases in which aliens have to cover a very long distance in order to be present at the diplomatic mission or the consular office and provided that there is no doubt regarding the applicant's good faith and in the cases of travels in organized groups when a well-known and trustworthy body is liable for the good faith of the applicants.

#### **Art. 30 – Bodies with Competence in Granting the Romanian Visa**

(1) The Romanian visa shall be granted by the Romanian diplomatic missions and consular offices.

(2) The list of the states whose citizens do not require a visa in order to enter the Romanian territory is the one provided in Annex no. 1 to Council Regulation (EC) No 539/2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, published in the Official Journal of European Communities series L no. 81 of 21 March 2001.

(3) The short stay visa shall be granted by diplomatic missions and consular offices of Romania, as follows:

a) without the prior approval of the National Visa Centre, for the aliens coming from the states specified in the list provided under paragraph (2), for whom the invitation procedure is not required;

b) with the prior approval of the National Visa Centre, for the aliens coming from the states specified in the list provided under article 37 (2).

(4) In order to approve the applications for short stay visas, the National Visa Centre requests the endorsement of the Romanian Immigration Office only in the cases established by a protocol approved through common order to the Minister of Foreign Affairs and the Minister of Administration and Interior.

(5) The endorsement of the Romanian Immigration Office provided under paragraph (4) establishes the compliance with the conditions provided under article 6 (1) a), e), f), g) and h), article 8 (1) b) to d), and article 27 (2) letters c) and e).

(6) The Romanian Immigration Office shall issue the endorsement within no more than 7 working days from the date of receipt of the request submitted by the National Visa Centre. In justified cases, the period may be extended by no more than 7 working days.

(7) The long stay visa shall be granted by the diplomatic missions and the consular offices of Romania, with the approval of the National Visa Centre, only after the endorsement of the Romanian Immigration Office has been obtained.

(8) The endorsement of the Romanian Immigration Office provided under paragraph (7) establishes the fulfillment of the conditions provided under article 6 (1) a), e), f), g) and h), article 8 paragraph (1) letters b) to d), article 27 paragraph (2) letters c) and e), and of the special conditions for each type of visa.

(9) The Romanian Immigration Office shall issue the endorsement within no more than 30 days from receipt of the request of the Ministry of Foreign Affairs.

(10) The long stay visa for the aliens who are family members of the Romanian citizens shall be granted by diplomatic mission and consular offices of Romania, without payment of any consular fees.

#### **Art. 31 – Issuance of the Romanian Visa**

The visa shall be issued by the Romanian diplomatic missions and consular offices provided that the conditions based on which it was approved are still fulfilled.

#### **Art. 32 – Granting the Romanian Visa by the Border Police Authorities**

Short stay and transit visas may be granted, as an exception, also by the police bodies at the state border crossing points, as laid down in Council Regulation (EC) No 415/2003 on the issue of visas at the border, including the issue of such visas to seamen in transit, published in the Official Journal of the European Union series L no. 64 of 7 March 2003, and of Regulation (EC) No 562/2006 of the European Parliament and of the Council establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), published in Official Journal of the European Union series L no. 105 of 13 April 2006.

#### **Art. 33 – Visa Annulment and Revocation**

(1) Visa may be annulled or revoked abroad by the diplomatic missions or the consular offices of Romania and on the Romanian territory by the General Directorate of Consular Relations of the Ministry of Foreign Affairs upon the motivated request of the border police authorities on the occasion of the state border crossing checks, or of the Romanian Immigration Office when aliens are on the Romanian territory. The enforcement of the annulment or revocation measure in the country shall be made by the border police bodies or, as the case may be, by the bodies of the Romanian Immigration Office.

(2) The authorities provided under paragraph 1 may take the measure of annulling a visa under the following circumstances:

- a) it is established that, upon requesting the visa, aliens did not meet the conditions provided by this emergency ordinance;
- b) the aliens obtained the entry visa on the basis of false documents or information;
- c) the aliens introduced illegally or tried to illegally introduce other aliens into Romania or facilitated their transportation or accommodation;
- d) the aliens breached the customs regulations or those regarding the state border.

(3) The measure of revoking a visa may be ordered by the authorities provided for in paragraph 1 in the following circumstances:

- a) the aliens no longer meet the conditions required upon granting the visa;
- b) the purpose for which the visa was granted is no longer complied with;
- c) the aliens were declared as undesirable after being granted a visa.

(4) The decision for annulment or, as the case may be, revocation of visa, together with the reasons for such decision, shall be communicated to the alien, in writing, by the diplomatic mission or consular office which granted the visa when the applicant is abroad, by the border police bodies if the applicant is at the state border crossing point, and by the Romanian Immigration Office through the order of return provided under Article 82, when the respective applicant is in Romania. As of the date of the notification, the annulment shall have retroactive effects and the revocation shall produce its effects only for the future.

(5) Upon communication of the decision, the stamp "ANNULLED" shall be affixed on the visa.

(6) At the state border crossing check, the border police authorities limit the validity period of the visa in the case they come to the conclusion that the alien does not have the means of support for the entire validity period of the visa. The limiting of the visa shall materialize through inscribing on the visa the period for which the alien has the means of support, according to the law.

#### **Section 4**

#### **Special Conditions for Granting Airport Transit, Transit and Short-Stay Visas**

##### **Art. 34 – Conditions for Granting Airport Transit Visas**

(1) Airport transit visa shall be issued by the Romanian diplomatic missions or consular offices only with the prior approval of the General Directorate of Consular Relations of the Ministry of Foreign Affairs to the citizens coming from the states provided in the list drawn up by the Ministry of Foreign Affairs in this respect, subject to the existence of a third state visa allowing aliens to continue their travel. This visa may be granted upon showing the plane ticket valid to the destination point and allows aliens to remain in the airport area no more than 5 days.

(2) This type of visa shall not be necessary in the case of:

- a) members of plane crews;
- b) holders of diplomatic, service passports or passports assimilated thereto;
- c) holders of residence permits or equivalent documents issued by the Member States of the European Union;
- d) holders of visas issued by a member state of the European Union.

##### **Art. 35 – Conditions for Granting the Transit Visa**

(1) The transit visa shall be granted to applicants under the following conditions::

- a) they hold the visa of a third state and, if necessary, of a state bordering Romania, which enables aliens to continue their travel;
- b) they have a travel ticket valid to the destination point or they present their driving license, the green card and the registration documents of the means of transportation, in the case of drivers.

(2) The persons accompanying drivers, traveling together with the latter, are exempted from complying with the condition provided under paragraph (1)(b).

### **Art. 36 – Conditions for Granting Short Stay Visas**

(1) According to the purpose for which the short-stay visa has been requested, the fulfillment of the following conditions shall be necessary:

a) **Mission** - the visa shall be granted to aliens proving that they have one of the qualities provided under Article 23(4)(a) and travel to Romania pursuant to such qualities;

b) **Tourism** - the visa shall be granted to the aliens if they present:

(i) a voucher or firm reservation from a tourist accommodation unit and the journey itinerary;

(ii) a travel ticket valid to the destination point or the driving license, green card and the registration documents of the means of transport in the case of vehicle drivers;

(iii) medical insurance;

(iv) the proof of the financial means amounting to EUR 50/day for the entire period, but not less than EUR 500 or the equivalent value in convertible currency;

c) **Visit** - the visa shall be granted to aliens if they submit:

(i) a travel ticket valid to the destination point or the driving license, green card and the registration documents of the means of transport, in the case of vehicle drivers;

(ii) medical insurance;

(iii) authenticated invitation from the visited person, evidencing that such person will cover the costs for removal if the invited alien does not leave Romania before the date when his/her stay right established by visa expires, and the alien's means of support and accommodation, when the visited person undertakes to provide such means;

(iv) proof of the financial means amounting to EUR 50/day for the entire period, but not less than EUR 500 or the equivalent value in convertible currency if the visited person does not provide the means of support;

(v) proof of providing accommodation conditions as a firm reservation with an accommodation unit, an ownership or rent agreement for a dwelling in Romania on the name of the applicant;

d) **Business** - visa shall be granted to aliens if they submit:

(i) a travel ticket valid to the destination point or the driving license, green card and the registration documents of the means of transport, in the case of vehicle drivers;

(ii) medical insurance;

(iii) invitation from a company or public authority for participation in meetings, conferences, fairs or congresses related to the respective trade or industry, evidencing that the respective company or public authority will cover the removal costs if the invited alien does not leave Romania before the date when his stay right established by the visa or other documents attesting to the travel purpose expires;

(iv) proof of the financial means amounting to EUR 50/day for the entire period, but not less than EUR 500 or the equivalent value in convertible currency;

(v) proof of accommodation conditions;

e) **Transportation** - the visa shall be granted to aliens if they submit:

(i) documents attesting the profession of the applicant, as well as the activity to be carried out during his stay;

(ii) medical insurance;

(iii) the driving license, green card and the registration documents of the means of transport;

(iv) transportation license and execution license;

f) **Sports** – the visa shall be granted to the aliens if they present:

(i) the invitation of the organizers attesting to medical insurance and accommodation means;

(ii) the official list of the foreign sports association specifying the position of each member;

(iii) the approval of the territorially competent county directorate for sports;

g) **Cultural, scientific, humanitarian activities, short-term medical treatment or other activities which do not breach the Romanian laws** – visa shall be granted to aliens if they submit:

(i) documents issued by the institutions where they are to travel to in order to justify their presence in Romania;

(ii) a travel ticket valid to the destination point or the driving license, green card and the registration documents of the means of transport, in the case of drivers;

(iii) the proof of financial means in amount of EUR 100/day or the equivalent value in convertible currency for the entire period of time;

- (iv) medical insurance;
- (v) the proof of accommodation means.
- (2) The persons accompanying the drivers, traveling together with the latter, are exempted from complying with the condition provided under paragraph (1)(b)(ii), (1)(c)(i), (1)(d)(i), (1)(g)(ii)..
- (3) The refusal to grant a short stay visa may not be challenged.

## **Section 5**

### **Special Conditions for Granting the Short-Stay Visas on the Basis of Invitation**

#### **Art. 37 – Scope of Application**

- (1) The short-stay visas for the aliens coming from the states mentioned in the list provided under article 30 (2) for which the invitation procedure is established shall be granted in accordance with the provisions of Articles 27 to 29, in observance of the special conditions included in this section.
- (2) The list of the states for whose citizens these provisions are applicable shall be established by the Ministry of Foreign Affairs with the approval of the Ministry of Interior and Administrative Reform.

#### **Art. 38 – Invitation Procedure**

- (1) The aliens belonging to the category under Article 37(1), holders of simple passports, may be granted a short-stay visa with one or several entries if they submit to diplomatic missions and consular offices a written invitation from a natural or legal entity, evidencing that such entity will cover the removal costs, if the invited alien does not leave Romania before the date when his/her stay right established by the visa expires, for the following purposes:
  - a) **Visit** – the Romanian citizens or aliens holding a valid stay permit may make invitations if they submit, as the case may be, the following documents:
    - (i) identity card or passport for the Romanian citizens or the stay permit for the foreign citizens, in original and in copy;
    - (ii) the proof of accommodation means;
    - (iii) the proof of the possibilities of providing support for the alien, amounting to at least EUR 30/day for the entire period for which he/she is invited;
    - (iv) copy of the state border crossing document belonging to the invited alien;
    - (v) two photos of 3 x 4 cm of the invited alien;
  - b) **Tourism** – the companies with tourist profile may make invitations nominally for each invited alien if they submit the following documents:
    - (i) the registration certificate and the bylaws of the company in original and copy;
    - (ii) the proxy from the company for the person designated to invite on its behalf;
    - (iii) the identity card or the stay permit, as the case may be, of the authorized person;
    - (iv) copy of the state border crossing document belonging to the invited alien;
    - (v) two photos of 3 x 4 cm of the invited alien;
  - c) **Business** – the companies with their headquarters in Romania may usually make invitations for 3 persons at the same time. On behalf of the companies only persons who are appointed under the law to represent the company or are holders of the majority of the share capital can make invitations. In this case the following documents shall be required to be submitted:
    - i) the registration certificate and the bylaws of the company in original and copy;
    - (ii) the proof of the position of the person inviting on behalf of the company;
    - (iii) the identity card or the stay permit, as the case may be, of the authorized person;
    - (iv) copy of the state border crossing document belonging to the invited alien;
    - (v) two photos of 3 x 4 cm of the invited alien;
    - (vi) the proof of the possibilities of providing accommodation for the invited alien for the period of stay in Romania.
- (2) The invitations shall be filled in two copies and shall be filed with the headquarters of the territorial units of the Romanian Immigration Office in view of approval.
- (3) The approval shall be conditioned by the procedures of verifying the submitted documents and records of the Romanian Immigration Office in order to establish the compliance with the legal conditions regarding the entry in Romania of the respective aliens and implicitly to prevent certain aliens from entering Romania, aliens who do not present sufficient guarantees that they will leave the territory upon the expiry of the visa.

- (4) The settlement of the requests for invitation approval shall be made within 60 days following their submission.
- (5) In case of approval, a copy of the invitation shall be submitted to the inviting person in order to transmit it to the invited alien for the purpose of submission, in original, to the diplomatic mission or the consular office where the granting of the Romanian visa is requested.
- (6) The alien may make the request for being granted a visa within 30 days following the approval of the invitation.
- (7) A new invitation submitted by an applicant shall not be approved, irrespective of its purpose if one of the previously invited persons did not leave the state territory within the validity term of the visa.
- (8) Visas are granted with a right to stay of up to 90 days, according to the period for which the alien is invited.

#### **Art. 39 – Form and Content of the Invitation**

- (1) The form, content and security elements of the invitation provided under this section shall be established by the Ministry of Administration and Interior, with the approval of the Ministry of Foreign Affairs. The Ministry of Administration and Interior shall ensure, through the Romanian Immigration Office, the issuance of invitation forms.
- (2) The cost of standard forms shall be borne by the inviting natural or legal persons.

#### **Art. 40 – Exceptions from the Invitation Procedure**

- (1) The National Visa Centre may approve the granting of visa, with the prior endorsement of the Romanian Immigration Office, without fulfillment of the conditions provided herein, for the following categories of aliens:
  - a) the minor alien whose parent holds a stay permit in Romania, under the condition that this permit is valid at least for 90 days from the date the entry visa is issued;
  - b) the husband/wife of the alien holding a stay permit in Romania, under the condition that the permit is valid at least for 90 days from the date the entry visa is issued;
  - c) the major alien whose parent is a Romanian citizen;
  - d) the alien who is the parent of a Romanian citizen.
- (2) The National Visa Centre may approve the granting of visa, without the endorsement of the Romanian Immigration Office, for the following categories of aliens:
  - a) aliens married to Romanian citizens;
  - b) aliens who are minor children of Romanian citizens;
  - c) aliens who are holders of a valid stay permit in one of the member states of the European Union, the European Economic Area or in states which are parties to the Schengen Agreement, provided that the validity of the visa does not exceed the validity of the stay permit;
  - d) aliens who are holders of a valid stay permit in states whose citizens are not bound to have an entry visa for the members states of the European Union, the European Economic Area or other states which are parties to the Schengen Agreement;
  - e) aliens who have affixed, on their state border crossing document, visas of the member states of the European Union, the European Economic Areas, states which are parties to the Schengen Agreement or states whose citizens are not bound to have an entry visa for such states. The Romanian visa may not exceed the validity of such visa;
  - f) aliens who are to come to Romania for business, upon the request of the administrative authorities and companies undertaking the obligation of bearing expenses in respect of material, medical assistance and repatriation expenses, through a letter of guarantee addressed to the National Visa Centre;
  - g) aliens who are to come to Romania for a visit, at the request of diplomatic missions or foreign consular departments accredited in Romania;
  - h) aliens for which the granting of visas was requested in writing to diplomatic missions for consular offices, from central public authorities or foreign chambers of commerce;
  - i) the persons for whom the granting of visa has been requested in writing to the National Visa Centre by the following institutions in Romania: Presidential Administration, Parliament, Government and other public central and local authorities, the Chamber of Commerce and Industry of Romania and the Municipality of Bucharest as well as territorial authorities and prefectures which undertake the obligation of bearing expenses in respect of material, medical assistance and removal through a letter of guarantee sent in original;

- j) truck drivers;
- k) personalities from the Romanian Diaspora and their descendants.

## ***Section 6***

### ***Special Conditions for Granting the Long-Stay Visa***

#### **Art. 41 – The Long Stay Visa for Carrying Out Economic Activities**

Long stay visas for economic activities shall be granted to aliens who are to carry out independent economic activities or within family associations in accordance with the law on the organization and performance of economic activities by natural persons and who submit the following documents:

- a) the proof of complying with the conditions for certification of professional training, provided by the law on the organization and performance of economic activities by natural persons;
- b) medical insurance for the visa validity period;
- c) criminal record certificate or other document with the same legal value.

#### **Art. 42 – Long-stay Visa for Professional Activities**

(1) The long-stay visa for individual professional activities shall be granted to aliens that are to carry out such activities in accordance with the special laws regulating the conditions for carrying out the respective professions.

(2) This type of visa may be granted to aliens complying with the following conditions:

- a) to attest to the compliance with the conditions related to the means of carrying out the respective professions;
- b) to attest that in the country of origin they carry out a similar profession with the one they intend to carry out in Romania;
- c) to submit the proof of the medical insurance for the visa validity period;
- d) to submit the criminal record certificate or other document with the same legal value.

#### **Art. 43 – The Long Stay Visa for Commercial Activities**

(1) This type of visa shall be granted on the basis of the approval of the Romanian Agency for Foreign Investment to aliens who are or will become shareholders or associates, with management and administration powers, in companies, Romanian legal entities.

(2) The approval of the Romanian Agency for Foreign Investment shall be granted to the aliens provided under paragraph (1) who comply with the following conditions:

- a) to have a business plan that contains data regarding the nature, location and duration of the relevant activity and the estimated needs for labor force, as well as the forecast of the financial activity during the investment amortization period;
- b) to evidence, by a statement of account issued by a Romanian bank, on the name of the natural person who is a foreign citizen and who requested the endorsement that they hold the funds required to perform the activity, amounting to at least EUR 100,000, if they are shareholders in a joint stock company and EUR 70,000, if they are shareholders in a public limited company;
- c) the investment which the company will make in the future, according to the business plan provided under letter a), should require capital contributions or technology amounting to at least EUR 100,000 for a joint stock company and EUR 70,000 for a limited liability company;
- d) as an alternative to the investment provided under letter c), the set-up of at least 10 jobs for a limited liability company and 15 jobs for a joint stock company.

(3) In the case of companies with two or more associates or shareholders who request the endorsement, the conditions provided under paragraph (2) shall be analyzed separately for each applicant and the amount of the investment to be made by the company or the number of jobs to be created will increase according to the number of the applicants for endorsement.

(4) The aliens who have previously obtained an approval from the Romanian Agency for Foreign Investment may request issuance of another approval provided that they attest to the objective impossibility to achieve the abovementioned business plan.

(5) The application for visa shall be accompanied by the following:

- a) the approval of the Romanian Agency for Foreign Investment;
  - b) criminal record certificate or other document of the same legal value;
  - c) medical insurance for the visa validity period
- (6) The application accompanied by the documents provided under paragraph 5 shall be submitted to the diplomatic missions or consular offices of Romania and shall be sent through the General Directorate for Consular Relations within the Ministry of Foreign Affairs, the Romanian Immigration Office for approval according to their competence.
- (7) The approval of the Romanian Agency for Foreign Investment shall be valid for 6 months after its date of issuance and is meant to establish the fulfillment of the technical and economic utility conditions of the activity to be carried out by the alien.

#### **Art. 44 – The Long-stay visa for employment**

- (1) The long stay visa for employment shall be granted to aliens based on the work authorization issued by the Romanian Immigration Office.
- (2) The work authorization shall be issued, at the employer's request, if the fulfillment of the following conditions is established:
- a) the employer attests to the fact that it performs a legal activity in Romania, has no debts and made a legal selection, with submission of the proofs certifying such facts, according to the provisions of the special law regarding employment and secondment of aliens on the Romanian territory;
  - b) the alien fulfils the special conditions of professional training, work experience and authorization, is medically able to perform the respective activity, has no criminal record, complies with the annual quota approved by Government Decision, according to the special law on employment and secondment of aliens on the Romanian territory, and to the provisions of article 6 (1) a), e) f), g) and h), article 8 (1) b) to d), article 27 (2) c) and e).
- (3) The work authorization shall not be granted to aliens who had a stay right for performance of business activities during the last 2 years and did not observe the business plan laid down in article 43 (2) (a).
- (4) The Romanian Immigration Office shall issue the authorization within 30 days from the date of request from the employer. If additional checks are required to establish the fulfillment of the conditions for obtaining the authorization, the application settlement period may be extended by no more than 15 days.
- (5) The application for visa shall be accompanied by the following documents:
- a) work authorization, issued by the Romanian Immigration Office;
  - b) proof of the means of support at the level of the minimum wage guaranteed for payment for the entire period specified on the visa;
  - c) criminal record certificate or another document of the same legal value issued by the authorities of the domicile or residence country;
  - d) medical insurance for the validity period of the visa.
- (6) The alien may request the long stay visa for employment within 30 days from issuance of the authorization. The visa shall be approved by the National Visa Centre, without being required to also obtain the endorsement provided under article 30 (7).

#### **Art. 45 – The Long stay visa for studies**

- (1) The long stay visa for studies may be granted, upon request, to the aliens that request to enter the Romanian territory as students or who participate in a pupils exchange programme.
- (2) The capacity as student shall be held by aliens accepted for studies by a state educational institute or a private educational institute accredited according to law, including for participation in PhD courses.
- (3) The application shall be accompanied by the following documents:
- a) in the case of students:
    - (i) the letter of acceptance for studies from the Ministry of Education and Research, evidencing that the alien will attend a day educational programme;
    - (ii) proof of payment of the tuition fee for at least one year of studies;
    - (iii) proof of the means of support in amount of at least the minimum net wage at country level by month, for the entire period specified on the visa;
    - (iv) a criminal record certificate or another document of the same legal value;
    - (v) medical insurance for the visa validity period;

- (vi) approval of the parents or the foster parents in connection with the stay on the Romanian territory for study purposes, if the alien is a minor;
- b) in the case of aliens who participate in a pupils exchange programme:
  - (i) proof of acceptance for studies, issued by the Ministry of Education and Research, evidencing that a day education form will be attended;
  - (ii) proof of participation in a pupils exchange programme, conducted by an organization established according to law and acknowledged for such purpose;
  - (iii) proof from the organization that makes the exchange of pupils, attesting to the fact that it shall provide the support means and any potential costs related to removal;
  - (iv) medical insurance for the visa validity period;
  - (v) proof of the accommodation in a family selected by the organization that conducts the exchange of pupils which holds a dwelling place deemed as normal for a family in Romania;
  - (vi) approval of the parent or of the foster parent in connection with the stay on the Romanian territory for study purposes, if the alien is a minor.
- (4) Aliens who take part in a pupils exchange programme shall be between 7 and 19 years of age.
- (5) The aliens scholars of the Romanian State and the aliens of Romanian origin do not have the obligation to submit the documents laid down in paragraph (3) (a),(iii)..
- (6) The visa provided under paragraph (1) shall also be granted to aliens accepted for studies under the international documents to which Romania is a party.

**Art. 46 – The Long stay visa for family reunification**

- (1) The sponsor who holds a temporary stay permit valid for one year, a permanent stay permit or who has the status of refugee or benefits from subsidiary protection, may request family reunification for the following persons:
  - a) spouse;
  - b) unmarried minor children of the sponsor and of the spouse, including adopted children which are effective dependants of the sponsor or the spouse.
- (2) The Romanian Immigration Office may approve family reunification, if the conditions provided by law are fulfilled, for the following categories:
  - a) next-of-kin, in ascending line, of the sponsor or spouse, if such persons cannot provide for themselves and if they do not benefit from any appropriate family support in the country of origin;
  - b) unmarried adult children of the sponsor or the spouse, if they cannot provide for themselves for medical reasons.
- (3) Unaccompanied minors who benefit from the statute of refugee or from a subsidiary protection may request family reunification for:
  - a) next-of-kin, in ascending line or legal foster parent; or
  - b) when such persons do not exist or cannot be identified, any relative of the minor.
- (4) The aliens provided under paragraph (1), holders of a stay right for study purposes may request family reunification for the spouse and the unmarried minor children provided that the date when the marriage was concluded is prior to the date when the stay right was obtained.
- (5) Aliens benefiting from the refugee statute or subsidiary protection may request family reunification for the spouse provided that the date when the marriage was concluded is prior to the date when such form of protection was obtained.
- (6) The aliens provided under paragraph (1), holders of a stay right for performance of scientific research activities may request family reunification although the validity of the stay permit is less than one year.
- (7) The standard application shall be submitted to the territorial unit of the Romanian Immigration Office under whose territorial jurisdiction the applicant is legally domiciled and shall be accompanied by the following documents:
  - a) the marriage certificate or the proof of kinship, as the case may be;
  - b) the applicant's statement in original attesting that he will live together with his/her family members;
  - c) copy of the document attesting to the right to stay on the Romanian territory;
  - d) the proof of legally owning the dwelling space;
  - e) the proof of the means of support;
  - f) the applicant's medical insurance.
- (8) If there are doubts regarding kinship, the Romanian Immigration Office may request other proofs for establishing this kinship.

- (9) The application shall be approved if the following conditions are complied with:
- a) there is no bigamy or polygamy status;
  - b) the applicant owns a dwelling place deemed as appropriate for a similar family in Romania;
  - c) the applicant has means of support, in addition to those required for its own support, according to law, in an amount corresponding to the minimum net salary per economy, for each family member.
- (10) For the persons who benefit from the refugee statute or subsidiary protection who request family reunification, it is not mandatory to submit the documents provided under paragraph (7) d) to f) or to fulfil the conditions provided under paragraph (9) b) and c).
- (11) The application shall be usually settled within 3 months as of submission date.
- (12) The approval of the application shall be communicated in writing to the applicant in view of its transmission to the family members concerned who will submit it to the diplomatic mission or the consular office together with the application for Romanian visa.
- (13) In the case of rejection, the reasons for rejecting the application shall be communicated to the alien in writing.
- (14) The visa shall be issued by the diplomatic missions or consular offices of Romania in the country where the family members have their residence or domicile.
- (15) The visa application shall be accompanied by the following documents:
- a) the letter of the Romanian Immigration Office provided under paragraph 11;
  - b) the proof of medical insurance for visa validity period;
  - c) criminal record certificate or other document of the same legal value issued by the authorities in the domicile or residence country of the alien.
- (16) The following categories of persons may request visa for family reunification:
- a) aliens married to Romanian citizens;
  - b) unmarried aliens who cohabit with unmarried Romanian citizens, of they have at least one child together, hereinafter referred to as partners;
  - c) children of the Romanian citizen, of the spouse or partner, including adopted children, who did not turn 21 years of age yet and who dependents of the Romanian citizen, the spouse or the partner;
  - d) next-of-kin, in ascending line, of the Romanian citizen or his/her spouse.
- (17) The application for visa submitted by the persons provided under paragraph (16) shall be accompanied by the marriage certificate or, as the case may be, by the proof of the kinship relation or of the capacity as partner.
- (18) Adoption shall be ordered through a decision of a Romanian relevant authority, according to law, or through a decision of an authority of another state which produces legal effects on the Romanian territory.
- (19) The long stay visa for family reunification may be refused if the application is based on a marriage of convenience which is found later, in accordance herewith.

#### **Art. 47 – The Long-stay Visa for Humanitarian or Religious Activities**

The long stay visa for humanitarian or religious activities shall be granted to aliens, upon request, by the diplomatic missions and consular offices of Romania in the country where they have their residence or domicile, under the following conditions:

- a) the existence, as the case may be, of the approval of the Ministry of Culture and Cults or the Interdepartmental Commission for Co-ordination and Support of Humanitarian Activities within the Ministry of Health;
- b) the proof of the capacity as representative of a religious organization legally established in Romania or of a humanitarian organization;
- c) the proof of the dwelling space and the means of support at the level of three average salaries per national economy;
- d) the proof of the medical insurance and of the fact that they do not have any diseases endangering public health;
- e) criminal record certificate or another document of the same legal value issued by the authorities from the country of origin.

#### **Art. 48 – The Long stay visa for performance of scientific research activities**

(1) The long stay visa for performance of scientific research activities shall be granted to aliens based on the approval of the National Scientific Research Authority and of the National Immigration Office.

- (2) The approval of the National Scientific Research Authority shall be issued upon the request of research and development units and institutions, provided that the following conditions are fulfilled:
- a) the research and development units should be certified according to law;
  - b) a reception agreement should exist between the units provided under letter a) and the researcher who was accepted to perform activities within a scientific research project. The form and conditions under which the reception agreement is concluded shall be established by order of the minister of education, research and youth.
- (3) The application for visa shall be accompanied by the following documents:
- a) reception approval endorsed by the National Scientific Research Authority;
  - b) criminal record certificate or another document of the same legal value, issued by the authorities in the country of domicile or residence;
  - c) medical insurance valid for the visa validity period .

#### **Art. 49 – The Long Stay Visa for Other Purposes**

- (1) The long stay visa for other purposes shall be granted, upon request, by the diplomatic missions and consular offices of Romania in the aliens' country of residence or domicile, to the following categories of aliens:
- a) aliens temporarily transferred by:
    - (i) a foreign company with headquarters on the territory of a member state of the World Trade Organization to one of its business representative offices, subsidiaries or branches located on the territory of Romania, or to a company, Romanian legal person whose associate/ shareholder is the foreign company, having the same object of activity, if they prove that they are not involved in any employment relations with another Romanian legal person;
    - (ii) an employer with its registered office abroad, at a Romanian Legal entity, under a service supply agreement concluded between the two parties.
  - b) aliens whose access on the Romanian labor market is regulated by bilateral agreements signed by the Romanian State with other states;
  - c) the persons appointed as administrators of a company, if they evidence the simultaneous fulfillment of the following conditions:
    - (i) they have the capacity as administrator;
    - (ii) upon the application date, they are not shareholders in the respective company or in another Romanian legal entity and did not have such capacities during the last 2 years;
    - (iii) there is no other alien in the respective company who may have obtained a stay right for such purpose;
    - (iv) the respective company had a capital contribution or a technology transfer of at least EUR 50,000;
  - d) the persons who request to enter the Romanian territory for unpaid professional training within a company in the public or private sector or within an accredited professional training provider if they evidence the simultaneous fulfillment of the following conditions:
    - (i) they concluded a training agreement for unpaid participation in a form of training within a public or private company or within an accredited training provider;
    - (ii) have the support means amounting at least to the average net salary by economy, per month, for the entire period specified on the visa;
    - (iii) have the approval of the parents or the foster parent in connection with the stay on the Romanian territory for such purpose, if the alien is a minor;
  - e) the persons who perform activities within volunteerism programmes if they evidence the simultaneous fulfillment of the following conditions:
    - (i) they concluded a volunteerism agreement with a legal person of public or private law, with no lucrative purpose, hereinafter referred to as host-organization, which specified the activity to be performed, the conditions under which such persons are supervised during fulfillment of their tasks, as well as the working hours;
    - (ii) the host-organization provides the accommodation, means of support and medical insurance for the entire validity period of the visa and the potential costs related to removal;
    - (iii) are 14 years of age and over;
    - (iv) have the approval of the parents or foster parent in connection with their stay on the Romanian territory for such purpose, if the alien is a minor.
  - f) aliens who follow long-term medical treatment within the public or private medical institutions if they submit a letter of acceptance from the respective institutions, specifying the diagnosis and the

duration of treatment. Such visa may also be granted for a potential companion assisting the alien who is not able to take care of himself if this is expressly mentioned in the letter of acceptance;  
g) aliens who carry out activities which do not breach the Romanian laws if they justify their presence on the Romanian territory.

(2) The aliens of the categories provided under paragraph (1) shall be granted visas if:

- a) they present the proof of medical insurance for the visa validity period;
- b) they prove the existence of accommodation conditions;
- c) they hold a criminal record certificate or another document of the same legal value issued by the authorities in the country of origin.

#### ***Chapter IV***

#### ***Renewal of the Temporary Stay Right. Granting of the Permanent Stay Right***

##### **Section 1**

##### **Renewal of the Temporary Stay Right in Romania**

##### **Art. 50 – Conditions for Renewing the Temporary Stay Right**

(1) Aliens who entered Romania based on a long stay visa and aliens who are excepted from the obligation to obtain the long stay visa may benefit from a renewal of the temporary stay right by the Romanian Immigration Office or by its territorial units, according to the conditions provided in this section.

(2) The temporary stay right in Romania may be renewed successively for periods up to one year, provided that:

- a) the conditions regarding the entry on the Romanian territory, provided under Article 6 (1) (c), (e), (f) (g) and (h) are complied with;
  - b) during the stay on the Romanian territory, none of the reasons for forbidding the entry provided under Article 8(1)(b) to (d) and (2) has occurred;
  - c) the alien holds a valid travel document, except for the cases when the travel document expired after the entry into Romania and, for reasons independent of the alien's will, it could not be renewed;
  - d) the alien requests that the right to stay shall be granted or renewed for the same purpose for which the visa was granted or the right to stay based on which he/she is on the Romanian territory was renewed, except for the family members of the Romanian citizen, if they request the renewal of the temporary stay right for family reunification;
  - e) the alien previously observed the purpose for which its stay in Romania was approved;
  - f) the alien proves that the dwelling place located at the address where he/she declares to have his/her residence on the Romanian territory is legally owned. In the case of aliens who benefit from a stay right for family reunification, the evidence of the legal owning of the dwelling place can be made by the sponsor or Romanian citizen whose family members they are and with whom they live;
  - g) the alien submits the proof of social health insurance;
  - h) the alien submits the proof of the payment of duties related to extension of the stay right and of the cost of the document which is issued for such purpose;
  - i) the general conditions provided for in this section are complied with, as well as the special conditions for granting the right to stay depending on the purpose for which this is requested.
- (3) Aliens have the obligation to take the measures required to extend validity or renewal upon expiry of the validity of the documents provided under paragraph (2) c), f) and g).
- (4) The extension of the stay right can also be granted for longer periods of one year in accordance herewith or on a mutual basis.

##### **Art. 51 – Request for Renewing the Temporary Stay Right**

(1) The applications for renewal of the temporary stay right shall be submitted personally by applicants, at least 30 days before expiry of the period for which the stay was approved, with the territorial units of the Romanian Immigration Office at the place of residence.

(2) The application shall be accompanied by the valid state border crossing document, in original and copy, by a medical certificate issued by a public or private medical institution evidencing that the alien does not suffer from any disease which might endanger public health, by the supporting document evidencing that the dwelling place located at the address where the residence on the Romanian territory is declared is legally owned, by the proof of the social health insurance and the means of support, of the duties related to the renewal of the right to stay and to the cost of the document issued

for such purpose, as well as by the other documents provided for under this chapter, according to the purpose for which approval of the stay in Romania is requested.

(3) The proof of the means of support may be ensured by statements of salary, pension coupon, statement on the global income tax, bank account statement or other equivalent documents.

(4) The application shall be settled within 30 days from the date of its submission. If additional checks are required to establish the fulfillment of the renewal conditions of the stay right, the application settlement period may be extended by no more than 15 days.

(5) When the extension of the right to stay is required based on marriage and if additional checks are required in accordance with article 63, the application settlement period may be extended to maximum 90 days, in which case the stay right is renewed de jure until settlement of the application.

(6) If necessary, the applicant may be called for the interview.

#### **Art. 52 – Refusal of Renewing the Temporary Stay Right in Romania**

(1) If, upon submitting the application, the general conditions and the special conditions are not simultaneously complied with, depending on the purpose of the stay, provided in this section, the alien shall be rejected the renewal of the temporary stay right.

(2) The decision to refuse renewal of the right to stay, as well as the reasons at the basis of this decision shall be communicated to the applicant, through the order of return, provided under Article 82.

#### ***1. Renewal of the Temporary Stay Right for Carrying out Economic, Professional and Commercial Activities***

#### **Art. 53 - Renewal of the Temporary Stay Right for Aliens Carrying out Economic Activities**

(1) The aliens who entered Romania with a view to carrying out independent economic activities or within family associations shall be renewed the temporary stay right for this purpose if::

a) they present the authorization for the respective activity in original and copy, issued according to the law;

b) they present the proof of legal holding of the space the activity is carried out;

c) they prove the means of support in amount of at least EUR 250 per month;

d) the activity carried out corresponds to the conditions for which the initial right to stay was granted;

e) the object of activity is the initial one or a continuation or result of the initial one.

(2) The request for renewing the temporary stay right must be accompanied by the following documents:

a) the authorisation for the respective activity in original and copy, issued according to law;

b) the proof of legal holding of the space the activity is carried out;

c) documents attesting to the personal income in amount of at least EUR 250 per month obtained from the activity carried out.

#### **Art. 54 – Renewal of the Stay Right for Professional Activities**

The aliens who entered Romania with a view to carrying out professional activities shall be renewed the temporary stay right if they comply with the following conditions:

a) they attest to the effective performance of the professional activity under the conditions provided for by the special law;

b) they present documents attesting personal income in amount of at least EUR 250 per month.

#### **Art. 55 – Renewal of the Stay Right for Commercial Activities**

(1) The alien who entered Romania with a view to carrying out commercial activities shall be renewed the temporary stay right if they comply with the following conditions:

a) he/she has the endorsement of the Romanian Agency for Foreign Investment;

b) he/she legally owns the premises for registered office;

c) he/she is a shareholder or associate in the company, with management or administration powers;

d) he/she holds support means in amount of at least EUR 700 per month, if he/she is a shareholder and EUR 500 per month, if he/she is an associate.

(2) Further renewals of the temporary stay right may be granted if the alien complies with the following conditions:

a) the activity of the company is performed according to the business plan;

b) the object of the performed activity is the initial one or its continuation or result;

- c) he/she legally owns the premises for the registered office;
- d) he/she is a shareholder or an associate in the company, with management or administration powers;
- e) the investment consists either in a capital contribution of EUR 70,000, in the case of the shareholder or EUR 50,000, in the case of the associate, or, as an alternative, in the set-up of at least 15 jobs, in the case of the shareholders, and of 10 jobs, in the case of the associate. In the case of set-up of jobs, such must be occupied by full-time employees, according to law;
- f) he/she holds the support means amounting to at least EUR 700 per month, if he/she is a shareholder and EUR 500 per month, if he/she is an associate, obtained from the activity performed on the Romanian territory.

(3) The proof of the compliance with the conditions provided herein shall be made based on the following documents:

- a) business plan endorsed by the Romanian Agency for Foreign Investment;
- b) documents attesting to the fact that the activity is performed according to the business plan;
- c) ascertaining certificate attesting to the applicant's status, the company's name, registered office and main object of activity, changes made upon the courts' decision, duration of the company;
- d) registration of changes provided by law if any modifications are made in the articles of incorporation of the company;
- e) the certificate specifying the main economic and financial indicators issued by the competent institution which should include, according to the annual balance sheet, data on the total non-current assets, turnover, net profit or losses;
- f) a certificate issued by the territorial labor inspectorate, evidencing the number of employees and the labor agreement registered with this institution.

(4) In case of investments exceeding EUR 100,000 or if 25 job positions were created, the proof of means of support may also be made with other legal documents. In the case of investments exceeding EUR 200,000 or if over 50 job positions were created, the proof of means of support shall no longer be necessary.

(5) The temporary stay right for such purpose shall be renewed successively for periods of one year and in the case of aliens that bring evidence attesting to the fact that they made investments of minimum EUR 500,000 or they had created over 50 full-time jobs, the right of stay shall be renewed for periods of 3 years.

(6) The amount of the investment and the number of jobs shall be calculated according to the participation held by the shareholder or associate in the company.

## ***2. Renewal of the Temporary Stay Right for Employed Aliens***

### **Art. 56 – Renewal of the Temporary Stay Right for Employment Purposes**

(1) The aliens who entered Romania for employment purposes shall benefit from a renewal of their temporary stay right if:

- a) they are holders of a valid work authorization;
- b) they submit the individual labor contract endorsed by the territorial labor inspectorate under whose territorial jurisdiction the employer has its registered office or a civil labor agreement concluded with a sports unit, according to law, if the aliens perform activities as professional sportsmen;
- c) the salary specified in the individual labor contract is at least at the level of the minimum salary guaranteed for payment;
- d) the medical document attesting to the health status, evidencing that the alien is able to be employed;
- e) fiscal attestation certificate issued by the public finances administration under whose territorial jurisdiction the employer has its registered office regarding the payment to date of the obligations to the national public budget, only upon subsequent extensions or if there have been more than 60 days between the registration date of the application for issuance of authorization and the registration date of the application for issuance of the stay permit;
- f) copy of the identity document and, as the case may be, of the authorization or of another legal document attesting to the performance of an activity or independent profession if the employer is a natural person.

(2) The subsequent renewals of the temporary stay right for labor purposes shall be granted if the alien submits the documents provided under paragraph (1) letters b), c) and e), and if he/she complies with the conditions for renewal of the labor authorization.

(3) The application for renewal of the temporary stay right shall be submitted by the alien no later than the cessation date of the stay right.

(4) The temporary stay right shall be renewed for a period equal to the validity period of the labor authorization or, as the case may be, with the period for which its validity is extended.

(5) Aliens who may be employed with natural or legal persons in Romania, without a labor authorization, according to law, may benefit from a renewal of the stay right without fulfilling the conditions provided under paragraph (1) letter a).

**Art. 57 – Renewal of the stay right for aliens whose access on the Romanian labor market is regulated by bilateral agreements concluded by Romania with other states**

(1) The conditions regarding the entry and stay of aliens whose access on the Romanian market is regulated by bilateral agreements concluded with other states are those provided under such agreements.

(2) The employer has the obligation to communicate the nominal situation of aliens provided under paragraph (1), in writing, to the Romanian Immigration Office unit, with territorial competence within 5 days from the entry into Romania of such aliens.

**3. Renewal of the Temporary Stay Right for Aliens Arrived for Study Purposes**

**Art. 58 – Renewal of the Temporary Stay Right for Studies**

(1) The aliens who entered Romania for studies may request the renewal of the right to stay under the following conditions:

a) in the case of students or pupils, for successive periods of maximum one year, if:

(i) they are registered with a state or private educational institution accredited according to the law, day educational programme, including for participation in PhD courses;

(ii) they prove they have paid their tuition fees;

(iii) they prove they have means of support in amount of at least the minimum net wage per economy for the validity period of the stay permit;

b) in the case of aliens who participate in a pupils exchange program, for a period of maximum one year, if:

(i) they are registered with a state educational unit or a particular educational unit accredited according to law, the daily education form;

(ii) they participate in a pupils exchange programme, conducted by an organization established according to law and acknowledged for such purpose;

(iii) if the organization that makes the exchange of pupils assumes the responsibility to provide accommodation, means of support and any potential costs for removal.

(2) Aliens of Romanian origin may benefit from a renewal of the temporary stay right for studies, without fulfilling the condition provided under paragraph (1) a) (iii).

(3) The temporary stay right for studies may be renewed by maximum 90 days after graduation from studies in order to complete school or university studies or to endorse study documents.

**Art. 59 – Change of study profile**

(1) The alien who was granted, or, as the case may be, renewed the stay permit for studies in Romania may change the study profile or professional specialization in accordance with the applicable legislation provided that the total duration of the stay provided for the initial studies is not exceeded.

(2) If, further to the change of study profile or professional specialization, the total duration of the stay provided for initial studies is exceeded, it is required to obtain a new long stay visa for studies.

**Art. 60 – Professional Activity of the Aliens Admitted for Studies**

(1) The aliens who were granted the temporary stay right for studies may work only part-time in order to complete their means of support.

(2) The lucrative activity performed does not represent a reason for issuing a stay permit for work.

**Art. 61 – Scholars of the Romanian State**

(1) The aliens who entered Romania for studies as scholars of the Romanian State shall be renewed their stay right under the conditions laid down in Article 58 and Article 59, without being necessary to submit the proof of the means of support and the tuition fees.

(2) The stay permits for such category of aliens shall be granted for a period equal to the total duration of studies and subject to exemption from payment of consular fees.

#### ***4. Renewal of the Temporary Stay Right for Family Reunification***

##### **Art. 62 – Renewal of the temporary stay right for family reunification**

(1) The aliens who entered Romania in accordance with the provisions of article 46, except for the persons provided under article 46 (15), may benefit from renewal of their stay right, as follows:

a) for the sponsor's spouse, if:

- (i) they submit the documents attesting to the marriage;
- (ii) there is no bigamy or polygamy status;
- (iii) spouses live together;
- (iv) they evidence the means of support at least at the level of the minimum net wage per economy;

b) for the other members of the sponsor's family, if:

- (i) they submit the documents attesting to the existence of kinship relation;
- (ii) they live together with the sponsor, in the case of minors;
- (iii) they attest to the existence of means of support, at least at the level of the net minimum wage per economy.

(2) For the family members of the persons having the refugee status or benefiting from subsidiary protection who request extension of the temporary stay right for family reunification, it is not compulsory to fulfill the conditions provided under paragraph (1) a) (iv), and paragraph (1) b) (iii).

(3) The aliens who are family members of a Romanian citizen may benefit from renewal of their stay right if the Romanian citizen, according to law, has its domicile or residence in Romania, as follows:

a) for aliens married to Romanian citizens, if:

- (i) they submit the marriage certificate, as provided by law;
- (ii) there is no bigamy or polygamy status;

b) for partners, if:

- (i) they submit the child's birth certificate;
- (ii) both the alien and the Romanian citizen evidence the fact that they are not married;
- (iii) they evidence the cohabitation with the Romanian citizen;

c) for the children of the Romanian citizen, of the spouse or of the partner, including adopted children, who did not turn 21 years of age and who dependents of the Romanian citizen, spouse or partner, if:

- (i) they submit documents attesting to the existence of the kinship relation;
- (ii) they live together with the Romanian citizen;

d) for the next-of-kin, in ascending line, of the Romanian citizen or his/her spouse, if they submit the documents attesting to the kinship relation.

(4) If the existence of a bigamy or polygamy status is established, the renewal of the applicant's stay right shall be withheld.

(5) The temporary stay right shall be renewed individually, for each family member for the same period for which the stay right was granted to the sponsor. The spouse and the family members of a Romanian citizen or of the sponsor holding a permanent stay right may benefit from renewal of their temporary stay right for periods of maximum 5 years.

(6) The renewal of the temporary stay right for the aliens provided under paragraph (3) shall be made subject to exemption from payment of consular fees.

##### **Art. 64 – Marriage of Convenience**

(1) The Romanian Immigration Office refuses the renewal of the stay right obtained based on marriage if the checks made show that the respective marriage is of convenience.

(2) The presumptive elements of a marriage of convenience may be the following:

- a) there is no matrimonial cohabitation;
- b) the spouses never met before the marriage;
- c) the lack of an effective contribution to the fulfillment of the obligations arising from marriage;
- d) the spouses do not speak a language understood by both of them;
- e) there are data evidencing that one of the spouses concluded a marriage of convenience before.
- f) the spouses are inconsistent in declaring their personal data, the circumstances in which they met or other relevant information about them.

g) the conclusion of marriage was conditioned by the payment of a sum of money between the spouses, except for the amounts received as dowry.

(3) The elements provided under paragraph (2) shall be established by the interview officer. Such elements may result from:

- a) the data obtained after the interview;
- b) documents;
- c) the statements of the concerned persons or of third persons;
- d) checks at the spouses' matrimonial domicile or other additional verifications.

#### **Art. 64 – Temporary Stay Right Independently Granted to Family Members**

(1) The aliens holding the stay right for family reunification may be renewed the temporary stay right independently, in the following cases:

- a) for the sponsor's family members, if:
  - (i) they reach the age of majority;
  - (ii) the sponsor died;
  - (iii) the cancellation of marriage was ruled;
- b) for the family members of the Romanian citizen, if:
  - (i) they turn 21 years;
  - (ii) the Romanian citizen died;
  - (iii) the cancellation of the marriage was ordered.

(2) For the renewal of the stay right, the applicants shall additionally submit, as the case may be, the birth certificate, the death certificate or the court decision for the cancellation of marriage.

(3) The right to stay provided under paragraph 1 shall be renewed for a period of maximum 6 months.

(4) Any subsequent renewal of the right to stay shall be granted only for the purposes and under the conditions provided by this emergency ordinance, without being it necessary to leave the Romanian territory.

#### **Art. 65 – Carrying out Economic Activities and Employment**

(1) The aliens holding a right to stay for family reunification may be employed or may carry out economic activities under the law.

(2) The work authorization or, as the case may be, the authorization for carrying out the activity shall be issued under the law based on the stay right.

### ***5. Renewal of the Temporary Stay Right for Humanitarian or Religious Activities. Other Cases of Renewing the Stay Right***

#### **Art. 66 – Renewal of the Temporary Stay Right for Humanitarian or Religious Activities**

(1) The aliens who entered Romania based on a long-stay visa to carry out humanitarian or religious activities may request the renewal of the temporary stay right if:

- a) they submit the approval of the Interdepartmental Commission for Co-ordination and Support of Humanitarian Activities within the Ministry of Health in case of aliens requesting the granting or renewal of the right to stay for humanitarian activities;
- b) they submit the approval of the Ministry of Culture and Cults in case of aliens requesting the granting or renewal of the right to stay for religious activities.

(2) The alien who requests renewal of the stay right for humanitarian or religious activities does not have to evidence the existence of support means.

(3) The stay right for such purpose shall be renewed for a period equal to the duration of the approval.

#### **Art. 67 – Renewal of the temporary stay right for performance of the scientific research activity**

(1) The aliens who entered Romania in order to perform scientific research activities shall benefit from a renewal of their temporary stay right if they submit the reception agreement approved by the National Scientific Research Authority.

(2) The stay right for such purposes shall be renewed for a period equal to the duration provided under the reception agreement, but which shall not be longer than 5 consecutive years.

(3) The researcher, holder of a stay permit for such purpose, issued by another member state on the Romanian territory may submit an application for renewal of the temporary stay right in order to perform scientific research activities without having to obtain in advance the long stay visa for such

purpose. The stay permit shall be granted based on the approval of the National Scientific Research Authority, as provided under article 48 (2), in accordance with paragraph (2).

#### **Art. 68 – Didactic activity**

The aliens holders of a right to stay in order to perform scientific research activities may perform didactic activities in accordance with law.

#### **Art. 69 – Other Cases of Renewing the Temporary Stay Right**

(1) The aliens who entered Romania on the basis of a long-stay visa for other purposes may request the renewal of the temporary stay right as follows:

a) seconded aliens – provided that they submit the work authorization issued according to law. The right of stay for such purpose may be renewed for the entire validity period of the work authorization; for any subsequent renewals, the legal provisions regarding the renewal of the stay right of employed aliens shall apply;

b) the employed aliens of legal entities with their registered office in one of the member states of the European Union or in one of the signatory states of the Agreement on the European Economic Area seconded to Romania – provided that the following documents are submitted:

(i) copy of the secondment document, translated and legalized with apostile, according to law;

(ii) the stay permit issued by the state where the employer has its registered office, in original and in copy.

c) aliens under a long-term medical treatment – by submitting the letter of acceptance of a public or private medical institution specifying the diagnosis and the duration of treatment. This stay permit may also be granted to a potential companion assisting the alien who is not able to take care of himself/herself if this is explicitly mentioned in the letter of acceptance;

d) the aliens appointed as administrators of a company, provided that the following conditions are simultaneously met:

(i) they evidence their capacity as administrator;

(ii) they evidence that, on the date of request, they are not associates or shareholders in the respective company or in another Romanian legal entity and they did not have such capacities over the last 2 years;

(iii) no other aliens exists in the respective company, who may have obtained a stay right for such purpose;

(iv) the respective company had a capital contribution or a technology transfer of at least EUR 50,000 euro. Upon subsequent renewals, they must evidence that the capital contribution materialized in the erection or purchase of constructions meant for the performance of the activities provided under the Nomenclature for Classification of National Economy Activities or in transfer of technology;

e) the aliens who entered the Romanian territory for unpaid professional training, within a public or private company or an accredited professional training provider – provided that the training contract for unpaid participation in a professional training programme is submitted;

f) the aliens who perform activities within volunteerism programmes – provided that the volunteerism contract with the host-organization, specifying the activity to be performed, the conditions under which they are supervised during fulfillment of their tasks and the working hours, is submitted;

g) aliens that perform other activities which are not contrary to Romanian laws – provided that the approval of competent authorities is obtained, when required, or provided that they submit documents justifying the need to stay in Romania;

h) stateless persons of Romanian origin, who are repatriated on the basis of international agreements to which Romania is a party without complying with the general conditions for granting the temporary stay right.

(2) The aliens whose stay is for the benefit of the Romanian State may be renewed the temporary right to stay at the express request of the Parliament, Presidential Administration, Government, specialized public central administrative authorities.

(3) Upon granting or renewing the temporary stay right, the aliens provided under paragraph (1) a), c), e), f) and g) shall evidence they have the means of support, at least at the level of the minimum net salary per economy, the aliens provided under paragraph (1) letter d), shall evidence they have means

of support amounting to at least EUR 500 per month obtained from the activity performed as administrator.

(4) The aliens provided under paragraph (1) h) shall be exempted from the obligation to evidence the existence of support means and are exempted from payment of consular fees. The stay right for such category shall be renewed for periods of 4 years.

(5) The stay right for the aliens provided under paragraph (1) e) and f) shall be granted for a maximum period of one year, without any possibility of renewal. Under exceptional cases, for the aliens provided under paragraph (1) e) the right of stay may be renewed only once for a period of maximum 6 months, in order to acquire a qualification in the profession for which he/she was trained.

## ***Section 2***

### ***Granting Personal Stay Right***

#### **Art. 70 – Permanent Stay Right**

(1) The permanent stay right is a stay right granted, upon request, under the conditions of this emergency ordinance, for an unlimited period of time, to aliens who hold such stay right.

(2) The permanent stay right shall not be granted to the following categories of aliens:

- a) holders of the temporary stay right for studies;
- b) asylum seekers;
- c) persons benefiting from temporary humanitarian protection or temporary protection;
- d) holders of the stay right granted by diplomatic visa or service visa.

(3) The permanent stay right shall cease in the following situations:

- a) in case of annulment or revocation;
- b) in case of obtaining a permanent stay right on the territory of another state;
- c) in the case of absence from the territory of the Romanian state for a period longer than 12 consecutive months, except for the situation when, during such period, the alien benefited from a temporary stay right in a member state of the European Union;
- d) in the case of absence from the territory of the Romanian state for a period longer than 6 consecutive years, although he/she benefited, during such period, from a temporary stay right in a member state of the European Union.

(4) If, upon cessation of the permanent stay right, the alien is on the Romanian territory and his/her presence does not represent a threat to public order or national security, he/she may request issuance of a temporary stay permit for the purposes and under the conditions provided herein.

(5) The alien whose permanent stay right expired according to paragraph (3) b) or c), a new permanent stay right may be granted, in accordance herewith, after a legal and continuous stay of 12 months on the Romanian territory.

#### **Art. 71 – Conditions for granting the permanent stay right**

(1) The permanent stay right shall be granted to the aliens provided under article 70(1), if they simultaneously fulfill the following conditions:

- a) they had a continuous and legal stay on the Romanian territory during the last 5 years prior to submission of the application, as follows:
  - (i) the stay shall be deemed as continuous when the period of absence from the Romanian territory is shorter than 6 consecutive months and does not exceed 10 months in total;
  - (ii) the stay shall be deemed as legal when no measure for removal from the national territory was ordered against the alien;
  - (iii) upon establishment of the continuous and legal stay period, half of the stay period for study purposes shall be taken into consideration;
  - (iv) upon establishment of the continuous and legal stay period, the stay granted based on the diplomatic or service visa or the stay obtained for performance of activities as seasonal worker are not taken into consideration
- b) they evidence the existence of support means at the level of the minimum net salary per economy, except for the aliens who are family members of Romanian citizens;
- c) they evidence existence of a social health insurance;
- d) they evidence the legal owning of the dwelling place, according to law;
- e) they know the Romanian language, at least at a satisfactory level;
- f) they are not a threat to public order and national security.

(2) Aliens of Romanian origin or who are born in Romania, and aliens whose stay is for the interest of the Romanian state may be granted the permanent stay right without fulfillment of the conditions provided under paragraph (1) letters a) to e).

(3) The minor children whose parents are holders of a permanent stay right may be granted the same statute without fulfillment of the conditions provided under paragraph (1). If only one of the parents is holder of a permanent stay right, the consent of the other parent, in authentic form, is also required.

(4) Aliens who evidence they made investments of at least EUR 1,000,000 or created over 100 full-time jobs may be granted the permanent stay right, without fulfillment of the conditions provided under paragraph (1) letters a) and b).

#### **Art. 72 – Request of the permanent stay right**

(1) The aliens provided under article 70 (1) must personally submit to the territorial units of the Romanian Immigration Office a standard application accompanied by the following documents:

- a) state border crossing document;
- b) documents attesting to the legal owning of the dwelling space;
- c) documents attesting to the existence of support means;
- d) evidence of a health social insurance;
- e) criminal record certificate, issued by Romanian authorities.

(2) Upon submission of the application, applicants shall be subject to an interview in order to establish the knowledge of the Romanian language.

#### **Art. 73 – Approval of the permanent stay right**

(1) The permanent stay right shall be approved by the head of the Romanian Immigration Office.

(2) Applications shall be analyzed by a special commission established by order of the head of the Romanian Immigration Office, which drafts grounded proposals for each case.

(3) The application settlement period is of a maximum of 6 months from registration date. For objective reasons, the head of the Romanian Immigration Office may extend such period by an additional period of 3 months, informing the applicant in this respect.

(4) The approval shall be communicated to the applicant, in writing, within 15 business days from settlement of the application.

(5) Within 30 days from receipt of communication, the alien whose permanent right of stay in Romania was approved has the obligation to go to the territorial unit of the Romanian Immigration Office where the application was registered for issuance of the permanent stay permit.

(6) The permanent stay right for aliens who are family members of Romanian citizens shall be granted subject to exemption from payment of consular fees.

#### **Art. 74 – Refusal to grant the permanent stay right**

(1) If it is established that the conditions provided hereunder are not complied with, the commission established in accordance with article 73 (2) shall propose to the head of the Romanian Immigration Office to withhold the granting of the permanent stay right.

(2) The refusal, as well as the reasons based on which it was issued, shall be communicated to the applicant, in writing, within 15 working days from settlement of the application.

(3) The refusal to grant the permanent stay right may be challenged within 30 days from the date of communication, with the Bucharest Court of Appeal.

(4) The refusal to grant the permanent stay right shall produce no legal effects on the stay right of the application's holder.

#### **Art. 75 – Equal treatment**

The holders of a permanent stay right shall benefit, according to law, of the same treatment as the Romanian citizens in the following respects:

a) access to the labor market, including as regards employment and labor conditions, to economic activities, independently, and to professional activities, subject to appropriate enforcement of the provisions of Law no. 300/2004 on the authorization of natural persons and family associations who perform economic activities independently, as subsequently amended and supplemented, provided that the performed activity does not require, not even occasionally, the fulfillment of public authority powers;

b) access to all the forms and levels of education and professional training, including to scholarships;

- c) obtaining studies' equivalence and acknowledgment of diplomas, certificates, skill certifications and professional qualifications, according to applicable regulations;
- d) social security, assistance and social protection;
- e) public health assistance;
- f) tax deduction at the global income level and tax exemptions;
- g) access to public goods and services, including obtaining of dwellings;
- h) freedom of association, affiliation and membership in a trade union or professional organization.

#### **Art. 76 – Establishment of aliens' domicile in Romania**

Aliens who are holder of a permanent stay right are entitled to establish or change their domicile on the Romanian territory under the same conditions as the Romanian citizens.

#### **Section 3**

#### ***Annulment and Revocation of the Stay Right in Romania***

#### **Art. 77 – Cases of annulment and revocation**

(1) The Romanian Immigration Office shall annul, by motivated decision, the right of permanent or temporary stay in Romania, if it is subsequently established that:

- a) on the date when the permanent stay right is granted or the temporary stay right is renewed, the alien did not fulfill the legal conditions established for such purpose;
- b) the permanent stay right or the renewal of the temporary stay right was obtained by use of false information, false or forged documents or by other illegal means;
- c) the stay right was obtained based on a marriage of convenience, established according to article 63;
- d) the alien had been previously removed from the Romanian territory and re-entered, under a new identity, during the interdiction period.

(2) The Romanian Immigration Office cancels, through a justified decision, the permanent stay right when it is established that the permanent resident is a threat to public order, further to the crimes perpetrated on the Romanian territory.

(3) The Romanian Immigration Office may revoke by motivated decision the temporary stay right when:

- a) subsequent to the checks made by Romanian Immigration Office, or to the notifications received from other competent authorities according to the law, it is found that the alien no longer complies with the conditions based on which the right to stay was renewed, or no longer complies with the purpose for which such right had been granted to him/her;
- b) it is found that the alien breached the state border regulations or the regulations regarding employment of aliens;
- c) it is found that the alien suffers from an illness which endangers public health and that he/she does not follow the medical treatment measures set up by relevant authorities.

#### **Art. 78 – Communication of the annulment or revocation decision**

The annulment or revocation decision of the stay right shall be communicated:

- a) by the Romanian Immigration Office, to the alien who is on the Romanian territory, through a return decision provided under article 82;
- b) by the Romanian Border Police, to the alien who goes to the border in order to enter into Romania, by communicating the decision of entry interdiction.

#### **Section 4**

#### ***Integrating Aliens in the Economic, Cultural and Social Life***

#### **Art. 79 – Assistance for the Integration of Aliens**

(1) The Romanian State shall provide the conditions for integrating aliens who hold a right to stay in Romania, in the economic, social, cultural life of the country.

(2) In order to integrate aliens, the following activities may be organized and carried out:

- a) Romanian language courses;
- b) courses and other forms of professional improvement and training;
- c) ensuring information in respect of the obligations of the aliens and the opportunities of integration in the Romanian society;
- d) activities for acquiring knowledge of history, culture, civilization and the legal system of Romania;

e) meetings occasioned by various events to which Romanian citizens should also participate in order to promote knowledge and mutual understanding.

#### **Art. 80 – Involved Institutions and Organizations**

(1) The public institutions shall co-operate according to their competencies with non-governmental and international organizations in order to promote and carry out programs for the integration of aliens in the society and to identify the financial resources required for such purpose.

(2) In all the activities performed, the public institutions and non-governmental organizations shall provide aliens with protection against any form of discrimination.

### ***Chapter V***

#### ***Regime of Aliens' Removal from the Romanian Territory***

##### ***Section 1***

#### ***General conditions on the removal of aliens from the Romanian territory***

#### **Art. 81 – Removal of aliens from the Romanian territory**

(1) The Romanian Immigration Office may issue the measure of return from the Romanian territory against aliens whose entry was illegal, whose stay on the Romanian territory became illegal, whose visa or stay right was annulled or revoked, whose permanent stay right expired and against the former asylum seekers.

(2) In the case of aliens declared as undesirable and in the case of aliens against whom the court ordered the expulsion security measure, removal from the Romanian territory shall be made by enforcement of the provisions of the court order by which the respective measure was issued.

#### **Art. 82 – Order of returning aliens from the Romanian territory**

(1) The return order is the administrative order of the Romanian Immigration Office or its territorial units whereby the aliens provided under article 81 (1) are compelled to leave the Romanian territory.

(2) The return order shall be drafted in two counterparts, each in the Romanian language and in an internationally acknowledged language.

(3) The return order shall entitle the alien to leave the country without being accompanied, as follows:

a) within 15 days, for:

(i) the alien whose stay became illegal;

(ii) the alien whose visa was annulled or revoked;

(iii) former asylum seekers for whom the asylum procedure was completed;

b) within 30 days, for the alien whose temporary stay right was annulled or revoked or to whom the renewal of such right was withheld;

c) within 90 days, for:

(i) the alien whose temporary stay right for performance of commercial activities was cancelled or revoked or to whom the renewal of such right was withheld, and his/her family members who benefited from a stay right for family reunification;

(ii) the alien whose permanent stay right expired, unless he/she fulfils the renewal conditions of the temporary stay right for one of the purposes provided hereunder.

(4) The periods provided under paragraph (3) shall run from the date when the return order was notified to the alien, in accordance herewith.

(5) In the case of aliens who crossed the state border illegally and of aliens whose stay is illegal and whose identity could not have been established, an order of return under escort accompanied by taking into public custody shall be issued, as laid down under article 97.

#### **Art. 83 – Communication of the return order**

(1) The return order shall be communicated by the Romanian Immigration Office or its territorial units, through transmission of a copy thereof.

(2) The transmission can be made by handing the counterpart, subject to signature, when the alien is present, or by mail, with acknowledgment of receipt, at the address where the alien declared that he/she lives, when he/she is not present.

- (3) If transmission is not possible, the return order shall be communicated by posting a copy thereof at the headquarters of the Romanian Immigration Office or of its territorial units.
- (4) Transmission is presumed not to be possible under the following circumstances:
- a) the alien refuses to receive the copy handed or sent by mail;
  - b) the alien no longer lives at the address he/she declared;
  - c) the alien did not make public the address where he/she lives.

#### **Art. 84 – Challenging the Return Order**

- (1) The return order may be challenged within 10 days from the date of notification to the Bucharest Court or Appeal if the order was issued by the Romanian Immigration Office, or to the Court of Appeal under whose jurisdiction the territorial unit issuing the return order is. The court shall settle the application within 30 days from the date of receipt. The court decision shall be irrevocable.
- (2) In the case of the aliens provided under article 82 (5), the decision of return under escort may be challenged with the competent court of appeal under whose territorial jurisdiction the accommodation centre is located, within 3 days from the date of communication. The court shall issue a decision within 5 days, and such decision shall be final and irrevocable.
- (3) The challenge provided under paragraphs (1) and (2) shall suspend the enforcement of the removal measure.
- (4) The challenge against the return decision issued by aliens taken into public custody shall not suspend the measure of taking into public custody.

### ***Section 2***

#### ***Undesirable Aliens***

#### **Art. 85 – Declaration of Undesirability**

- (1) The declaration of undesirability is a measure ordered against an alien who performed, performs or there is strong evidence that he/she intends to perform activities that may endanger national security or public order.
- (2) The measure provided under paragraph 1 shall be ordered by the Bucharest Court of Appeal, upon the notification of the prosecutor from the Bucharest Court of Appeal, especially appointed for such purpose. The prosecutor shall notify the court, upon proposal of the institutions with powers in the public order and national security field who hold data and serious indications, as laid down under paragraph (1).
- (3) The data and information based on which the declaration of undesirability is proposed for national security reasons shall be made available to the court, according to the laws regulating the regime of activities related to national security and protection of classified information.
- (4) The notification provided under paragraph (2) shall be judged in the court chamber, subject to parties' summoning. The court shall inform the alien of the deeds based on which the notification was issued, in accordance with the provisions of the laws regulating the regime of activities regarding national security and protection of classified information.
- (5) The Bucharest Court of Appeal shall issue a grounded decision, within 10 days from the notification filed in accordance with paragraph (2). The court decision shall be final. When the alien is declared as undesirable based on national security reasons, the decision shall not specify any data or information on which the decision was grounded.
- (6) The decision shall be communicated to the alien and, if the court orders declaration of undesirability, to the Romanian Immigration Office, for enforcement.
- (7) The stay right of the alien shall cease as of the issuance date of the decision whereby he/she was declared as undesirable.
- (8) The decision whereby the alien was declared as undesirable shall be enforced by escorting the alien to the border or to the country or origin, by the specialized staff of the Romanian Immigration Office.
- (9) The period for which an alien may be declared as undesirable is 5 to 15 years, subject to the possibility of extending such period with a new period between such limit if it is established that the reasons which led to such measure did not cease. Extension of the period shall be made according to paragraph (2).
- (10) The persons declared as undesirable shall be communicated by the Romanian Immigration Office to the General Directorate of Consular Relations.

#### **Art. 86 – Filing Appeal against the Decision Provided under article 85 (5)**

(1) The decision provided under article 85 (5) may be appealed within 10 days from the date of its communication, with the High Court of Cassation and Justice. The court shall issue a decision within 5 days from receipt of the application.

(2) The use of the legal remedy provided under paragraph 1 shall not result in suspension of the enforcement of the decision whereby the alien was declared as undesirable. In strongly motivated cases and in order to prevent imminent damage, the alien may ask the court to order suspension of the enforcement of the decision whereby he/she was declared as undesirable, until the legal remedy is settled. The court shall settle the application for suspension urgently and the decision issued in such case shall be de jure binding.

### ***Section 3***

#### ***Removal of aliens under escort***

#### **Art. 87 – Removal of aliens under escort**

(1) Removal under escort shall be carried out, as laid down herein, by the specialized staff of the Romanian Immigration Office, for the following categories of aliens:

- a) aliens who did not voluntarily leave the Romanian territory upon expiry of the validity term of the return order provided under article 82 (3);
- b) aliens who crossed the state border illegally;
- c) aliens who were declared as undesirable;
- d) aliens against whom expulsion was ordered.

(2) Removal under escort may also be carried out in the case of aliens with physical or mental disabilities or of those who are a threat to public health.

#### **Art. 88 – Removal under escort procedure**

(1) The removal under escort procedure requires that the alien is accompanied by the specialized staff of the Romanian Immigration Office to the border or to the country of origin, transit or destination.

(2) If the aliens possess a valid border crossing document, financial means and no other formalities must be carried out, the removal under escort shall be carried out within 24 hours.

(3) Aliens who do not hold state border crossing documents shall be presented to the diplomatic missions or consular offices accredited in Romania, of the states whose citizens they are, for the issuance of documents.

(4) The procedures applicable in case of non-cooperation of diplomatic representative units in connection with issuance of travel documents for removal of aliens from the territory of the Romanian state shall be established by common order of the minister of foreign affairs and of the minister of administration and interior.

(5) In the case of aliens from states which have no diplomatic missions or consular offices in Romania, the state border crossing documents from the country of origin shall be requested through the General Directorate of Consular Relations within the Ministry of Foreign Affairs.

(6) If the state border crossing document cannot be obtained under the conditions provided under paragraph 5, the Romanian Immigration Office may issue a travel title, according to the law.

(7) When there are serious indications that the removal under escort cannot be carried out within 24 hours, the alien shall be taken into public custody.

#### **Art. 89 – Removal under Escort based on Readmission Agreements**

(1) The aliens provided in Article 87 may be removed under escort also on the basis of the readmission agreements concluded by Romania with other states under the special conditions provided by such agreements.

(2) Upon the request of one of the states which concluded readmission agreements with Romania, the alien who is subject to a readmission procedure may be allowed to transit the Romanian territory to a third state on the condition of an escort and submission of the guarantees that he can continue the trip and enter the destination state.

#### **Art. 90 – Assistance Measures between the Member States of the European Union in the case of Removal of Aliens by Air**

- (1) If removal is not possible by using direct flights to the country of destination, the Romanian Immigration Office may request airport transit to other states as well.
- (2) In order to perform alien's removal by air, the Romanian Immigration Office orders aliens' escorting to the country of transit or destination in the following cases:
  - a) the country of transit or of destination requests that the alien be escorted;
  - b) the alien requires medical assistance during performance of removal measures;
  - c) the alien must be supervised in order to prevent perpetration of criminal deeds during performance of removal measures;
  - d) there are serious indications that the alien will not comply with the measure for removal or that he/she intends to remain in the country of transit;
  - e) the Romanian authorities with duties in the public order and national security field request that the alien be escorted.
- (3) During performance of removal measures, the members of the escort shall not be armed and shall wear civil clothes. They have the obligation to comply with the legislation of the transit state, to use force only in case of legitimate defense or in order to prevent the alien from escaping, injuring himself/herself, prejudicing the bodily integrity of other persons or causing material damages when the representatives of the transit state are not present or when it is necessary to support them.
- (4) The Romanian Immigration Office shall take the necessary measures in order to provide aliens' return to the country if, during removal by air, one of the following situations have occurred:
  - a) the airport transit authorization was refused or revoked;
  - b) the alien entered the territory of the state requested during transit;
  - c) removal of the alien to another transit country or to the country of destination or the boarding on the connection flight was not made;
  - d) the airport transit is no longer possible.
- (5) The General Border Police Inspectorate may approve the requests for transit in the case of aliens forming the object of removal measures, filed by the competent authorities in the member states of the European Union.
- (6) The request for transit provided under paragraph (5) may be withheld if:
  - a) the alien is charged or indicted in a criminal case or has to serve a freedom privative sentence, further to the perpetration of a criminal deed on the Romanian territory;
  - b) the transit to other states or the entry in the country of destination are not allowed;
  - c) during transit, transport to another airport on the Romanian territory is required;
  - d) the alien is a threat to national security, public order and health and international relations of the Romanian state;
  - e) the requested assistance cannot be granted at the respective time, for objective reasons; in this case, the General Border Police Inspectorate shall inform in due time the applicant authorities of a date which should be as closest as possible to the initially requested date and when the transit assistance can be granted.
- (7) If, subsequent to transit approval, the situations provided under paragraph (6) occur, the authorizations that had already been issued may be revoked, provided that the applicant authorities are informed of the reasons that caused revocation.
- (8) The request for transit shall be sent in writing no later than two days before the transit. Such period may be reduced under urgent and justified situations.
- (9) The form and content of the request for transit shall be established by Order of the Minister of Administration and Interior which shall be published in the Official Journal of Romania, Part I.
- (10) The decision shall be communicated to the applicant member state within two days. The period may be extended, in justified cases, by maximum 48 hours.
- (11) The General Border Police Inspectorate establishes contact points in all the important transit areas.
- (12) The transit operation should not last for more than 24 hours. If additional assistance measures are required, for objective reasons, in order to continue the transit operation, such period may be extended by maximum 48 hours.
- (13) Within the limit of available means and in accordance with relevant international standards, the General Border Police Inspectorate shall ensure the assistance measures required during the period between landing time and departure from the airport to the alien's country of destination, as regards the following:

- a) receiving the alien in front of the airplane and escorting him/her within the premises of the airport, especially to the connection flight;
  - b) providing emergency medical treatment to the alien and, if applicable, to the persons in his/her escort;
  - c) providing meals for the alien and, if applicable, for the persons in his/her escort;
  - d) receipt, keeping and delivery of travel documents, in the case of non-escorted aliens;
  - e) in the case of non-escorted aliens, informing the applicant state of the place and time when the alien left the territory of the Romanian State;
  - f) informing the applicant state of any serious incidents which might occur during the transit;
  - g) during the stopping on the transit airport, the head of the border crossing point may order accommodation of the alien in especially arranged premises and the use of legal methods to prevent or impede any attempt of the alien to oppose the transit.
- (14) The costs of the services provided according to paragraph (13) shall be borne by the applicant state.

#### **Art. 91 – Organizing Common Flights with Member State of the European Union in order to Remove Aliens**

- (1) The Romanian Immigration Office may organize and participate in common actions together with the competent authorities of one or several member states of the European Union, in order to remove the aliens forming the object of removal measures.
- (2) When the Romanian Immigration Office decides the organization of a flight in order to remove aliens, in which other member states of the European Union might also be involved, it shall inform the competent authorities in such states.
- (3) In order to ensure proper performance of a flight, the Romanian Immigration Office shall take the required measures in order to select the carrier, according to law, to obtain the authorizations required from the transit states and the destination states, to establish, together with competent authorities of the other participating states, the number of the required escort staff, to conclude the required financial arrangements, and any other measures that might be necessary.
- (4) If the Romanian Immigration Office decides to participate in a flight for removal of aliens, organized by a member state of the European Union, it shall inform the competent authorities of the organizing state of its intention to take part, specifying the number of persons forming the object of the removal and shall provide a sufficient number of persons for the escort. If the escort is carried out only by the organizing state, the Romanian Immigration Office shall ensure the presence of at least 2 representatives on board the aircraft, who are in charge with handing over the aliens for which the authorities in the destination states are responsible.
- (5) The Romanian Immigration Office shall provide the aliens forming the object of the removal measure and its own escort staff with valid travel documents, visas and other required documents and, through the General Directorate of Consular Relations, it shall request the necessary assistance from diplomatic representative offices of Romania.

#### **Art. 92 – Interdiction of Removal**

- (1) The removal shall be forbidden in the following cases:
  - a) the alien is minor and the parents have a right to stay in Romania;
  - b) the alien is the parent of a minor who has Romanian citizenship if the minor is the alien's dependent or the alien is bound to pay alimony, an obligation which he/she regularly fulfils;
  - c) the alien is married to a Romanian citizen and the marriage is not one of convenience.
  - d) the alien is over 80 years old;
  - e) there is justified fear that his life is endangered or that he will be subject to torture, inhuman or degrading treatment in the state where the alien is to be sent;
  - f) return is interdicted by international documents to which Romania is a party.
- (2) Persons provided under paragraph 1 may be granted, or as the case may be, renewed the stay right in Romania by the Romanian Immigration Office for one of the purposes and conditions provided under Chapter IV, and the prior obtainment of a long stay visa shall no longer be required.
- (3) The enforcement of the removal measure shall be suspended in the case of aliens in one of the situations provided under Article 15(1), up to the date when the reasons for forbidding the departure from the Romanian territory are no longer valid.

(4) Exceptions from the provisions of paragraph (1), (2) and (3) are the aliens who represent a threat to public order, national security or suffer from a disease which endangers public health and refuse to follow the measures established by medical authorities.

#### **Art. 93– Assisted Humanitarian Voluntary Repatriation**

(1) The aliens on the Romanian territory may request the support of the Romanian Immigration Office and of the international or non-governmental organizations with duties in the field of assisted humanitarian voluntary repatriation in case they have no financial means.

(2) The Romanian Immigration Office, together with international organizations with competence in the field, as well as with non-governmental organizations, shall carry out common programs for identifying the concrete means of supporting the aliens provided under paragraph (1) with a view to their assisted humanitarian voluntary repatriation to the countries of origin, as well as the financial resources in this respect.

(3) Aliens included under assisted humanitarian voluntary repatriation programmes shall benefit from repatriation certificates issued by the Romanian Immigration Office.

(4) The aliens provided under paragraph 1 may individually benefit, for one single time, from the support of the Romanian Immigration Office through the programs provided under paragraph 2, for assisted humanitarian voluntary repatriation.

#### **Section 4**

#### ***Expulsion of aliens***

#### **Art. 94 Expulsion of aliens**

(1) The measure of expulsion may be ordered against the alien who committed a crime on the Romanian territory under the conditions provided by the Criminal Code and the Criminal Procedure code.

(2) The alien's stay right shall end de jure at the date when the expulsion measure was ordered.

(3) The court may decide that, until the expulsion, the alien should be taken into public custody, but the duration of such measure shall not exceed 2 years.

(4) If the alien does not hold a state border crossing document or enough financial means, the Romanian Immigration Office shall take measures as laid down in Article 88 (3), (5) and (6).

(5) If the expulsion measure cannot be enforced within 24 hours, the alien shall be taken into public custody according to the provisions of article 97 (11).

#### **Art. 95 – Interdiction of expulsion**

(1) An alien may not be expelled to a state where there are justified fears that his/her life is endangered or that he will be subject to tortures, inhuman or degrading treatments.

(2) The measure of expulsion shall not be ordered and, in case it was ordered, shall not be enforced if the alien is subject to one of the cases provided under article 15(1).

(3) The interdiction of expulsion shall last until disappearance of the reasons on which it was based.

(4) The establishment of the situations provided under paragraphs (1) and (2) falls under the competence of the court after the notification made by the Romanian Immigration Office.

#### **Art. 96 – Acknowledgment of decisions for removal of aliens from the territory of the member states of the European Union.**

(1) The decisions for removal of aliens, citizens of third countries, from the territory of the European Union member states are acknowledged by the Romanian state and are enforced by the Romanian Immigration Office in accordance herewith, in the following cases:

a) a decision for removal is taken for public order and national security reasons, as follows:

(i) when the alien was sentenced for the perpetration of a criminal offence for which the law provides the punishment of imprisonment for more than one year;

(ii) further to the performance, by aliens, or to the existence of certain clear indications that the alien is to perform activities that might endanger public order or national security;

b) The decision for removal is taken further to the alien's failure to fulfill the conditions regarding aliens' entry and stay on the territory of the respective member state.

- (2) The practical arrangement and criteria for offsetting the financial imbalance resulting from the acknowledgment of the decisions for removal provided under paragraph (1) shall be established by Government decision.
- (3) In order to be enforced, the decisions for removal provided under paragraph (1) must not have been revoked or suspended by issuing authorities.
- (4) The aliens who are family members of Romanian citizens and the family members of the citizens of the member states of the European Union shall be except from the provisions of paragraph (1).
- (5) For the enforcement of this article, the Romanian Immigration Office shall cooperate and exchange information with the competent authorities of the European Union member states.
- (6) The expenses incurred by the Romanian Immigration Office for removal of aliens, based on the decisions provided under paragraph (1), shall be borne from the approved revenue and expense budget of the Ministry of Administration and Interior for the Romanian Immigration Office with such destination.
- (7) The amounts representing the expenses provided under paragraph (6), recovered from the member state of the European Union which issued the decision for removal, shall be used as re-establishment of budgetary credits, if expenses had been made during the current year, or shall be turned into revenue to the state budget, if the expenditure was made during previous years.
- (8) The Romanian Immigration Office shall reimburse the expenses made by other member states of the European Union who enforce the decisions for removal before the end of a 4 year period from the date of issuance of such decisions by Romanian authorities, within the limit of the revenue and expenditure budget approved by the Ministry of Administration and Interior for the Romanian Immigration Office with such destination.
- (9) The requests for reimbursement of expenses filed by the member state of the European Union may be rejected by the Romanian Immigration Office when such requests are made after a period longer than one year from enforcement of the decision for removal.

## ***Section 5***

### ***Taking Aliens into Public Custody. Accommodation Centers***

#### **Art. 97 – Taking Aliens into Public Custody**

- (1) Taking into public custody is a measure of temporarily restraining the freedom of movement on the Romanian state territory, ordered by a magistrate against the alien who could not be removed under escort within the term provided by law, as well as against the alien declared as undesirable or against whom the court ordered the measure of expulsion.
- (2) In the case of the aliens who could not be removed under escort within the period provided by law, the taking into public custody shall be ordered by the prosecutor appointed for such purpose from within the Prosecutor's Office attached to the Bucharest Court of Appeal, for a period of 30 days, upon the request of the Romanian Immigration Office or its territorial units.
- (3) In the case of aliens against whom the measure of expulsion was taken, the court can order that the alien shall be taken into public custody up to the moment when the police authorities expel the person in accordance with the provisions of the Criminal Procedure Code, but the public custody period should not exceed 2 years.
- (4) Taking into public custody of the aliens declared as undesirable shall be ordered by the court which issued the measure of declaring the alien as undesirable by the decision provided under article 85 (5). Public custody of aliens declared as undesirable shall cease on the enforcement date of the court decision, as laid down in article 85 (8).
- (5) The renewal of the public custody period of the aliens provided under paragraph 2 who could not be removed from the Romanian territory within 30 days, shall be ordered by the court of appeal to whose territorial jurisdiction the accommodation place is subject, at the motivated request of the Romanian Immigration Office. The court shall issue a decision before expiry of the validity of the measure of taking into public custody that had been previously issued, and the court decision shall be irrevocable.
- (6) The maximum period of taking into public custody of the aliens against whom the measure of the return has been ordered, may not exceed 6 months.
- (7) If, subsequent to taking an alien into public custody, the existence of one of the cases provided under article 92 (1) is established or if the alien files for the first time an application for a protection form, the measure of taking into public custody shall cease as of right. Upon filing the second

application, the measure of taking into public custody shall cease on the date when the access to a new procedure was granted.

(8) The cases when, for national security or public order reasons, the removal of aliens from the Romanian territory or the maintenance of aliens into public custody is required until completion of the procedure for granting the refugee status shall be excepted from the provisions of paragraph (7)

(9) Aliens against whom the measure of return was taken, as laid down under paragraph (2) may submit a complaint, within 5 days, to the Bucharest Court of Appeal who shall be bound to solve it within 3 days from the date of receipt.

(10) The aliens taken into public custody, as well as those returned within 24 hours, shall be fingerprinted and photographed.

(11) In the case provided under paragraph (3), if the court which issued the criminal decision did not order the taking into public custody, the Romanian Immigration Office may request to the Bucharest Court of Appeal to issue the decision for the taking into public custody of the alien who is to be expelled. The court shall settle the application within 3 days from its receipt. The court decision shall be final and irrevocable.

#### **Art. 98 – Accommodation Centers**

(1) The aliens taken into public custody shall be confined to accommodation centers, hereinafter referred to as the centers.

(2) The centers are closed places, especially arranged, administered by the Romanian Immigration Office and are intended for the temporary accommodation of the aliens declared as undesirable or against whom the measure of return or expulsion was ordered or who were taken into public custody.

(3) The centers are organized and operate based on a regulation approved by the Minister of Administration and Interior.

(4) The centers are established, organized, sanitarly authorized, arranged and equipped so as to offer appropriate conditions of accommodation, food, medical assistance and personal hygiene.

#### **Art. 99 – Rights and Obligations of the Aliens Accommodated in Centers**

(1) The aliens accommodated in centers shall benefit from the rights by law and from the rights provided under the international treaties in the field, to which Romania is a party.

(2) The aliens accommodated in centers shall have the right to legal, medical and social assistance and to the respect of their opinion and specific nature in the religious, philosophical, cultural field.

(3) Aliens accommodated in centers have the right to be informed immediately after their arrival to such places, in the language they speak or in a language they understand, regarding the main reasons that led to this measure, the rights and obligations they have during their stay in these centers. The reason of their being taken into public custody as well as the rights and obligations of the aliens accommodated in the centers shall be communicated in writing by the persons appointed to run such centers.

(4) During their stay in centers, the aliens shall be offered the possibility of communicating with diplomatic and consular representatives of the state of origin.

(5) The personnel of the centers shall treat accommodated aliens without any discrimination for reasons of race, sex, age, culture, nationality, religion or affiliation to a certain social group.

(6) During the entire period of the accommodation in centers, the aliens shall be bound to comply with the rules, daily program and interior order set forth by the organization and operation regulation.

(7) Minors who are introduced in accommodation centre have free access to the mandatory educational system.

#### **Art. 100 – Medical Assistance for Aliens Taken into Public Custody**

(1) Aliens taken into public custody shall be entitled to receive medical assistance, free medication and medical materials.

(2) Medical services provided under paragraph 1 shall be offered, as the case may be, through the medical service of the accommodation centers or medical units of the Ministry of Administration and Interior and the Ministry of Public Health. Reimbursement of expenses shall be provided by the Ministry of Administration and Interior, through the budget allocated to the Romanian Immigration Office, especially provided for such purpose.

#### **Art. 101 – Special measures**

- (1) The aliens taken into public custody, convicted by final court sentences, shall be accommodated separately from the other categories of aliens.
- (2) During the entire period when the aliens provided under paragraph 1 are under public custody, their travel outside the accommodation centers shall be made under escort.

## ***Section 6***

### ***Tolerance for Remaining on the Romanian Territory***

#### **Art. 102 – Granting Tolerance**

- (1) Tolerance for remaining on the Romanian territory, hereinafter referred to as tolerance, is the permission to stay on the territory of the country, granted by the Romanian Immigration Office to aliens who do not have the right to stay on the Romanian territory and, who, for objective reasons, do not leave the Romanian territory.
- (2) For the purpose of this ordinance, objective reasons are those circumstances independent of the alien's will, unpredictable and insurmountable, which prevent the alien from leaving the Romanian territory.
- (3) The failure of the Romanian Immigration Office to grant toleration may be challenged within 5 days from communication, with the court of appeal of territorial competence. The court shall issue a decision within 30 days, and the court decision shall be irrevocable.

#### **Art. 103 – Tolerance Situations on the Romanian Territory**

Tolerance may be granted to the aliens provided under article 102 (1) in the following cases:

- a) when aliens are in the situations provided under article 15 (1) and fail to fulfill the conditions provided by law for granting a stay permit;
- b) when the aliens taken into public custody, against whom the return measure was ordered, could not be removed within 6 months;
- c) when the aliens taken into public custody, against whom the court ordered expulsion, could not be expelled within 2 years from the date when they were taken into public custody;
- d) whose temporary presence on the Romanian territory is required by important public interests. In this case, tolerance shall be granted upon the request of the state competent bodies;
- e) when there are serious reasons to consider that they are victims of human trafficking; In this case, tolerance shall be granted upon the request of the prosecutor or the court;
- f) when the Romanian Immigration Office deems that such aliens cannot temporarily leave Romania for other objective reasons.

#### **Art. 104 – Tolerance Regime**

- (1) Tolerance shall be granted for a period up to 6 months which may be extended for new periods of up to 6 months until disappearance of the causes.
- (2) Tolerance does not cancel the obligation of the aliens of leaving the territory of the Romanian State upon the ceasing of the reasons for which it was granted.
- (3) The validity of tolerance shall cease upon the alien's leaving of the Romanian territory.
- (4) Upon the ceasing of the reasons which were at the basis of granting tolerance, the alien shall be immediately removed from the Romanian territory without any prior notice.
- (5) In the case of the persons provided in Article 103 (1)(e), the prosecutor, by ordinance or, as the case may be, the court, by decision, may order the renewal of tolerance if the presence of the persons is necessary for proper criminal proceedings. In this case, tolerance shall be renewed successively, under the conditions provided in paragraph 1, until the end of the criminal trial.
- (6) The alien shall be bound to go monthly or whenever he is called to the territorial group of the Romanian Immigration Office which granted him tolerance and to notify any change of residence.
- (7) Tolerance has territorial validity limited to the jurisdiction area of the unit of the Romanian Immigration Office which granted it and any travel outside such area shall be allowed only with a prior approval.
- (8) In case of non-compliance with the obligations provided under paragraphs 6 or 7, the measure of taking into public custody of the alien may be ordered.
- (9) In the case of aliens provided under article 103 b) and c), if the reasons for which they could not be removed from the Romanian territory during the public custody period did not disappear, such aliens

may be taken into public custody again, for a maximum period of 30 days, in accordance with article 97 (2), for the purpose of removal from the Romanian territory.

## ***Section 7***

### ***Interdicting of Entering the Romanian Territory***

#### **Art. 105 – Ordering the Measure for Interdicting Entry into Romania**

(1) Concurrently with the issuance of the return order or the enforcement of the expulsion measure, the Romanian Immigration Office may order, according to law, the interdiction of entry into Romania for a limited period.

(2) The measure provided under paragraph (1) may be ordered by the Romania Immigration Office or the General Border Police Inspectorate, according to law, also if the alien did not form the object of any measure of removal or against the aliens provided under article 8 (1) b) to d) and paragraph (2) a) and b).

(3) The enforcement of the entry interdiction shall be made in all cases by establishing the nominal confinement at the state border crossing units and, whenever possible, by applying on the state border crossing documents the stamp specifying the duration thereof.

(4) The enforcement of the interdiction of entering Romania shall be communicated in written to the aliens by the authority that took the decision together with the reasons at the basis of this decision.

(5) The interdiction of the entry into Romania may be challenged by the alien within 10 days from its communication with the court of appeal under whose territorial jurisdiction the unit that ordered such measure is located. The challenge shall not suspend enforcement of removal measures. The court decision shall be irrevocable.

(6) All the cases when the interdiction of entry into Romania was ordered shall be communicated by the institution which ordered such measure to the General Directorate of Consular Relations within the Ministry of Foreign Affairs.

#### **Art. 106 – Establishment of the Period of Interdiction of Entering Romania**

(1) The interdiction period established against the aliens who legally entered Romania and whose stay became illegal, shall be as follows:

a) one year, in the following cases:

(i) an illegal stay comprised between 30 days and one year, for the aliens who did not leave the Romanian territory upon expiry of the stay right granted by visa or according to international conventions or laws unilaterally abolishing the visa regime;

(ii) an illegal stay comprised between 3 months and one year, for the aliens who were holders of a temporary stay permit;

(iii) for the aliens who did not observe the return order and were removed under escort;

b) 2 years – in case of an illegal stay from 1 year to 2 years;

c) 3 years – in case of an illegal stay from 2 years to 3 years;

d) 5 years – in case of an illegal stay of over 3 years.

(2) The limits of the prohibitions provided under paragraph (1) shall be reduced by half for the aliens who:

a) request assisted humanitarian voluntary repatriation, according to the conditions provided under article 90;

b) bear the expenses required from removal of the Romanian territory;

c) subsequently repay to the Romanian Immigration Office the expenses borne for removal from the Romanian territory;

d) do not require any expenses related to international transport for removal from the Romanian territory;

(3) In the case of aliens against whom the court ordered the security expulsion measure, the duration of the interdiction shall be equal to the duration of the punishment to which they were sentenced, but shall not be shorter than 3 years.

(4) The duration of the interdiction shall be 5 years in the case of aliens who crossed the state border illegally or tried to cross the state border fraudulently.

(5) The duration of the interdiction established against the aliens provided under article 105 (2) shall be the following:

a) 15 years – for the aliens provided under article 8 (1) b) to d);

b) 5 years – for the aliens provided under article 8 (2) a) and b).

## ***Chapter VI*** ***Documents issued to aliens***

### ***Section 1*** ***Stay Permits***

#### **Art. 107 – Issuance of Stay Permits**

(1) The alien who was granted or, as the case may be, renewed the right to stay in Romania, shall be granted a stay permit by the Romanian Immigration Office through its territorial units, as follows:

- a) temporary stay permit to the alien who was granted or, as the case may be, renewed the temporary right to stay;
- b) stay permit for work to the alien to whom the temporary stay right and the work right was granted or renewed, as the case may be;
- c) permanent stay permit to the alien who was granted the permanent right to stay.

(2) The provisions regarding the temporary stay permit shall also apply to the stay permit for work.

#### **Art. 108 – Regime of the Stay Permit**

(1) The stay permit issued to the alien in accordance herewith shall certify the identity of the alien, the residence or domicile address on the Romanian territory and shall attest to the existence of the stay right in Romania, as well as to the duration and the purpose for which such right was granted.

(2) The holder of the stay permit shall be bound to permanently have the document with him, not to give it to any another person and to submit it to the competent authorities wherever he/she is requested to do so.

#### **Art. 109 – Temporary Stay Permit**

(1) The temporary stay permit shall be issued to aliens upon granting or renewal of the temporary stay right. The address where the alien declares that he/she has his/her temporary residence on the Romanian territory shall be specified on the permanent stay permit.

(2) The validity of the temporary stay permit shall be limited to the period for which it was granted or, as the case may be, to the period for which the temporary stay right was renewed. The temporary stay permit shall be renewed each time upon renewal of the temporary stay right.

#### **Art. 110 – Permanent Stay Permit**

(1) The permanent stay permit shall be issued to aliens in order to obtain the permanent stay right, for a period of 5 years and shall be successively renewed for the same period of time.

(2) The address where the alien declares that he/she has his/her domicile on the Romanian territory shall be specified on the permanent stay permit.

(3) The application for the permanent stay permit shall be submitted by the holder of the permanent right to stay, to the territorial unit of the Romanian Immigration Office under whose territorial jurisdiction the applicant legally lives and shall be accompanied by the following documents:

- a) the state border crossing document in original and in copy;
- b) supporting documents attesting to the legal owning of the dwelling place, at the address where the alien declares to have his/her domicile on the Romanian territory, in original and copy.

(4) For purposes of renewal of the permanent stay permit, the applicant shall submit, within no less than 30 days before expiry of the validity of the document, an application accompanied by the documents attesting to the legal owning of the dwelling space at the address where the alien declares that he/she has his/her domicile on the Romanian territory.

#### **Art. 111 – Annuling the Stay Permit**

If the holder of the stay permit is revoked or cancelled the right to stay, the document shall be annulled on the date when the decision is issued and shall be withdrawn no later than the date when such decision is notified to the alien.

#### **Art. 112 – Stealing, Loss, Deterioration or Destruction of the Stay Permit**

- (1) The holder of the stay permit shall be bound to inform the territorial unit of the Romanian Immigration Office who issued the document in connection with its stealing, loss, deterioration or destruction within maximum 5 days from the discovery of any of the cases.
- (2) The relevant territorial unit of the Romanian Immigration Office shall issue to the alien a new stay permit instead of the permit that was declared as stolen, lost, deteriorated or damaged.
- (3) The stay permits whose validity expired and the deteriorated permits shall be cancelled by the relevant territorial unit of the Romanian Immigration Office.

**Art. 113 – Form and Content of the Stay Permits**

The form and content of the stay permits shall be established by decision of the Romanian Government.

**Section 2**

***Residence cards for aliens who are family members of Romanian citizens***

**Art. 114 – Issuance of residence cards**

- (1) The alien, family member of a Romanian citizen to whom the right of stay in Romania was granted or, as the case may be, renewed, shall benefit from a residence card issued by the Romanian Immigration Office, through its territorial units, as follows:
  - a) residence card for aliens who are family members – to the alien who is a family member of the Romanian citizen, to whom the temporary stay right was granted or, as the case may be, renewed;
  - b) the permanent residence card for aliens who are family members – to the alien who is a family member of the Romanian citizen to whom the permanent stay right was granted.
- (2) The residence card and the permanent residence card shall specify the address where the alien declared that he/she has his/her residence or domicile on the Romanian territory.
- (3) The form and content of residence cards are similar to those issued to the family members of the European Union citizens, subject to the appropriate enforcement of the provisions of Government Decision no. 1.864/2006 approving the Methodological Rules Applying Government Emergency Ordinance no. 102/2005 regarding free movement on the Romanian territory of the citizens of member states of the European Union and the European Economic Area and in order to establish the form and content of the documents issued for the citizens of the European Union and their family members.
- (4) The materials required for the making of residence cards issued to aliens who are family members of the Romanian citizens shall be provided from the stocks purchased by the Ministry of Administration and Interior for making of identity cards for Romanian citizens, in accordance with article 23 (1) of Government Ordinance no. 84/2001 regarding the establishment, organization and operation of community public services for persons' recording, approved as amended and supplemented by Law no. 372/2002, as subsequently amended and supplemented.

**Art. 115 – Validity of residence cards**

- (1) The residence card shall be issued upon granting or renewing the temporary stay right and its validity shall be limited to the period for which it was granted or, as the case may be, the temporary stay right was renewed.
- (2) The permanent residence card shall be issued based on the permanent stay right obtained, for a period of 10 years, and shall be renewed successively, for the same period.

**Art. 116 – Regime of Residence Cards**

- (1) The residence card attests to the identity of the alien who is a family member of the Romanian citizen and evidences the exercise of the right to stay in Romania.
- (2) The holder of the residence card has the obligation not to alienate it and to submit it to competent authorities whenever he/she is requested to do so.
- (3) The giving, receipt or request of the documents provided under article 114 as a guarantee for supply of certain services, for entrusting goods or valuable assets, for payment of debts or for other purposes are forbidden.
- (4) Any amendment, addition or mention, other than those provided by law, inscribed on the documents provided under article 114, shall be forbidden and shall entail their nullity.
- (5) In the cases provided under paragraph (4), nullity shall be established by the staff of the Romanian Immigration Office.

(6) The policeman who establishes the existence of one of the situations provided under paragraph (4) shall have the obligation to retain the respective document and send it to the nearest territorial unit of the Romanian Immigration Office.

(7) The holder of the residence card has the obligation to go to the relevant territorial unit of the Romanian Immigration Office for issuance of a new document, in the following situations:

- a) changes in the name, forename, citizenship and address;
- b) destruction or deterioration of the residence card;
- c) loss or theft, only after having notified the event to the relevant territorial police body.

#### **Art. 117 – Annulment of Residence Cards**

If the stay right of the residence card holder is revoked or annulled, the document shall be cancelled on the date when the decision is issued and shall be withdrawn no later than the date when such decision is notified to the alien.

### ***Section 3***

#### ***Travel Documents Issued to Aliens***

#### **Art. 118 – Types of Travel Documents Issued to Aliens**

(1) The Romanian Immigration Office, through its territorial units or, as the case may be, the Ministry of Foreign Affairs, through the diplomatic and consular offices of Romania abroad, may issue, upon request, the following types of travel documents:

- a) travel titles - to the following categories of aliens:
  - (i) stateless aliens with their domicile abroad, who are temporarily on the Romanian territory, who no longer hold a state border crossing document and who, for objective reasons, cannot obtain such a document from the diplomatic office of the state of domicile;
  - (ii) foreign citizens on the Romanian territory who no longer have a national passport and who, for objective reasons, cannot obtain a travel document from the diplomatic representative office of their state;
  - (iii) stateless persons with permanent stay in Romania, and temporarily staying abroad, who no longer hold the Romanian state border crossing documents;
- b) passport for persons with no citizenship – stateless persons with impermanent stay in Romania as well as stateless persons of Romanian origin who were repatriated on the basis of international agreements to which Romania is a party.

(2) In the case of pupils who are residents on the Romanian territory and wish to travel or transit the territory of a member state territory within school trips, in accordance with Council Decision no. 94/795/JHA on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State, published in the Official Journal of the European Communities no. 327 of 19 December 1994, the Romanian Immigration Office shall confirm the status as resident of the aliens included on the list of participants and the accuracy of the data submitted in such document.

(3) The notification of the member states in connection with the use of the list of participants as a travel document by the pupils who are resident on the Romanian territory shall be made by the Ministry of Foreign Affairs.

#### **Art. 119 – Issuance of Travel Title**

(1) For persons provided under Article 118 (1)(a) (i) and (ii), the travel title shall be issued by the Romanian Immigration Office through its territorial units and is valid for one trip for a period of 30 days with the possibility of extending the validity with another 30 days.

(2) The Romanian diplomatic missions or consular offices abroad shall issue, with the approval of the Romanian Immigration Office, the travel title for persons provided under article 118 (a) (iii) in order to allow the return of these persons to Romania. Upon the return to the country, the travel title shall be delivered by the holder to the territorial unit of the Romanian Immigration Office under whose territorial jurisdiction the stateless person has his/her domicile.

#### **Art. 120 – Passport Regime for Stateless Persons**

- (1) The passport for stateless persons shall certify the identity and the holder's status of stateless person with right to stay in Romania and shall entitle its holder to leave or enter the country through any of the state border crossing points open to international traffic for persons.
- (2) Abroad, the passport for stateless persons entitles its holder to support and protection from the Romanian diplomatic missions and consular offices.
- (3) The passport for stateless persons is the property of the Romanian State.

**Art. 121 – Issuance of the Passport for Persons with No Citizenship**

Passport of persons with no citizenship shall be issued, upon request, by the Romanian Immigration Office, through its territorial units for a period of 5 years which can be renewed only once, without exceeding 10 years from the issue date.

**Art. 122 – Conditions regarding the Application for Passport for Persons with No Citizenship**

- (1) The application for the passport for persons with no citizenship shall be submitted by the persons provided under article 118 (1)(b) to the territorial units of the Romanian Immigration Office and shall be accompanied by the following documents:
  - a) valid permanent stay permit, in the case of stateless persons with permanent stay right in Romania; or
  - b) valid temporary stay permit in the case of stateless persons of Romanian origin, who are repatriated on the basis of international agreements to which Romania is a party.
- (2) The passports shall be issued within maximum 30 days from the date of the application submission.

**Art. 123 – Annulling the Passport of Persons with No Citizenship**

If the holder of the passport for person with no citizenship is deprived of his/her capacity as stateless person with permanent stay in Romania or obtains the citizenship of another state, he/she shall be bound to submit the document to the relevant territorial unit of the Romanian Immigration Office which shall withdraw and annul it.

**Art. 124 - Stealing, Loss, Deterioration or Destruction of the Passport for Person with No Citizenship**

- (1) The holder of the passport for persons with no citizenship shall be bound to inform the territorial unit of the Romanian Immigration Office who issued the document in connection with its stealing, loss, deterioration or destruction within maximum 5 days from the discovery of any of such cases.
- (2) The alien shall be issued, upon request, under the conditions provided under article 120, a new document replacing the stolen, lost, deteriorated or destroyed one, within maximum 30 days.
- (3) The passports for persons with no citizenship shall be withdrawn and cancelled by the territorial unit of the Romanian Immigration Office.

**Art. 115 – Form and Content of Travel Documents**

The form and content of the travel documents laid down in this section shall be established by decision of the Romanian Government.

***Chapter VII***

***Processing and Protection of Aliens' Personal Data***

**Art. 126 - Competent Institutions for Processing the Personal Data of Aliens**

- (1) In order to apply the provisions of this emergency ordinance, of other regulations and instructions issued on its basis, the Romanian Immigration Office, the Romanian Border Police as well as other competent authorities in the field may perform processing activities of personal data of aliens.
- (2) The processing of the aliens' personal data shall be made under the conditions set forth by the law for protection of persons regarding the processing of personal data and the free circulation of such data.

**Art. 127 – Organizing Records**

- (1) The National Record System of Aliens shall be established at the level of the Romanian Immigration Office as a complex system of processing aliens' personal data, necessary to apply the legal powers regarding the admission, residence and removal of aliens from the Romanian territory.
- (2) The record of aliens shall be organized according to the principle of the residence place or domicile through the Romanian Immigration Office at central level and through its territorial units, at local level.
- (3) Each alien who was renewed the temporary stay right or was granted the permanent stay right shall be granted by the Romanian Immigration Office a personal code number to be inscribed in the stay permit.
- (4) The types and categories of records shall be established by the Romanian Immigration Office and approved by the Minister of Administration and Interior.

### ***Chapter VIII***

#### ***Legal Regime Applicable to Special Categories of Aliens***

##### **Art. 128 – Aliens with a permanent stay right in the member states of the European Union**

- (1) Aliens who are citizens of third countries or stateless persons with a permanent right to stay in the member states of the European Union may enter and stay on the Romanian state territory for a period of 90 days during 6 months, without having the obligation to obtain an entry visa.
- (2) The persons provided under paragraph (1) may benefit from renewal of their temporary stay right without having to fulfill the prior condition of obtaining a long stay visa, under the conditions laid down herein.
- (3) The persons provided under paragraph (1) shall benefit from equal treatment in the fields and under the conditions provided under article 75.
- (4) By exemption from the provisions of paragraph (3), access to the labor market for aliens with a permanent right to stay in a member state of the European Union shall be provided according to the labor legislation in the field and the need to occupy the jobs included in the Romanian insufficient occupational register, established by the specialized unit within the Ministry of Labor, Social Solidarity and Family.

##### **Art. 129 – Family members of the aliens with a permanent right to stay in the member states of the European Union**

- (1) The family members of the aliens provided under article 128, who have a temporary stay right for family reunification in a member state of the European Union, may enter Romania based on a long stay visa granted for the same purpose by the diplomatic mission or consular offices of Romania, subject to the fulfillment of the general conditions for granting visas, and to the submission of the proofs regarding the stay right on the territory of the member state of the European Union in such capacity.
- (2) The family members of the aliens provided under article 128, who have no temporary stay right for family reunification in a member state of the European Union shall fall under provisions of article 46.
- (3) The aliens provided under paragraph (1) may benefit from a renewal of the stay right if the general conditions provided by law are fulfilled, provided that:
  - a) they submit the permit to stay in a member state of the European Union;
  - b) they evidence that they lived as family members of the alien with a permanent right to stay in a member state of the European Union;
  - c) the evidence the existence of means of support amounting to at least the minimum net salary per economy.
- (4) The aliens provided under article (2) may benefit from a renewal of their stay right, in accordance with the provisions of article 62.

##### **Art. 130 – Granting of the temporary stay right to aliens who are victims of human trafficking, trafficking of migrants and the criminal offence provided under article 141**

- (1) The aliens who are victims of human trafficking, trafficking of migrants or of the criminal offence provided under article 141 may be granted a temporary stay permit although they entered Romania illegally, upon the request of the prosecutor or the court, under the following conditions:

- a) they show a clear intention of cooperating with the Romanian authorities in order to facilitate identification and triggering the criminal liability of the participants in the perpetration of the criminal offences whose victims they are;
  - b) they ended any relations with the persons suspected of having committed the criminal offences whose victims they are;
  - c) the granting of the stay right facilitates performance of judicial investigations;
  - d) their stay in Romania is not a danger to public order and national security.
- (2) The stay right may be granted, for a 6 month period, subject to the possibility of being renewed for new periods of time, under the same conditions.
- (3) The stay right may be revoked under the following situations:
- a) the conditions provided under article (1) are no longer fulfilled;
  - b) the holder of the stay right renewed, on purpose, the liaison with the persons suspected of having committed the criminal offences provided under paragraph (1);
  - c) if it is established that the alien misled the competent authorities in connection with his/her capacity as victim or with the data and information provided;
  - d) when the victim no longer cooperates;
  - e) when the competent authorities establish the existence of any of the cases provided under article 10 of the Criminal Procedure Code.
- (4) The stay permit for the persons provided under paragraph (1) shall be issued free of charge.

#### **Art. 131 – The Legal Regime Applicable to Unaccompanied Minor Aliens**

- (1) In the case of minor aliens who enter the Romanian territory unaccompanied or who remain unaccompanied after entry on the Romanian territory, the Romanian Immigration Office and its territorial units shall act as follows:
- a) shall establish their identity and way of entering the country;
  - b) irrespective of their entry way in Romania, they shall be offered representation through a competent institution according to the law which shall ensure their protection and necessary support, including accommodation in special centers for minors' protection in conditions similar to those for Romanian minors;
  - c) measures for the identification of the parents shall be taken, irrespective of the latter's place of residence, with a view to family reunification;
  - d) until the parents are identified, minors of school age shall have access to the education system;
  - e) in the case the parents of the minor do not have their residence on the Romanian territory, he/she shall be returned to the residence country of his/her parents or to the country where other family members have been identified, with their approval;
  - f) in the case the parents or other family members could not be identified, or if the minor is not accepted by the state of origin, he/she shall be granted the temporary stay right on the Romanian territory.
- (2) With a view to finding adequate solutions, the Romanian Immigration Office shall co-operate with national and international specialized organizations in the minors' protection field.

#### **Art. 132 – Access of Minor Aliens to Education**

- (1) Minor aliens living in Romania shall have access to compulsory education system under the same conditions as the Romanian minor citizens.
- (2) The Ministry of Education, Research and Youth shall establish, under the law, the limits and conditions of the acknowledgement and establishing equivalence of the studies made in the country of origin for the enrolment of foreign students in the national educational system.

### ***Chapter IX***

#### ***Minor and criminal offences***

#### **Art. 133 – Legal Liability for Breaching the Provisions of this Emergency Ordinance**

The breach of the provisions hereof shall cause, as the case may be, the criminal, civil, minor offence related or administrative liability of the guilty person.

#### **Art. 134 – Minor Offences**

The following deeds shall be considered minor offences:

1. carrier's failure to comply with the interdictions provided under Article 7(1)
2. alien's failure to comply with the obligation of leaving the Romanian territory after the date of expiry of the right to stay in Romania, provided under Article 11;
3. alien's failure to comply with the obligation of notifying the competent police body of his/her stay within 3 days from completion of the term provided under Article 12(1);
4. alien's failure to fulfill the obligation provided under article 13 (2);
5. failure to declare the information provided in article 13(1) and (3), within the periods provided in Article 13(4);
6. allowing the aliens in one of the situations of interdicting the exit, provided under Article 15(1), to leave the country;
7. failure to submit the application for renewal of the temporary stay right, within the period provided under article 51 (1);
8. aliens' failure to fulfill the obligations provided under article 50 (3);
9. employer's failure to comply with the obligation of communicating the nominal situation, provided under Article 57 (2);
10. alien's failure to fulfill the obligation of going to the territorial unit of the Romanian Immigration Office, within 30 days as provided under Article 73(5);
11. alien's failure to fulfill the obligation regarding his/her stay permit, as laid down under article 108 (2), i.e. in connection with his/her residence card, provided under article 116 (4), and the failure to submit travel documents, in the case of the aliens who are in Romania based on a visa or according to international conventions or laws that unilaterally abolish the visa regime;
12. failure to submit the application for the renewal of the stay permit within the period provided under article 110 (4);
13. failure to declare the stealing, loss, deterioration or destruction of the stay permit within the period provided under Article 112(1);
14. failure to declare the stealing, loss, deterioration or destruction of the passport for stateless persons within the period provided under Article 124 (1);
15. retaining the state border crossing document of an alien or the stay permit by unauthorized persons;
16. facilitating, through any means, the illegal stay of aliens on the Romanian territory.

#### **Art. 135 - Sanctions**

Minor offences provided under article 134 shall be sanctioned as follows:

- a) fine from RON (lei) 100 to RON (lei) 500, for those provided under items 3, 4, 5, 7, 8, 10, 11, 12, 13 and 14;
- b) fine from lei 5,000,000 to lei 10,000,000 for those provided under item 6;
- c) fine from lei 20,000,000 to lei 30,000,000 for those provided under item 9, 15 and 16;
- d) fine from lei 50,000,000 to lei 150,000,000 for those provided under item 1.
- e) in the case of the minor offence provided under item w, the fine shall apply as follows:
  - i) from lei 4,000,000 to lei 7,000,000, in the case of a stay up to 30 days after the right to stay expires;
  - ii) from lei 6,000,000 to lei 10,000,000, in the case of a stay up to 60 days after the right to stay expires;
  - iii) from lei 8,000,000 to lei 12,000,000, in the case of a stay up to 60 days after the right to stay expires.

#### **Art. 136 – Establishment of Minor Offences**

The establishment of minor offences and the sanctions shall be made by officers specially appointed from the Ministry of Administration and Interior or, as the case may be, by the establishing agents especially appointed belonging to other institutions, according to their competence.

#### **Art. 137 – Minor Offences Regime**

(1) The provisions of this emergency ordinance shall be completed with the provisions of the Government Ordinance no. 2/2001 regarding the legal regime for minor offences, approved as amended by Law Nr. 180/2002, as subsequently amended and supplemented.

(2) In the case of the minor offences provided under Article 134 (5), (11) and (16), the person committing the minor offence may pay half of the minimum fine provided under article 135 on the

spot or within 48 hours from the date of concluding, or, as the case may be, of notifying the minutes and the establishing agent shall include a mention on such possibility in the minutes.

**Art. 138 – Eluding the Measures of Removal from the Romanian Territory**

The bad-faith circumvention of the obligations set by the competent authorities, committed by the alien against whom the expulsion or return measure or one of the measures of interdicting the right to stay on the Romanian territory or the temporary establishment of the domicile or residence in certain zones or localities was issued, shall be deemed as criminal offence and shall be sanctioned by prison from 6 months to 5 years.

**Art. 139 – Fraudulent Entry of the Alien Declared Undesirable or against Whom the Measure of Interdicting the Entry on the Romanian Territory was Ordered**

(1) The fraudulent entry on the Romanian territory, by crossing the border illegally or under a false identity, committed by the alien who was declared undesirable or who was forbidden in any way the right of entry or stay in the country shall be deemed as criminal offence and shall be sanctioned by prison from 2 to 6 years.

(2) If the deed provided under paragraph 1 has been perpetrated repeatedly, the punishment shall be prison from 3 to 7 years.

**Art. 140 – Carrying out Activities Interdicted by Law**

(1) The organization, by an alien, on the Romanian territory, of a political party or other organizations or groups as those provided under Article 4 (2), the alien's affiliation to such groups as well as the initiation, organization of and participation in manifestations or meetings which prejudice public order and national security shall be deemed as criminal offence and shall be sanctioned by prison from 3 months to 2 years or by fine.

(2) The alien's deed of financing a political party, organization, group, manifestation or one of the meetings provided under Article 4(3) shall be sanctioned by the punishment laid down in paragraph (1).

(3) The amounts of money, goods of any type or other values received by infringing the provisions of Article 4(3) shall be confiscated.

**Art. 141 – Facilitating illegal stay of aliens on the Romanian territory**

(1) The willful facilitation, in any way, of the aliens' illegal stay on the Romanian territory shall be deemed as criminal offence and shall be punished by prison from 6 months to 5 years.

(2) The deed provided under paragraph (1), perpetrated in the following circumstances:

a) by two or several persons together;

b) when a serious life injury or bodily injury was caused to aliens,  
shall be punished by prison from 2 to 8 years.

(3) If the deed resulted in the alien's death, the punishment shall be prison from 3 to 15 years.

(4) If the deed provided under paragraph (1) was perpetrated by a person who is part of an organized group or who caused or obtained serious material benefits for himself/herself or for another person, the maximum special period of the punishment shall be increased by 3 years.

(5) Attempt shall be punished.

**Art. 142 – Liability of legal entities**

(1) If the deed provided under article 141 was perpetrated on behalf or for the interest of a legal entity, by its bodies or representatives, such deed shall be punished by fine from RON 15,000 lei to RON 30,000.

(2) The same punishment shall apply if deed provided under article 141 was perpetrated for the interest of a legal entity, further to the failure of the persons provided under paragraph (1) to fulfill their control duties, by any person under their authority.

(3) The liability of the legal entity does not exclude criminal liability of the natural persons involved in the perpetration of the criminal offence provided under article 141.

**Chapter X**

**Final and Transitory Provisions**

#### **Art. 143 – The Romanian Immigration Office**

Within the enforcement of the provisions hereof, the policemen of the Romanian Immigration Office shall be authorized:

- a) to carry out ascertaining acts in order to inform general prosecution bodies when the perpetration of crimes regarding aliens' regime is established;
- b) to find and accompany to the headquarters of the territorial units the aliens who breach legal provisions on aliens' regime in Romania or those whose identity cannot be established, to verify and take legal measures within no more than 24 hours from detection;
- c) to organize and perform, according to law, the required checks, in the areas and places attended by aliens, in public or private institutions and in the premises of economic operator, irrespective of the owner or holder thereof, when there are data or indications regarding the existence in such areas or places of certain aliens who do not comply with the legal provisions on aliens' regime in Romania;
- d) to use, free of charge, the public transportation means and the rail transportation means, during their work hours, in order to conduct missions which cannot be fulfilled otherwise.

#### **Art. 144 – Bearing of Expenses**

(1) The expenses for the removal from the Romanian territory of aliens, who have no financial means, shall be paid by such aliens.

(2) If the alien does not have any financial means and entered Romania based on an invitation, the expenses for removal shall be borne by the natural or legal person who made the invitation. The invitation shall be deemed as an enforceable title if the invited alien does not leave Romania before the date when its stay right established by visa has expired. The amounts to be paid shall be established by the Romanian Immigration Office by drafting an ascertaining note regarding the expenses for removal of the invited alien.

(3) The employer, natural or legal entity, shall be bound to bear the expenses for the removal of the alien whom he employed illegally or whose stay permit is no longer valid.

(4) The research and development unit undertakes to bear the expenses related to removal of the alien who was accepted by it in order to perform scientific and research activities within a project if he/she remains on the Romanian territory after expiry of the stay right. The responsibility of the research and development unit to bear such expenses shall expire 6 months after the acceptance agreement has ceased to be valid.

(5) The expenses for the removal of aliens who do not have the necessary funds in this respect as well as those for their transport, feeding, support and accommodation in centers, the expenses for medical assistance and hospitalization shall be borne from the budget of the Ministry of Administration and Interior.

(6) The building, arrangement, maintenance and operation expenses of the centers shall be borne from the budget of the Ministry of Administration and Interior.

(7) The funds required for the expenses provided in paragraph 4 and 5 shall be provided in the state budget for the Ministry of Administration and Interior.

(8) The rules on providing equipment to centers, the rules on maintenance materials and personal hygiene as well as the rules on the food for the aliens taken into public custody shall be established by Government decision.

#### **Art. 145 – Medical Assistance in Special Cases**

Under special circumstances and for humanitarian reasons, the territorial competent body of the Ministry of Administration and Interior may request to the competent authorities to provide medical assistance for aliens under the conditions laid down in Article 100.

#### **Art. 146 – Aliens Exempted from the Enforcement of the Provisions of this Emergency Ordinance**

The Government may establish, by Government decision, the exemption of the aliens who are citizens of the states for which it is not mandatory to obtain an entry visa for Romania, from complying with the condition provided under article 6 (1) (c) and with certain conditions for renewing the stay right provided under this emergency ordinance.

#### **Art. 147 – Application of special regulations**

The provisions of Law no. 122/2006 on asylum in Romania shall prevail over the provisions hereof, except for the cases when national security or public order reasons require removal from the Romanian territory.

**Art. 148 – Procedural provisions**

The prosecutor's participation shall be mandatory in all the complaints and applications addressed to courts in accordance herewith, in which the Romanian Immigration Office is a party.

**Art. 149 - Time-related Limits of the Enforcement of this Emergency Ordinance regarding Certain Categories of Aliens**

Starting with the date of Romania's accession to the European Union, the provisions of this emergency ordinance shall cease to apply to citizens of the Member States of the European Union and the European Economic Area.

**Art. 150 – Provisions applicable on the accession date of Romania to the European Union**

The provisions of article 5 (3) and (4), articles 90, 91, 96, 128, 129 shall enter into force on the date of accession of Romania to the European Union.

**Art. 151 – Transitory provisions**

- (1) Within 3 months from the entry into force of this emergency ordinance, aliens with illegal residence may request to the Romanian Immigration Office to issue an order for leaving the territory.
- (2) The issuance of the order for leaving the territory under the conditions laid down in paragraph 1 shall not be accompanied by the measure of interdicting the entry into Romania.
- (3) All the cases pending settlement on the date this emergency ordinance entered into force shall be settled in accordance with its provisions.

**Art. 152 – Entry into Force**

- (1) This emergency ordinance shall become effective within 30 days from the date of its publication in the Official Journal of Romania.
- (2) On the date this emergency ordinance enters into force, Law no. 123/2001 on the regime of aliens in Romania, published in the Official Journal of Romania, part I no. 168 of 3 April 2001 and Government Decision no. 476/2001 for the approval of the Methodological Rules for the application of Law no. 123/2001 on the regime of aliens in Romania, published in the Official Journal of Romania, part I no. 276 of May 29, 2001 as well as any other contrary provisions shall be repealed.

N.B.:

We hereby reproduce the provisions of article II, including the note of transposition of Community legislation from Law n° 56/2007 for the amendment and the completion of the Romanian Government's Emergency Ordinance n° 194/2002 on the regime of aliens in Romania, and as article n° 8 including the note of transposition of Community legislation from the Romanian Government's Emergency Ordinance n° 55/2007 regarding the establishment of the Romanian Immigration Office, through the redeployment of the Romanian Authority for Aliens and of the Romanian National Bureau for Refugees, as well as the amendment and completion of certain normative acts, approved with all the afferent amendments and completions, through Law n° 347/2007. The above-mentioned legal texts have been incorporated in the republished outline of the Romanian Government's Emergency Ordinance n° 194/2002:

- Law n° 56/2007:

Article n° II – (1) In a term of 6 months from the date of entry into force of the present law, aliens without a right of residence on the Romanian territory can entail the issuing of a

leaving disposal, on behalf of the Romanian Authority for Aliens, without the enforcement of the measure concerning the interdiction of entry on the Romanian territory.

(2) All the cases in process of being resolved at the date of entry into force of the present law, will be solved according to the provisions of the Romanian Government's Emergency Ordinance n° 194/2002 on the regime of aliens in Romania, republished with all the subsequent amendments and completions, as they were amended and completed through the present law.

(3) In the case when the orders of declaration as undesirable, issued by a specially designated prosecutor from the Bucharest Court of Appeal, have not been executed, they become obsolete at the date of entry into force of the provisions of the current law.

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- The present law transposes the provisions of Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification, published in the Official Journal of the European Union n° L251 from October 3<sup>rd</sup>, 2003; of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, published in the Official Journal of the European Union n° L16 from January 23<sup>rd</sup>, 2004; Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air, published in the Official Journal of the European Union n° L321 from December 6<sup>th</sup>, 2003; as well as the provisions of Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service, published in the Official Journal of the European Union n° L375 from December 23<sup>rd</sup>, 2004.

- The Romanian Government's Emergency Ordinance n° 55/2007: Article n° 8 – The syntagms “The Romanian Authority for Aliens” and “The Romanian National Bureau for Refugees” respectively, will be properly replaced by the syntagm “The Romanian Immigration Office”, within the normative acts into force.

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- The current emergency ordinance transposes the provisions of Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research, published in the Official Journal of the European Union n° L289 from November 3<sup>rd</sup>, 2005.

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