

EMERGENCY ORDINANCE No. 194 from 12 December 2002 (republished**)(*updated*)
on the status of aliens in Romania**)
(updated to the date of 26 June 2007*)**

ISSUER: GOVERNMENT

-----*) The original text has been published in the OFFICIAL JOURNAL No: 201 from 8 March 2004. This is the version updated by S.C. "Centrul Teritorial de Calcul Electronic" S.A. up to the date of 26 June 2007, with amendments and completions brought about by : [LAW No. 482 of 10 November 2004](#) ; [EMERGENCY ORDINANCE No. 113 from 14 July 2005](#) ; [LAW No. 306 from 25 October 2005](#) ; [LAW No. 56 from 13 March 2007](#) ; [EMERGENCY ORDINANCE No. 55 from 20 June 2007](#) .

**) Republished on the basis of [art. III of Law No. 357/2003](#) for the approval of [Government Emergency Ordinance No. 194/2002](#) on the status of aliens in Romania, published in the Official Journal of Romania, Part I, No. 537 from 25 July 2003, while the texts have been given a new numbering.

[Government Emergency Ordinance No. 194/2002](#) on the status of aliens in Romania has been published in the Official Journal of Romania, Part I, No. 955 from 27 December 2002.

**) NOTE on behalf of C.T.C.E. S.A. Piatra-Neamt:

According to [art. 8 f the EMERGENCY ORDINANCE No. 55 from 20 June 2007](#) , published in the OFFICIAL JOURNAL No. 424 from 26 June 2007, in the contents of the valid normative documents, the phrases "Authority for Aliens" and "National Refugee Office" shall be correspondingly replaced by the phrase „Romanian Migration Office".

By means of the same normative document the National Migration Office is established, as specialised body of the central public administration, as legal entity, subordinated to the Ministry of Administration and Interior, by reorganisation of the Authority for Aliens and the National Refugee Office, which shall be dismantled.

The Romanian Migration Office shall be transferred all rights and liabilities from the Office for the Migration of Workforce with regard to issuing proof of alien's right to employment.

CHAPTER. I

General provisions

ART. 1

Field of regulation

The present Ordinance constitutes the framework which regulates the entry, residence and exit of aliens to and from the territory of Romania, their rights and liabilities, as well as specific measures of migration control, in accordance with the obligations assumed by Romania by international documents it is part of.

ART. 2

Definitions

For the purposes of the present Emergency Ordinance, the terms and phrases below shall have the following meaning:

a) alien – a person who does not possess the Romanian citizenship or that of an EU or EEA member state;

Letter a) of art. 2 have been modified by sub-point 1, point II of [Art. 6 of the EMERGENCY ORDINANCE No. 55 from 20 June 2007](#), published in the OFFICIAL JOURNAL No. 424 from 26 June 2007.

b) stateless person – alien who does not possess the citizenship of any state;

b¹) resident – alien holding a temporary residence permit or a residence card, issued under the conditions of the present Emergency Ordinance;

Letter b¹) of Art. 2 have been modified by point. 1 of [art. I of LAW No. 56 of 13 March 2007](#), published in the OFFICIAL JOURNAL No. 201 from 26 March 2007.

b²) permanent resident- the alien holding a permanent residence permit or a permanent residence card, issued under the provisions of the present Emergency Ordinance;

Letter b²) of Art. 2 has been modified by point 1 of [art. I of LAW No. 56 from 13 March 2007](#), published in the OFFICIAL JOURNAL No. 201 from 26 March 2007.

b³) sponsor – alien legally residing on the territory of Romania, who submits an application for family reunification under the provisions of the present Emergency Ordinance;

Letter b³) of Art. 2 has been introduced by point. 2 of [art. I of LAW No. 56 from 13 March 2007](#), published in the OFFICIAL JOURNAL No. 201 from 26 March 2007.

b⁴) National Visa Centre – specialised body within the General Directorate for Consular Affairs of the Ministry of Foreign Affairs, which contributes to the establishment and implementation of the national visa policy of Romania, together with the other organisations of central public administration, according to their competencies defined by law;

Letter b⁴) of art. 2 has been introduced by point. 2 of [art. I of LAW No. 56 from 13 March 2007](#), published in the OFFICIAL JOURNAL No. 201 from 26 March 2007.

Letter c) of art. 2 has been abolished by sub-point 2, point II of [art. 6 of the EMERGENCY ORDINANCE No. 55 from 20 June 2007](#), published in the OFFICIAL JOURNAL No. 424 from 26 June 2007.

d) visa – authorisation, materialised by the application of a sticker or a stamp onto a travel document valid for crossing the state border, which allows the alien subject to this obligation to arrive at a border crossing point in order to request the transit or temporary stay for a limited duration, while fulfilling the conditions set by the present normative document;

Letter d) of [art. 2 has been modified by point 2 of the single article of LAW No. 482 from 10 November 2004](#), published in the OFFICIAL JOURNAL No. 1.116 from 27 November 2004.

e) airport transit visa – authorisation granted by diplomatic missions or consular offices of Romania, which allows the alien to pass through the international transit zone of a Romanian airport on the occasion of a stopover or a transfer between two connecting international flights;

f) right to remain – right granted to the alien by competent authorities, to remain on the territory of Romania for a limited period, under legal conditions;

g) residence permit – identification document issued by the Romanian Migration Office, under legal provisions, to the alien whose right to remain on the territory of Romania is extended or to the alien who shall be granted a permanent residence permit, by case;

Letter g) of art. 2 has been modified by [art. 8 of EMERGENCY ORDINANCE No. 55 from 20 June 2007](#), published in the OFFICIAL JOURNAL No. 424 from 26 June 2007 by replacement of the phrase „Authority for Aliens” by the phrase „Romanian Migration Office”.

g¹) residence permit for the purpose of employment – identification document which shall be issued to the alien by the Romanian Immigration Office, under legal provisions, and attests the right to residence and employment on the territory of Romania;

Letter g¹) of art. 2 has been introduced by sub-point. 3, point. II of [art. 6 of the EMERGENCY ORDINANCE No. 55 from 20 June 2007](#), published in the OFFICIAL JOURNAL No. 424 from 26 June 2007.

l) marriage of convenience – marriage concluded for the single purpose to elude the conditions imposed to aliens for entering and residing as well as obtaining a right to reside on the territory of Romania;

m) interview – discussion led by a representative of Romanian authorities with the person who requests to be granted a Romanian visa or to be extended the right to stay under the provisions of the present Emergency Ordinance, for the purpose of obtaining additional information on the data provided in the requests submitted, reasons for travel and stay in Romania as well as the authenticity of submitted documents;

n) interview officer – staff of the National Migration Office, having attributions in ascertaining the existence of elements to prove the existence of a marriage of convenience;

o) researcher – alien who holds an academic graduation licence which allows him to attend PhD programmes and has been accepted by a unit of research and development to carry out activities of scientific research in the framework of a project.

ART. 3

Rights of aliens

(1) Aliens who legally reside in Romania enjoy the general protection of persons and property, guaranteed by the Constitution and other laws, as well as the rights provided by International treaties Romania is a part of.

(2) Aliens who legally stay in Romania shall be able to move freely and establish their residence or, by case, their domicile anywhere on the territory of Romania.

(3) Aliens who legally reside in Romania and temporarily leave the territory of the Romanian state have the right to re-enter during the entire validity of the residence permit.

(4) Only aliens who have their residence or domicile in Romania may benefit from social protection on behalf of the Romanian state.

(5) Aliens who have been issued a document by the National Migration Office have the right to verify their personal data entered into such document and, when the case, request the for data which do not correspond to the truth to be corrected or deleted, as the case may require.

(6) Aliens enrolled in education of all grades have access, without restrictions, to educational and other social learning activities.

ART. 4

Obligations of aliens

(1) During their stay in Romania, aliens have the obligation to respect Romanian law.

(2) Aliens may not organise, on the territory of Romania, political parties or any associations similar to those and may not be members of those, they may not hold public functions and positions or initiate, organise or participate in rallies or meetings, which endanger the public order or national security.

(3) Aliens may not fund parties, organisations, groups or rallies or meetings as provided under para. (2).

(4) Aliens staying on the territory of Romania are obliged to respect the purpose for which they have been granted the permit to enter and, by case, to remain on the territory of Romania, not to exceed the duration for which they have been granted the permit to remain on the territory of Romania, and make all necessary efforts to leave the territory of Romania before the expiry of this time limit.

(5) Aliens who enter the territory of the Romanian state or who leave this territory have the obligation to subject themselves to the border crossing control, according to the law.

(6) Aliens residing on the territory of Romania have the obligation to accept, under legal provisions, any control on behalf of police or other competent public authorities.

ART. 5

Immigration Policy

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

- a) number of employment authorisations which may be issued to aliens, according to the provisions of special legislation on employment and employment-related transfer of aliens on the territory of Romania;
- b) the amount of subventions necessary for board, subsistence and accommodation within centres, as well as for medical assistance and stationary treatment;
- c) total amount representing necessary means for subsistence during the stay on the territory of Romania, as well as for return to the country of origin or transit to another state, provided by Art. 6 para. (1) letter. c).

(2) The Government may establish, by decision, as often as necessary, the introduction or suspension of short-term facilities with regard to the right to enter or, by case, to extension of the right to remain on the territory of Romania for distinct categories of aliens, as well as the periods for which such facilities shall be granted or suspended, respectively. On a long term, the Government shall define the national strategy in the field of Immigration.

(3) The Government of Romania, through its authorised institutions, shall forward to the European Commission and governments of the other member states, within due time, and not later than the moment they have been made public, information regarding:

- a) draft normative documents which propose measures regarding workers from third countries and their family members, with regard to entry, residence and employment, as well as ensuring equal treatment with regard to living and working conditions, payment and other economic rights, promoting integration within local workforce as well as voluntary return of such persons to their countries of origin;
- b) draft agreements regarding the issues provided by letter a), as well as draft agreements of international cooperation which are intended to be negotiated or renegotiated with third countries, when such agreements contain provisions referring to the issues mentioned by letter a);
- c) draft agreements regarding conditions for residence and employment of own citizens who work in third countries and their family members, which are intended to be negotiated or renegotiated with the respective countries.

(4) The Government of Romania shall forward to the European Commission as well as to the governments of all other member states the texts of the normative documents in force, as well as the texts of the agreements concluded with third countries, which regulate the issues mentioned by para. (3) letter. a).

CAP. II

General provisions regarding entry, residence and exit of aliens

SECTION 1

Entry of aliens on the territory of Romania

ART. 6

Conditions on the entry of aliens

(1) Entry to the territory of Romania may be permitted to aliens who fulfil following conditions:

- a) possess a valid travel document, which is accepted by the Romanian state;
- b) possess a Romanian visa, granted according to the provisions of the present Emergency Ordinance or, by case, possess a valid residence permit, if not regulated otherwise through international agreements;

- c) present, in the conditions of the present Emergency Ordinance, documents which justify the scope and conditions for their stay and prove the existence of necessary subsistence means for the duration of their stay, as well as for their return to the country of origin or transit to a third state where there is certainty that they shall be allowed to enter;
- d) present guarantees that they shall be allowed to enter the territory of the state of final destination or that shall leave the territory of Romania, in the case of aliens in transit;
- e) they do not fall under the category of aliens against whom a measure of interdiction to enter the territory of Romania has been decided or who have been declared as undesirable;
- f) they have not previously infringed, in an unjustified manner, the purpose of travel which they have declared in obtaining a visa or, by case, on entering the territory of Romania or have not attempted to cross the border of Romania carrying forged documents;
- g) their names have not been entered with alert into the Schengen Informatic System for the purpose of being refused entry;
- h) they do not represent a danger to the national defence and security, or public order, health or ethics.

(2) Aliens – family members of Romanian citizens, as well as aliens holding a permanent residence permit in one of the EU member states shall be granted entry on the territory of Romanian while being exempt from fulfilling the conditions provided by para. (1) letters c) and d).

(3) Aliens stationed in the international transit areas of the airports, in transit areas at state border crossing or in accommodation centres having the status of transit area or on ships or vessels stationed in sea or river ports, shall not be subject to the provisions of the present Emergency Ordinance referring to the conditions of entry and stay of aliens on the territory of Romania.

(4) Entry of aliens onto the territory of Romania shall be made in any state border crossing point open to public traffic.

(5) Crossing of the state border by aliens may be also made in other locations, according to the conditions provided by agreements and understandings between Romania and third states.

ART. 7

Liabilities of carriers

(1) It is prohibited for carrier companies to transport to the territory of Romania aliens who do not fulfil the conditions provided by Art. 6 para. (1) letters. a) and b).

(2) In case of violation of provisions of para. (1), the carrier company shall be obliged to ensure immediate transport of aliens under reference to the place of embarkation or to any other place accepted by the aliens and where these shall be accepted. Should this not be possible, the expenses regarding accommodation and subsistence, as well as all other expenses incurred by the removal from the territory of Romania, hereinafter called „removal”, shall be covered by the carrier.

(3) The obligations provided by para (2) shall be also applied to the carrier companies by means of which aliens in transit arrive onto the territory of Romania, if:

- a) the carrier which should transport them to the country of final destination refuses to board them;
- b) authorities of the state of destination do not permit the entry of the aliens and return them to Romania.

ART. 8

Non-permission of entry to Romania

(1) Aliens shall be refused entry on the territory of the Romanian state if:

- a) they do not fulfil the conditions provided by art. 6 para. (1);
- b) have been notified by international organisations to which Romania is a member, as well as by institutions specialised in combating terrorism that they finance, prepare, support in any

way or commit acts of terrorism;

c) there are indications that they are part of organised criminal organisations at international level or that they support in any way the activity of such groups;

d) there are serious reasons to assume that they have carried out or taken part in carrying out acts of violation against peace and humanity or war crimes or crimes against humanity, as provided by international agreements Romania is a part of.

(2) The border police bodies may also refuse entry of aliens to the territory of the Romanian state under the following situations:

a) they have committed offences during previous stays in Romania or other states, against the Romanian state or against a Romanian citizen;

b) have introduced or attempted to introduce illegal aliens to the territory of Romania;

c) suffer from serious illnesses which may seriously endanger public health, as defined by Order of the Minister of Public Health.

(3) The bodies and institutions, which possess data and information regarding the existence of situations as, those provided by para. (1) and (2) are obliged to inform the General Inspectorate of the Border Police as well as the National Migration Office and its regional offices.

(4) The measure of refusing entry to the territory of Romania shall be motivated by the Border Police bodies and shall be immediately communicated to the person under reference and to the General Directorate for Consular Affairs from within the Ministry of Foreign Affairs.

ART. 9

Obligations of the alien

(1) The alien who has been refused entry to Romania shall be liable to immediately leave the border crossing point back to the country of origin or any other destination of his preference, except the territory of Romania.

(2) In case immediate departure of the alien mentioned by para (1) should not be possible, the border police authorities may decide his accommodation in a special space or place set up for this purpose within the transit area, provided by the administrative officer of the border crossing point, up to the moment the reasons hindering his departure cease to exist, but not longer than 24 hours from the date of accommodation.

ART. 10

Travel documents accepted by the Romanian state

(1) Following travel documents for crossing the state border are accepted by Romania, under the condition that they should attest the identity and citizenship or, if the case, the status of the alien as stateless person:

a) passports, laissez-passer documents, seaman's ID documents or other similar documents issued, according to international standards, by states, territories or international entities recognised by Romania;

b) ID card or other similar documents, on bilateral or unilateral basis, for citizens of states defined by Decision of the Romanian Government;

c) travel documents of refugees, issued on the basis of the 1951 Geneva Convention on the status of refugees, as well as travel documents issued to aliens who have been granted limited temporary humanitarian protection;

d) travel documents of stateless persons, issued by the states such persons reside in.

(2) Aliens included into a travel document of another person may enter or leave Romania only together with the holder of the said document.

(3) Aliens may also enter and exit Romania on the basis of a collective passport, only in a group, on condition that each member of the group possesses an individual proof of identity and bearing the holder's photograph, and the group leader is in possession of an individual travel document.

- (4) Students residing in an EU member state, who travel or transit the territory of Romania on school trip, may also enter and exit Romania on the basis of a list of participants to which Art. 26 para. (3) letter. b) refers, issued in conformity with the Council Decision No. 94/795/JHA regarding a common action adopted by the Council on the basis of article K.3.2.b of the Treaty on the European Union, which refers to the travel facilities for students from third countries who reside in a member country, published in the Official Journal of the European Communities No. 327 from 19 December 1994, while fulfilling following conditions:
- a) the list of participants should include a recent photograph for each participant who does not possess an individual document bearing the holder's photograph;
 - b) the responsible authority of the Member State shall confirm the resident status of aliens entered into the list of participants and the authenticity of the data presented by such document;
 - c) the member state in which the students reside should inform the Romanian state with regard to the school trip and the list of participants requested to be accepted as travel document valid for crossing the Romanian border.
- (5) On suggestion of the Ministry of Foreign Affairs, as well as of the Ministry of the Interior and Administration Reform, the Government shall publish the list containing the travel documents accepted by the Romanian state for entering the country, issued by states of international entities recognised by Romania
- (6) For humanitarian purposes or while implementing agreements or international understandings Romania is a part of, the Government of Romania may also approve, by decision, other documents by means of which entry to the territory of Romania shall be granted.

SECTION 2

Stay of aliens in Romania

ART. 11

General provisions on the stay of aliens

- (1) Aliens who legally and temporarily reside in Romania may remain on the territory of the Romanian state only up to the date when the right to remain set by means of a visa or of a residence permit ceases.
- (2) In the case that international conventions or normative documents by means of which the visa obligation is unilaterally cancelled do not specify the duration for which visas are being cancelled, aliens who are not liable to obtain a visa for entry to Romania shall be allowed to enter the territory of the Romanian state and to remain for a period of up to 90 days over 6 months, starting with the day of the first entry.

ART. 12

Conditions regarding accommodation of aliens

- (1) An alien who has legally entered the territory of Romania shall be liable to notify his arrival to the competent territorial police authority, within 3 days from arrival. Exceptions are citizens of EU as well as of EEA member states.
- (2) In the situation of accommodation in hotels or other tourist venues, the alien shall fulfil the registration formalities with the relevant administration, which, within 24 hours, shall notify the necessary data to the competent territorial police body.

ART. 13

Notification of authorities on changes in the alien's situation

- (1) Over the duration of residence in Romania, aliens are liable to declare to the territorial office of the Romanian Migration Office which has granted the residence permit, following:
- a) any change having occurred in the personal situation, especially change of citizenship,

conclusion, divorce or annulment of a marriage, birth of a child, decease of a family member staying on the territory of Romania;

b) any change related to his employment situation;

c) loss, extension of validity or replacement of the travel document.

(2) The alien moving residence or domicile shall be obliged, within 15 days from moving to the new address, to be present at the territorial Office of the Romanian Migration Office, in order to be registered and corresponding mentions to be made in the identification document.

(3) Theft or loss of travel documents shall be notified to the territorial competent police body.

(4) Statements provided by para. (1) shall be made within 30 days, and those mentioned by para. (3), within 48 hours.

SECTION 3

Departure of aliens from the territory of Romania

ART. 14

Departure of aliens

(1) In case an alien is no longer in the possession of the travel document on the basis of which he has entered the territory, he has to present on departure from Romania a new valid travel document.

(2) Departure from the country of aliens who hold the citizenship of several states shall be made by means of the travel document used at entry. In special cases, the border police bodies may also allow departure based on a travel document attesting a different citizenship.

ART. 15

Non-permission to leave

(1) The alien shall be refused permission to leave in following situations:

a) he is charged or accused in a penal cause and the magistrate orders the measure of prohibition to leave the place of residence or the country;

b) the alien has been convicted by Court Order and is subject to custodial sentence.

(2) In the situations mentioned by para. (1), the measure to prohibit exit from the territory of Romania shall be taken by the competent body of the Ministry of Interior and Administration Reform, only on the basis of a written request from the prosecutor's office, court instances or other bodies enabled by law to enforce execution of detention.

(3) In all situations, the reasons for requesting the measure and, if required, supporting documents shall be provided.

(4) Non-permission to leave the territory shall be carried out by:

a) launching a nominal alert in the registration system at the state border control points, by the General Inspectorate of Border Police;

b) entering into the travel document of a stamp bearing the symbol „C” by the National Migration Office and its territorial bodies.

ART. 16

Termination of non-permission to leave

(1) Revoking of the measure shall be performed by cancellation of the nominal alert or by entering the stamp bearing the symbol "L" into the travel document, upon written request of the public authority who has such competence according to the law, for cases provided by Art. 15 para. (1).

(2) The measure of non-permission to leave shall cease de iure if the alien falling into one of the situations provided by Art. 15 proves, by means of documents issued by competent authorities, according to the law, to the competent body within the Ministry of Internal Affairs and Administration Reform, that:

- a) by court order criminal prosecution has no longer commenced or has been concluded, or the accused has been released from prosecution, or has been acquitted or the criminal procedure has been terminated;
- b) the alien has executed the sentence, has been pardoned, benefits from amnesty or has been sentenced, by final Court Decision, to conditional suspension of sentence executions.

CHAPTER. III

Visa regime

SECTION 1

General provisions

ART. 17

Form and contents of visa

The form, contents and security elements of the visa shall be approved by decision of the Government of Romania, on suggestion of the Ministry of Foreign Affairs while consulting with the Ministry of the Interior and Administration Reform and in conformity with the relevant EU standards.

ART. 18

Limits of the right conferred by the visa

(1) A visa confers the right to its bearer to enter the territory of Romania only in the case when, upon presenting it at the state border crossing point, the officers of the Romanian Border Police ascertain that none of the reasons for non-permission to enter Romania, provided by Art. 8 para. (1) and (2) exist.

(2) of a visa may be exerted only within the validity of the visa.

ART. 19

Exemptions from the regime of visa obligation

(1) Citizens of the states with which Romania has concluded agreements for this purpose are exempt from visa obligation, under the conditions and for the durations of stay provided by such agreements.

(2) Aliens pilots of aircraft as well as crew members, holders of a flight licence or crew licence, provided by Annex No. 9 to the Convention on international civil aviation, signed in Chicago on 7 December 1944, are exempt from the obligation to possess a travel document and visa only in case they are on assignment and:

- a) do not leave the transit airport;
- b) do not leave the destination airport;
- c) do not leave the territory of the city situated in the neighbourhood of the airport;
- d) leave the airport only for the purpose to be transferred to another Romanian airport.

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

SECTION 2

Types of visa

ART. 20

Types of visa

Depending on the purpose or which they are issued, visas may be:

- a) visa for airport transit, identified by the symbol A;
- b) transit visa, identified by the symbol B;
- c) short stay visa, identified by the symbol C;

d) visa for long-term stay, identified by one of following symbols, according to the activity to be carried out in Romania by the alien it has been granted to:

- (i) carrying out economic activities, identified by the symbol D/AE;
- (ii) carrying out professional activities, identified by the symbol D/AP;
- (iii) carrying out commercial activities, identified by the symbol D/AC;
- (iv) employment, identified by the symbol D/AM;
- (v) study, identified by the symbol D/SD;
- (vi) family reunification, identified by the symbol D/VF;
- (vii) religious or humanitarian activities, identified by the symbol D/RU;
- (viii) scientific research activities, identified by the symbol D/CS;
- (ix) diplomatic and official visa, identified by the symbol DS;
- (x) other purposes, identified by the symbol D/AS.

ART. 21

Visa for airport transit

Visa for airport transit is obligatory for citizens of states mentioned on the list in Annex No. 3 to the Common Consular Instructions adopted by decision of the Council of the European Union or on the basis of the decisions of the Council of the European Union. The same regime is being applied to aliens who, without being citizens of those states, hold a travel document issued by the authorities of such states.

ART. 22

Transit visa

The transit visa is a visa allowing to an alien to transit the territory of Romania. The transit visa may be issued for one, two or several transits, while the duration of one transit may not exceed 5 days.

ART. 23

Short stay visa

(1) A short stay visa is a visa allowing aliens to request entry onto the territory of Romania, for any other purposes than immigration, for an uninterrupted stay or several stays the duration of which may not exceed 90 days within 6 months from the date of the first entry. Such type of visa may be issued for a single or for multiple entries.

(2) In case the date of entry on the territory of Romania cannot be defined based on the entries in the alien's travel document, the Romanian Migration Office shall proceed according to the provisions of Art. 11 of the Regulations of the European Parliament and of the Council No. 562/2006 on setting up a Community code on the provisions regulating the free movement of persons across the borders (Code of Schengen borders), published in the Official Journal of the European Union (JOUE) No. L105 from 13 April 2006.

(3) In case of aliens who travel frequently to Romania, for business and cooperation purposes, upon request of central administration authorities and commercial companies with large turnover, the visa for short stay with multiple entries may be also granted for a period of one year and, in exceptional cases, for a period of up to 5 years. Even under these circumstances, the duration of stay may not exceed 90 days in 6 months.

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

- a) mission – to aliens who, for reasons related to their political, administration or public function, have to travel to Romania. Such type of visa shall be issued to aliens who hold positions within governments, public administrations or international organisations, as well as for those who, based on the purpose of their stay in Romania, present an interest for the relations between the Romanian state and their state of origin. Such type of visa may also be granted to the family members who accompany these persons;
- b) tourism – for the alien intending to travel to Romania for tourism purposes;
- c) visit – for the alien who intends to travel to Romania for visiting Romanian citizens or

aliens who possess a valid residence permit;

d) business – for the alien who intends to travel to Romania for economic and commercial purposes, for concluding contracts or negotiations, for training or assessing the utilisation and functioning of goods procured or sold in the framework of commercial contracts and industrial cooperation, as well as for the alien who is or intends to become an associate or a shareholder of a commercial company from Romania;

e) transport – for the alien who is bound to travel for short periods, for the purpose of carrying out professional activities in the field of transport of persons and goods;

f) sports activities – for the alien who shall enter Romania for a limited duration for the purpose of taking part in sports competitions;

g) cultural, scientific, humanitarian, short-term medical treatment or other activities which are not contrary to the Romanian legislation, providing the stay in Romania is justified.

(5) The right to remain in Romania, granted to the alien by means of a visa for short-term stay, may not be extended.

ART. 24

Visa for long-term stay

(1) Visa for long-term stay may be granted to aliens upon request, for a period of 90 days, for one or several travels, for the following purposes:

a) carrying out economic activities – to aliens who are going to carry out economic activities independently or within family associations, according to the provisions of the law on the organisation and carrying out of economic activities by physical persons;

b) carrying out professional activities – to aliens who have the right to individually carry out a profession on the territory of Romania, on the basis of a special law;

c) carrying out commercial activities – to aliens who are or shall become shareholders or associates with executive and administration functions within commercial companies in Romania;

d) employment – to aliens who shall enter Romania for the purpose of employment. The visa issued for this purpose shall also be issued to sportspeople who shall perform within clubs or teams in Romania, on the basis of an individual employment contract or a civil convention under legal provisions;

e) studies – to aliens who shall enter Romania for enrolling to the courses of general, academic or post-graduate education, or in order to obtain academic titles within accredited state or private institutions, according to the law;

f) family reunification – to aliens who shall enter Romania for the purpose of re-establishing the family unity;

g) religious and humanitarian activities – to aliens who shall enter Romania in order to carry out activities in the field of recognised religions, upon their request, or for humanitarian purposes;

h) activities of scientific research – to aliens who shall enter Romania in order to carry out activities of scientific research.

i) other purposes.

(2) The visa for long-term stay allows aliens who have entered the territory of Romania to request the extension of the temporary residence permit and obtain a residence permit.

ART. 25

Diplomatic and official visa

(1) Diplomatic and official visas allow entry to Romania for a stay, usually of long duration, to aliens who hold a diplomatic passport, who shall hold an official position, as members of a diplomatic mission or consular office of their state of origin in Romania.

(2) Such type of visas shall be issued to holders of diplomatic or official passports respectively, or similar types of documents, upon request of the Ministry of Foreign Affairs of

the sending state or one of its diplomatic or consular offices, as well as to family members living in the holder's household, and which are valid over the duration of the mission, or in conformity to bilateral agreements to which Romania is part.

ART. 26

Collective visa

(1) A collective visa is a transit or short stay visa issued for tourism purposes and for a period which may not exceed 30 days, to a group of aliens set up previous to the request, on condition that its members enter, stay and leave the territory of Romania as a group.

(2) This type of visa shall be issued to groups consisting of minimum 5 and maximum 50 persons. The group leader shall possess an individual passport and, if required, an individual visa.

(3) In case of groups of students who are citizens of states for which there are visa requirements and at the same time reside in an EU member state, who travel to Romania for the purpose of school trips or for transit, entry without a visa may be permitted, in case following conditions are met at the same time:

- a) the group shall be accompanied by a teacher representing the educational institution organising the trip;
- b) an official list of participants shall be provided to allow their identification;
- c) participants shall possess valid travel documents.

SECTION 3

General conditions for granting visas

ART. 27

Granting the Romanian visa

(1) The Romanian visa may be granted to aliens upon their request, under the conditions and for the purposes provided for by the present chapter.

(2) The Romanian visa shall be granted only if:

- a) conditions for entering Romania, provided by Art. 6 para. (1) letters a), c)-h), are met;
- b) none of the reasons for non-permission of entry to the territory of Romania, provided by Art. 8 para. (1) letters. b)-d) exist;
- c) there is no alert in the name of the alien for refusal of granting a visa entered in the integrated information system for migration, asylum and visas;
- d) there is no notification with regard to non-permission of entry issued for the name of the alien by representatives of EU or EEA member states, as well as of the states who are parties to the gradual removal of controls at common borders, signed in Schengen on 14 June 1985, further called „Schengen Agreement”, in the field of consular cooperation;
- e) there are no reasons to consider that the visa is requested for the purpose of illegal immigration;
- f) the alien has not been irrevocably sentenced for offences committed abroad, which are incompatible with the purpose for which the visa is granted;
- g) the general conditions provided in the present section are met, as well as the special conditions for granting a visa according to the purpose for which it has been requested.

ART. 28

Conditions regarding the validity of travel documents

(1) The validity of the travel document into which the visa shall be applied shall exceed the validity of the requested visa by at least 3 months.

(2) Under exceptional circumstances, for reasons of emergency, for humanitarian reasons or of national interest, or based on international obligations assumed by Romania, visas may be granted to aliens who are in possession of travel documents with a validity of less than that

provided under para. (1), on condition that the duration of validity of the visa shall not exceed that of the document.

ART. 29

Conditions for requesting a visa

(1) The request to be granted a visa shall be accompanied by the travel document, valid according to Art. 28, into which the visa may be applied, by documents to justify the purpose and conditions of travel, as well as by proof of means of subsistence during the stay in Romania as well as for departure from the territory of Romania.

(2) Amounts of money in convertible currencies, travellers cheques, chequebooks covered by a foreign currency account, credit cards accompanied by a statement of account, issued not earlier than 2 days before requesting the visa, or any other means which prove the availability of relevant financial resources.

(3) When requesting to be granted a Romanian visa, the applicant is usually invited to an interview.

(4) The request to be issued an entry visa to Romania shall not be registered in following cases:

a) if it is not accompanied by the documents mentioned by para. (1);

b) if, as a result of the interview the good faith of the applicant has not been proved or it has resulted that the applicant does not fulfil the general and special conditions for being granted the Romanian visa, as provided by the Emergency Ordinance.

(5) When requesting the entry visa to Romania, aliens must be present in person before the competent authorities who issue the visa.

(6) As an exception from the provisions of para. (3) and (5), important personalities of social, cultural, political or economic life may be considered, or cases in which aliens have to travel over a long distance in order to reach the diplomatic mission or the consular office and only if there is no doubt on the good faith of the applicant, as well as in the case of organised groups, when a recognised and trustworthy body takes responsibility for the good faith of the applicants.

ART. 30

Institutions with competence in issuing the Romanian visa

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

(2) The list of states the citizens of whom require a visa to enter the territory of Romania is that provided in Annex I to the Council Regulation (CE) No. 539/2001 for the establishment of the list of third countries whose residents require a visa for crossing external borders and the list of third countries whose residents are exempt from this obligation, published in the Official Journal of the European Communities Series L No. 81 from 21 March 2001.

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

a) without previous approval of the National Visa Centre, for aliens who originate from the countries included on the list mentioned in para. (2), for whom the invitation procedure is not required;

b) upon previous approval of the National Visa Centre, for aliens originating from the states included in the list mentioned by Art. 37 para. (2).

(4) In order to approve short-term visas, the National Visa Centre shall request the agreement of the Romanian Migration Office only in such cases which are established by a protocol approved by common order of the Minister of Foreign Affairs and the Minister of the Interior and Administration Reform.

(5) The agreement of the Romanian Migration Office, mentioned in para. (4) determines the fulfilment of the conditions mentioned by Art. 6 para. (1) letters. a), e), f), g) and h), Art. 8

para. (1) letters b)-d), as well as by Art. 27 para. (2) letters. c) and e).

(6) The Romanian Migration Office shall issue the agreement within a maximum of 7 working days from the date of receipt of the request from the National Visa Centre. In justified situations, the time limit may be extended by 7 working days.

(7) The long-term residence visa shall be granted by diplomatic missions and consular offices of Romania upon approval of the National Visa Centre, only after obtaining the agreement from the Romanian Migration Office.

(8) The agreement from the Romanian Migration Office mentioned by para. (7) ascertains the fulfilment of the conditions provided under Art. 6 para. (1) letters a), e), f), g) and h), Art. 8 para. (1) letters b)-d), Art. 27 para. (2) letters c) and e), as well as of the special conditions for each type of visa.

(9) The Romanian Migration Office shall issue the agreement within a time limit of up to 30 days from the date of receipt of the request from the Ministry of Foreign Affairs.

(10) The long-term residence visa for aliens who are family members of Romanian citizens shall be granted by the diplomatic missions and consular offices of Romania without payment of consular fees.

ART. 31

Issuing the Romanian visa

The visa shall be issued by diplomatic missions and consular offices of Romania only if on the date of issue the prerequisites for its approval are still valid.

ART. 32

Issuing of the Romanian visa by border police officers

The short-term and transit visas may be also granted, as an exception, by officers of the border police, in the state border crossing points, in conformity with the provisions of the Council Regulation (CE) No. 415/2003 on the issue of visas at the border, including to seamen in transit, published in the Official Journal of the European Union Series L No. 64 from 7 March 2003, and of the Regulation of the European Parliament and of the Council (CE) No. 562/2006 on the creation of a Community Code on the rules which govern the free movement of persons across the borders (Schengen Border Code), published in the Official Journal of the European Union series L No. 105 from 13 April 2006.

ART. 33

Cancellation and revocation of visa

(1) A visa may be cancelled or revoked, by the diplomatic missions and consular offices of Romania abroad, and in the country by the General Directorate for consular affairs of the Ministry of Foreign Affairs, upon motivated request from the bodies of the border police, as a result of the control carried out on crossing the state border, or of the Romanian Migration Office when the aliens find themselves on the territory of the Romanian state. The enforcement of the annulment or revocation of the visa in the country shall be made by officers of the Border Police or, by case, of the Romanian Migration Office.

(2) The authorities provided by para. (1) may decide on cancellation of the visa in following cases:

- a) it is determined that by the date of the visa request the aliens were not fulfilling the conditions imposed by the present Emergency Ordinance;
- b) aliens have obtained the entry visa based on false documents or information;
- c) aliens have attempted to illegally introduce or have illegally introduced other aliens into Romania or have facilitated the transport and accommodation of such persons;
- d) aliens have infringed customs regulations or those with regard to the state border.

(3) The measure of visa revocation shall be decided by authorities provided by para. (1) in following cases:

- a) aliens no longer fulfil the conditions imposed upon having been granted the visa;

- b) the purpose for which the entry visa has been granted is not respected;
 - c) subsequently to having been granted the visa, the aliens have been declared undesirable.
- (4) The decision of cancellation or, by case, revocation of the visa, shall be communicated to the alien in writing, stating the reasons which led to such decision, by the diplomatic mission or consular office which has issued the visa, when the applicant is abroad, by the officers of border police when the applicant is at one of the state border crossing control points, and by the Romanian Migration Office, by the Decision of Return mentioned by Art. 82, when the subject finds himself in Romania. From the date of communication, the cancellation may produce retroactive effects, whereas revocation produces only effects for the future.
- (5) On the occasion of communication of the decision, the visa shall be stamped with the mention „CANCELLED”.
- (6) Upon control at state border crossing, the officers of the border police may limit the duration of validity of the visa in the situation they determine that the alien does not dispose of means of subsistence for the whole period of visa validity. Limitation of the visa shall be materialised by mentioning on the visa in writing the period for which the alien disposes means of subsistence, according to the law.

SECTION 4-

Special conditions for issuing airport transit and short stay visas

ART. 34

Conditions for granting the airport transit visa

- (1) The airport transit visa shall be granted by diplomatic missions of consular offices of Romania, upon previous approval of the General Directorate for consular affairs within the Ministry of Foreign Affairs, to citizens who originate in countries included into the list drawn up by the Ministry of Foreign Affairs for this purpose, when a visa from a third country is available, which allows the aliens to continue their journey. Such a visa may be granted upon presentation of the air travel ticket valid to the destination and allows the aliens to stay within the neighbourhood of the airport for a maximum of 5 days.
- (2) Such a visa is not necessary in the case of:
- a) aircraft crew members;
 - b) holders of diplomatic and official passports or other documents assimilated to those;
 - c) holders of residence permits or equivalent documents, issued by member states of the European Union;
 - d) holders of visas issued by a member state of the European Union.

ART. 35

Conditions for granting a transit visa

- (1) The transit visa shall be granted to applicants under following conditions:
- a) they possess a visa of a third country and, if the case, of one of the neighbouring countries of Romania, which allows the aliens to continue their voyage;
 - b) they possess a travel ticket valid to the destination or present the driving licence, green card and documents of registration of the means of transport, in case of travel by car.
- (2) Persons accompanying the driver, travelling together with him, are exempt from fulfilling the conditions imposed by para. (1) letter b).

ART. 36

Conditions for granting short stay visas

- (1) Depending on the purpose for which the short stay visa has been requested, it is necessary to fulfil following conditions:
- a) mission – visa is granted to aliens who prove one of the qualities provided Art. 23 para. (4) letter a) and travel to Romania according to such qualities;

- b) tourism – visa shall be granted to aliens, if they provide:
- (i) voucher or firm booking with a specialised tourist accommodation unit as well as the itinerary of the trip;
 - (ii) travel ticket valid to the destination or driving licence, green card and registration documents of the means of transport, in case of vehicle drivers;
 - (iii) medical insurance;
 - (iv) proof of means of subsistence amounting to 50 Euro/day for the whole period, but not less than 500 euro or equivalent in convertible currency;
- c) visit – visa shall be granted to aliens, if they submit:
- (i) travel ticket valid to the destination or driving licence, green card and registration documents of the means of transport, in case of vehicle drivers;
 - (ii) health insurance;
 - (iii) an authentic invitation issued by the person to be visited, which should indicate that she or he shall bear the costs incurred for removal, in case the invited alien should not leave Romania by the date when the right to remain granted by the visa expires, as well as, when the inviting person commits to this, means of subsistence and accommodation of the alien;
 - (iv) proof of mean of subsistence to the amount of 50 Euro/day for the whole period, but not less than 500 Euro or the equivalent in convertible currency, if the inviting person does not ensure the means of subsistence;
 - (v) proof of accommodation, in the form of a firm booking at an accommodation unit, a document of property or renting contract for housing in Romania in the name of the applicant, if the person to be visited does not ensure accommodation;
- d) business – visa shall be granted to aliens, upon submission of:
- (i) travel ticket to the destination or driving licence, green card and registration documents of the means of transport, in case of vehicle drivers;
 - (ii) health insurance;
 - (iii) invitation on behalf of a commercial company or public authority, to take part in meetings, conferences, trade fairs or congresses in connection with commerce or industry, which should prove the fact that the commercial company or public authority under reference shall bear the costs incurred with removal, in case that the invited alien shall not leave Romania up to the date on which the right to remain conferred by the visa ceases, or by means of other documents which prove the purpose of travel;
 - (iv) proof of means of subsistence to an amount of 50 Euro/day for the whole period, but not less than 500 Euro or the equivalent in convertible currency;
 - (v) proof of accommodation;
- e) transport – visa shall be granted to aliens if they submit:
- (i) documents to attest the profession of the applicant, as well as the activity he shall be carrying out during his stay;
 - (ii) health insurance;
 - (iii) driving licence, green card and registration documents of the vehicle;
 - (iv) transport and performance licence;
- f) sports activities – visa shall be granted to aliens upon submission of:
- (i) invitation from the organisers, proving health insurance and accommodation;
 - (ii) official list of the foreign sports delegation, with specification of each member's function;
 - (iii) agreement of the territorial competent regional sports directorate;
- g) cultural, scientific, humanitarian activities, short-term medical treatment or other activities which do not contravene to Romanian legislation – visa shall be granted to aliens if they submit:
- (i) documents issued by the institutions they are intending to visit for justification of their presence in Romania;

- (ii) travel ticket valid to the destination or driving licence, green card and registration documents of the means of transport, in case of vehicle drivers;
 - (iii) proof of means of subsistence to an amount of 100 Euro/day or equivalent in convertible currency, for the entire period;
 - (iv) health insurance;
 - (v) proof of accommodation.
- (2) Persons accompanying vehicle drivers, who travel together with them, are exempt from fulfilling the condition provided by para. (1) letter. b) point (ii), letter. c) point. (i), letter. d) point. (i) and letter g) point (ii).
- (3) Refusal to grant a short-term visa may not be contested.

SECTION 5

Special conditions for granting short-term visas based on an invitation

ART. 37

Field of application

- (1) Granting short-term visas to aliens originating from states mentioned in the list provided by Art. 30 para. (2) for which the invitation procedure is compulsory, shall be made according to the provisions of Art. 27-29, while respecting the special conditions of the present section.
- (2) The list of the states for the citizens of which these provisions are applicable shall be determined by the Ministry of Foreign Affairs, upon agreement of the Ministry of the Interior and Administration Reform.

ART. 38

Invitation procedure

- (1) Aliens falling into the category mentioned by Art. 37 para. (1), holders of simple passports, may be granted a short-term visa with one or more entries, if they submit to the diplomatic missions or consular offices a written invitation from a natural or judicial person, from which it should result that the inviting body shall bear the costs incurred by removal, in case the alien does not leave the territory of Romania up to the date the right to remain established by visa ceases, with following purposes:
- a) visit – Romanian citizens or aliens holding a valid residence permit may issue an invitation upon submission of following documents, as required:
- (i) identity card or passport, for Romanian citizens, residence permit for aliens, in original and copy;
 - (ii) proof of ensuring accommodation;
 - (iii) proof of means to ensure the subsistence of the alien to an amount of at least 30 Euro/day, for the whole period on invitation;
 - (iv) copy of the travel document of the invited alien;
 - (v) two 3 x 4 cm sized photographs of the invited alien;
- b) tourism – commercial companies with tourism specialisation may issue nominal invitations, for each invited alien, upon submission of following documents:
- (i) certificate of registration and statute of the commercial company, in original and copy;
 - (ii) power of attorney on behalf of the commercial company for the person designated to invite in its name;
 - (iii) identity card or residence permit, whichever the case, of the delegated person;
 - (iv) copy of the travel document of the invited alien;
 - (v) two 3 x 4 cm sized photographs of the invited alien;
- c) business – usually commercial companies with headquarters in Romania may issue invitations for up to 3 persons simultaneously. Only persons designated, according to the law, to represent the company, or holders of the majority capital may invite in the name of the

company. In this case the submission of following documents is necessary:

- (i) registration certificate and statute of the commercial company, in original and copy;
- (ii) proof of the quality of the person inviting in the name of the commercial company;
- (iii) identity card or residence permit, as required, of the designated person;
- (iv) copy of the travel document belonging to the invited alien;
- (v) two 3 x 4 cm sized photographs of the invited alien;
- (vi) proof of accommodation ensured to the invited alien for the duration of his stay in Romania.

(2) Invitations shall be filled in two copies and submitted to the territorial offices of the Romanian Migration Office for approval.

(3) Approval is conditioned by verification of the documents submitted and of the records of the Romanian Migration Office, for the purpose of determining if the legal conditions for entering Romania by the aliens under reference are met and, implicitly, in order to prevent entry to the territory of Romania by aliens who do not present enough guarantees that they will leave the territory of Romania upon expiry of the visa.

(4) Processing of the requests for approval of invitations shall be made within a time limit of 60 days from the date of submission.

(5) In case of approval, one copy of the invitation shall be handed to the inviting person, in order to be forwarded to the invited alien, who shall submit it in original to the diplomatic mission or consular office where he requests to be granted a Romanian visa.

(6) The alien may request to be issued a visa within a time limit of 30 days from the date of approval of the invitation.

(7) A new invitation submitted by an applicant, without regard of its purpose, shall not be approved unless one of the aliens previously invited by the same person has not departed from the territory of the country within the validity of the visa.

(8) Visas shall be granted with a right to remain of up to 90 days, depending on the period for which the alien has been invited.

ART. 39

Form and contents of the invitation

(1) The form, contents and elements of safety of the invitation mentioned under the present section shall be determined by the Ministry of the Interior and Administration Reform, upon agreement of the Ministry of Foreign Affairs. The Ministry of the Interior and Administration Reform shall ensure, through the National Migration Office, printing of the relevant forms.

(2) The cost of the forms shall be covered by the natural or judicial persons who issue the invitation.

ART. 40

Exceptions from the invitation procedure

(1) The National Visa Centre may approve granting of a visa, upon previous agreement of the Romanian Migration Office, without fulfilment of the conditions mentioned in the present section, for following categories of aliens:

- a) minor aliens whose parent holds a residence permit in Romania, on condition that this should be valid at least 90 days from the date the entry visa is granted;
- b) spouse and parents of the alien who is in possession of a residence permit in Romania, on condition that this should be valid at least 90 days from the date the entry visa is granted;
- c) major alien whose parent is a Romanian citizen;
- d) alien who is a parent of a Romanian citizen.

(2) The National Visa Centre may approve granting of a visa, without having the previous agreement of the National Migration Office and without fulfilment of the conditions mentioned in the present section, for following categories of aliens:

- a) spouses of Romanian citizens;

- b) underage aliens who are children of Romanian citizens;
- c) aliens who possess a valid residence permit in one of the EU or EEA member states or states who are parties to the Schengen agreement, if the validity of the visa does not exceed that of the residence permit;
- d) aliens holding a valid residence permit in states for whose citizens there is no visa requirement for entry into EU or EEA member states or to states which are parties to the Schengen agreement;
- e) aliens in whose travel documents there are visas for the EU or EEA member states or of states which are parties to the Schengen Agreement or of states for the citizens of which there are no visa requirements for entry into such countries. The Romanian visa may not exceed the validity of such existing visa;
- f) aliens who are supposed to travel to Romania for the purpose of business, upon request of administration authorities, as well as of commercial companies who assumes, by means of a letter of guarantee addressed in original to the National Visa Centre, the obligation to cover the expenses related to health insurance, medical treatment as well as removal costs;
- g) aliens who are supposed to travel to Romania for visit purposes, upon request of diplomatic missions or consular offices accredited in Romania;
- h) aliens for whom a request for granting a visa has been submitted in writing to the diplomatic missions or consular offices, on behalf of foreign central public authorities or of foreign Chambers of Commerce;
- i) persons for whom a request for granting a visa has been submitted to the National Visa Centre on behalf of following institutions from Romania: Presidential Administration, Parliament, Government and other central and local public administration authorities, Chamber of Commerce and Industry of Romania and of Bucharest city, as well as territorial ones and prefectures, who assume the obligation to cover the expenses related to subsistence, medical assistance and removal, by a letter of guarantee submitted in original;
- j) vehicle drivers of the TIR network;
- k) personalities of the Romanian Diaspora as well as their descendants.

SECTION 6

Special conditions for granting a long-term visa

ART. 41

Long-term visa for carrying out economic activities

The long-term visa for carrying out economic activities shall be granted to aliens who are supposed to carry out economic activities in an independent manner or within family associations, in conformity with the law on the organisation and carrying out of economic activities by natural persons and who submit following documents:

- a) proof of fulfilment of the conditions regarding the attestation of professional qualification, mentioned by the law on organisation and carrying out economic activities by natural persons;
- b) health insurance for the duration of visa validity;
- c) police clearance certificate or any other document of the same judicial value.

ART. 42

Long-term visa for carrying out professional activities

(1) The long-term visa for carrying out individual professional activities shall be granted to aliens who are supposed to carry out such activities in conformity with special legislation which regulates the conditions for carrying out the relevant activities.

(2) This type of visa may be granted to aliens who fulfil following conditions:

- a) prove the fulfilment of legal conditions for carrying out relevant professions;
- b) prove the fact that in their country of origin they carry out a similar activity to that they

intend to carry out in Romania;

c) present proof of health insurance for the duration of visa validity;

d) present a police clearance certificate or any other document with the same judicial value.

ART. 43

Long-term visa for carrying out commercial activities

(1) Such type of visa may be granted, upon agreement of the Romanian Agency for Foreign Investment, to aliens who are shareholders or associates, with management or administration functions, of commercial companies which are Romanian legal persons.

(2) The agreement of the Romanian Agency for Foreign Investment shall be granted to aliens mentioned by para. (1), who fulfil following conditions:

a) prove the existence of a business plan which should contain data regarding the nature, placement, duration of the intended activity, necessary workforce, as well as a projection of the financial activity over the period of redeeming the investment;

b) prove, by means of a statement of account issued by a Romanian bank, in the name of the natural person who is a foreign citizen and who has applied for the agreement, availability of necessary funds for carrying out the activity, to an amount of at least 100.000 euro, in case they are shareholders of a stock company, and 70.000 Euro, in case they are associates in a limited company;

c) the investment to be realised by the company in the future, according to the business plan mentioned by letter a), shall suppose contributions in the form of capital or technology to a minimum amount of 100.000 Euro for a stock company or 70.000 Euro for a limited company;

d) an alternative to the investment mentioned by letter. c) may be the creation of a minimum of 10 jobs for a limited company and at least 15 jobs for a stock company.

(3) In case of companies with two or more associates or stockholders, who apply for the agreement, the conditions mentioned by para. (2) must be analysed for each of the applicant separately, the value of investment to be realised by the company or the number of workplaces to be created increasing correspondingly, according to the number of applicants.

4) Aliens who have previously obtained an agreement from the Romanian Agency for Foreign Investment may apply for a further agreement only in case they prove the objective impossibility to realise the previous business plan.

(5) The visa application shall be accompanied by following supporting documents:

a) agreement of the Romanian Agencies for Foreign Investment;

b) police clearance certificate or any other document of the same judicial value;

c) health insurance for the period of visa validity.

(6) The application accompanied by the documents mentioned in para. (5) shall be submitted to the diplomatic missions or consular offices of Romania and shall be forwarded through the General Directorate for Consular Affairs of the Ministry of Foreign Affairs, to the Romanian Migration Office, for approval according to the defined competencies.

(7) The Agreement of the Romanian Agency for Foreign Investment shall remain valid for 6 months from the date of issue, its main purpose being the confirmation of fulfilment of technical and economic relevance of the activity to be carried out by the alien.

ART. 44

Long-term employment visa

(1) The long-term employment visa shall be granted to aliens only on the basis of the employment authorisation issued by the Romanian Migration Office.

(2) The employment authorisation shall be issued, upon request of the employer, if the fulfilment of following conditions is ascertained:

a) the employer proves that he carries out a legal activity in Romania, that he has no debts and has performed a legal selection, while submitting supporting documents to attest this,

according to the provisions of the special legislation on employment and deployment of aliens on the territory of Romania;

b) the alien fulfils the special conditions of professional qualification, experience in the field of activity and authorisation, is apt from the medical point of view to carry out such activity, does not have a criminal record, falls within the yearly contingent approved by Government Decision, according to the provisions of the special legislation regarding employment and deployment of aliens on the territory of Romania, as well as to those mentioned by Art. 6 para. (1) letters a), e), f), g) and h), Art. 8 para. (1) letters b)-d), Art. 27 para. (2) Letters c) and e).

(3) The employment authorisation shall not be granted to aliens who during the last 2 years have held a residence permit for carrying out commercial activities and who have not respected the business plan mentioned by Art. 43 para. (2) letter a).

(4) The Romanian Immigration Office shall issue the authorisation within a time limit of 30 days from receipt of the request from the employer. In cases where in order to establish the fulfilment of the conditions for granting the approval additional verifications are needed, the term for processing the request may be extended by a maximum of 15 days.

(5) The visa request shall be accompanied by following supporting documents:

a) work authorisation, issued by the Romanian Migration Office;

b) proof of means of subsistence at the level of the minimum guaranteed salary to be paid, for the whole period mentioned in the visa;

c) police clearance certificate or another document with the same judicial value, issued by the authorities of the country of origin or residence;

d) health insurance for the duration of visa validity.

(6) The alien may request the issue of a long-term visa for the purpose of employment within 30 days from the date the authorisation has been issued. The National Visa Centre shall approve the visa, while obtaining the agreement mentioned by Art. 30 para. (7) shall no longer be necessary.

ART. 45

Long term visa for the purpose of study

(1) The long term visa for the purpose of study may be granted, upon request, to aliens who request to enter the territory of Romania in their quality as students or who participate in a students' exchange programme.

(2) The quality of students is held by aliens who have been enrolled to study by a state-owned or private educational institution, accredited according to the law, including participation in PhD courses.

(3) The request shall be accompanied by following supporting documents:

a) in case of University students:

(i) proof of acceptance issued by the Ministry of Education, Research and Youth, which should certify the fact that the alien is enrolled in a full-time course;

(ii) proof of payment of the tuition fee for at least one academic year;

(iii) proof of means of subsistence, to an amount of at least the minimum net wage at country level per month, for the whole duration mentioned in the visa;

(iv) police clearance certificate or any other document of the same judicial value;

(v) health insurance for the whole duration of visa validity;

(vi) agreement of the parents or tutor with regard to the stay on the territory of Romania for the purpose of study, if the alien is underage;

b) in the case of aliens who take part in a students' exchange programme:

(i) proof of acceptance to the study programme issued by the Ministry of Education, Research and Youth, which should certify the fact that the student is enrolled in a full-time course;

(ii) proof of participation in a students' exchange programme, issued by a legally set up

organisation which is recognised for this purpose;

(iii) proof from the organisation carrying out the students' exchange, from which it should result that it shall ensure the necessary means of subsistence and any possible costs incurred with removal;

(iv) health insurance for the duration of visa validity;

(v) proof of accommodation to be ensured with a family selected by the organisation carrying out the students' exchange and which can provide a space for accommodation of normal standards for a Romanian family;

(vi) agreement of the parents or tutor with regard to the stay on the territory of Romania for the purpose of study, if the alien is underage.

(4) Aliens taking part in a students' exchange programme must usually be of an age between 7 and 19 years old.

(5) Aliens having been granted scholarships from the Romanian state, as well as those of Romanian origin, shall not be requested to present the documents mentioned by para. (3) letter. a) point (iii).

(6) The visa mentioned by para (1) shall be also granted to aliens accepted for study based on international documents to which Romania is a party.

ART. 46

Long-term visa for family reunification

(1) The sponsor holding a temporary residence permit valid for one year, or a permanent residence permit or who has been granted the refugee status or subsidiary protection, may request family reunification for following persons:

a) spouse;

b) minor, unmarried children of the sponsor or his/her spouse, including adopted children and those who are under effective care of the sponsor or his/her spouse.

(2) The Romanian Migration Office may approve, if legal conditions are fulfilled, family reunification also for following categories of persons:

a) relatives of 1st degree in ascending line of the sponsor, in the case they cannot sustain themselves and do not enjoy adequate family support in the country of origin;

b) adult unmarried children of the sponsor or his/her spouse, in case those cannot sustain themselves for medical reasons.

(3) Unaccompanied minors who have been granted the refugee status or subsidiary protection, may request family reunification for:

a) relatives of 1st degree in ascending line or the legal tutor, or

b) when those mentioned above cannot be identified, any other relative of the unaccompanied minor.

(4) Aliens mentioned by para. (1), holders of a right of residence for study purposes, may request family reunification for their spouse and unmarried minor children, on the condition that the marriage should have been concluded prior to obtaining the residence permit.

(5) aliens who have been granted refugee status or subsidiary protection may request family reunification for their spouse only if the date of conclusion of the marriage is prior to the date they have been granted one of these forms of protection.

(6) Aliens mentioned by para. (1), holders of a residence permit for carrying out scientific research activities, may request family reunification, even if the validity of the residence permit is shorter than one year.

(7) The application form shall be submitted to the territorial office of the Romanian Migration Office responsible for the alien's place of residence and shall be accompanied by following supporting documents:

a) marriage certificate or, if the case, proof of family connection;

b) statement of the applicant, in authentic form, to demonstrate that the family members shall

live together with the applicant;

c) copy of the document attesting the right to reside on the territory of Romania;

d) proof of legal accommodation;

e) proof of means of subsistence;

f) applicant's health insurance.

(8) In case there are doubts on the family connection, the Romanian Migration Office may also request additional proof in order to determine it.

(9) The request shall be approved in the case following conditions are fulfilled:

a) there is no state of bigamy or polygamy;

b) the applicant should be able to provide accommodation considered to be normal for a Romania family;

c) the applicant should possess means of subsistence, apart from those necessary for his own subsistence according to the law, to an amount corresponding to the minimum net wage at national level for each family member.

(10) For beneficiaries of the refugee status or subsidiary protection, who request family reunification, there is no obligation to submit the documents mentioned by para. (7) letters d)-f) and neither those mentioned by para. (9) letters b) and c).

(11) The request shall be processed within a time limit of maximum 3 months from the date of submission.

(12) Approval of the request shall be communicated in writing to the applicant, in order to be forwarded to the interested family members, who shall present it to the diplomatic mission or consular office at the same time with the request to be granted a Romanian visa.

(13) In case of rejection of the request, the reasons shall be communicated in writing to the alien.

(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 request shall be accompanied by following documents:

a) the communication of the Romanian Migration Office, mentioned by para. (12);

b) proof of health insurance for the duration of the visa validity;

c) police clearance certificate or any other document of the same judicial value, issued by the authorities from the country where the alien has his domicile or residence.

(16) Following categories of persons may also request a visa for family reunification:

a) aliens married to Romanian citizens;

b) single aliens who cohabit with single Romanian citizens, if they have at least one common child, further referred to as „partners”;

c) children of a Romanian citizen, or of his/her spouse or partner, including those who have been adopted, who have not reached the age of 21 years or who are in the care of the Romanian citizen, his/her spouse or partner;

d) relatives of 1st degree in ascending line of the Romanian citizen or of his/her spouse.

(17) The visa request submitted by the persons mentioned by para. (16) shall be accompanied by the marriage certificate or, by case, by the proof of the existence of family ties or of the quality of partner.

(18) Adoption shall be ordered by decision of a competent Romanian authority, under legal conditions, or by decision of the authority of another state, which produces judicial effects on the territory of Romania.

(19) Granting a long-term visa for family reunification may be refused when the request shall be based on a marriage of convenience which has been previously ascertained, under the conditions of the present emergency ordinance.

ART. 47

Long-term visa for humanitarian or religious activities

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

- a) existing agreement of the Ministry of Culture and Religions or, by case, of the Interdepartmental Committee for Coordination and Support of Humanitarian Activities within the Ministry of Health;
- b) proof of the quality of representative of a religious organisation set up in Romania or of a humanitarian organisation;
- c) proof of accommodation and means of subsistence, to the amount of three average wages at the level of the national economy;
- d) proof of health insurance as well as certification of the fact that the alien does not suffer from any illness which may jeopardize public health;
- e) police clearance certificate or any other equivalent document, issued by the authorities from the alien's country of origin.

ART. 48

Long-term visa for scientific research activities

(1) The long-term visa for carrying out scientific research activities shall be granted to aliens on the basis of the agreement of the National Authority for Scientific Research and of the National Migration Office.

(2) The Agreement of the National Authority for Scientific Research shall be issued upon request of scientific research and development organisations, upon fulfilment of following conditions:

- a) organisations of scientific research and development should be authorised according to legal conditions;
- b) there should be an receiving agreement existing between the organisations mentioned by letter a) and the researcher who has been accepted to carry out activities within a scientific research project. The form and conditions of the agreement shall be determined by order of the minister of education, research and youth.

(3) The visa request shall be accompanied by following supporting documents:

- a) agreement of receiving countersigned by the National Authority for Scientific Research;
- b) police clearance certificate or any other document of the same judicial value, issued by the authorities of the alien's country of domicile or residence;
- c) health insurance, valid for the duration of the visa validity.

ART. 49

Long-term visa for other purposes

(1) The long-term visa for other purposes shall be granted, upon request, by diplomatic missions and consular offices of Romania in the country where they have their residence or domicile, to following categories of aliens:

a) aliens deployed by:

- (i) a foreign company with headquarters on the territory of a member state of the World Trade Organisation to an own representative office, branch or regional office situated on the territory of Romania, or to a commercial company, Romanian legal person, whose shareholder or associate the foreign company is, which has the same object of activity, if they can prove that they are in no employment relation with another Romanian legal person;
- (ii) an employer with headquarters abroad to a legal person in Romania, on the basis of a commercial service contract concluded between the two parties;

b) to those whose access to the Romanian labour market is regulated by bilateral agreements concluded between Romania and other countries;

c) to those designated as administrators of commercial companies, if they can prove they simultaneously fulfil following conditions:

- (i) they hold a managerial function;
 - (ii) at the date of request they are neither shareholders nor associates of the commercial company under reference or of any other Romanian legal person and that they did not have this quality for the last 2 years;
 - (iii) there is no other alien within the commercial company under reference who has been granted a residence permit for the same purpose;
 - (iv) the commercial company under reference has realised a contribution in capital or technology transfer of at least 50.000 Euro;
- d) those who request the entry to the territory of Romania for the purpose of unpaid professional qualification within an enterprise of the public or private sector or with an accredited vocational training provider, if they can prove the simultaneous fulfilment of following conditions:
- (i) they have concluded a training contract for unpaid participation to a form of qualification within an enterprise of the public or private sector or with an accredited vocational training provider;
 - (ii) they are in possession of sufficient means of subsistence to the monthly amount of at least the average net wage at national economy level for the whole duration of the visa validity;
 - (iii) they have the parents' or tutor's agreement with regard to the stay on the territory of Romania for this purpose, if the alien is underage;
- e) to those who carry out activities in the framework of voluntary work programmes, if they can prove that they simultaneously fulfil following conditions:
- (i) they have concluded an agreement of voluntary work with a legal person of public or private law with a non-profit character, further referred to as „host organisation”, which stipulates the activity to be carried out by the alien, conditions of supervision while carrying out the activities, as well as working hours;
 - (ii) the host organisation shall ensure the accommodation, means of subsistence and health insurance for the whole duration of the visa validity, as well as possible costs incurred by removal;
 - (iii) have reached at least the age of 14;
 - (iv) have the agreement of the parents or tutor with regard to the stay on the territory of Romania for this purpose, if the alien is underage;
- f) to those who follow long-term medical treatment within public or private medical facilities, if they present a letter of acceptance from the institutions under reference which should specify the diagnose and duration of treatment. Such visa may be also granted to a possible accompanying person, who assists the alien while not being able to care for himself, if this fact is mentioned by the letter of acceptance;
- g) to those carrying out other activities which are not contrary to Romanian legislation, if their presence on the territory of Romania is justified.
- (2) Aliens falling under the categories mentioned by para. (1) shall be granted a visa if:
- a) they present proof of health insurance for the duration of visa validity;
 - b) they present proof of existing accommodation conditions;
 - c) they present a police clearance certificate or any other document of the same judicial value, issued by the authorities in the country of origin.

CHAPTER IV

Extension of the right to temporary residence.

Granting the right to permanent residence

SECTION 1

Extension of the temporary right of residence in Romania

ART. 50

Conditions for extending the right to temporary residence

(1) Aliens who have entered Romania based on a long-term visa as well as those who are exempt from the obligation to obtain a long-term visa may be extended the right to temporary residence by the Romanian Migration Office or its territorial officer, under the conditions mentioned by the present section.

(2) The right to temporary residence may be successively extended for periods of up to one year, only if:

a) the conditions imposed for entering Romania, mentioned by Art. 6 para (1) letters c), e), f), g) and h), continue to be fulfilled;

b) during the stay in Romania, none of the reasons for non-permission of entry mentioned by Art. 8 para. (1) letters b)-d) and para (2) has incurred;

c) the alien possesses a valid travel document, with the exception of cases when the travel document has expired after entering Romania and, for reasons which are independent of the alien's will, this could not be extended;

d) the alien requests to be granted or extended the right to reside for the same purpose as that for which he has been granted a visa or extended the right to residence on the basis of which he finds himself in Romania, with the exception of family members of Romanian citizens, if they request the extension of the right to residence for family reunification;

e) the purpose for which he has been granted residence in Romania has been previously respected;

f) proves the legal basis for the place of accommodation declared as legal residence on the territory of Romania. In the case of aliens who have been granted a right to reside for the purpose of family reunification, the proof of legal accommodation may be made by the sponsor or Romanian citizen whose family members they are and with whom they cohabit;

g) present proof of health insurance;

h) present proof of payment of the fees related to the extension of the right to reside as well as of the cost of the document to be issued for this purpose;

i) general conditions mentioned in the present sections are met, as well as special conditions for the extension of the right to residence according to the purpose for which the extension has been requested.

(3) The aliens have the obligation, upon expiry of the validity of documents mentioned by para. (2) letters c), f) and g), to make all necessary efforts for the extension of their validity or renewal.

(4) The extension of the right to residence may be also granted for periods longer than one year under the conditions of the present emergency ordinance or on reciprocal basis.

ART. 51

Requesting the extension of the right to temporary residence

(1) The requests for extension of the right to temporary residence shall be submitted in person by the applicants, at least 30 days prior to the expiry of the term for which their stay has been approved, to the territorial units of the Romanian Migration Office responsible for the place of residence.

(2) The request shall be accompanied by the travel document, in original and copy, by a health certificate issued by a public or private medical institution, stating that the alien does not suffer from illnesses which might jeopardize public health, proof of legal accommodation in the place mentioned as residence on the territory of Romania, proof of social health insurance, of means of subsistence as well as of payment of fees related to the extension of the right to residence as well as of the cost of the document to be issued for this purpose, as well as all other documents requested by the present chapter, according to the purpose for which the approval of the stay on the territory of Romania is requested.

(3) Proof of means of subsistence may be made by means of wage payment slip, proof of pension payment, income tax declaration, statement of bank account or any other equivalent documents.

(4) The request shall be decided upon within a time limit of 30 days from the date of its submission. In cases in which, in order to determine the fulfilment of the conditions for extending the right to residence, it is necessary to perform additional verifications, their processing term may be extended by a maximum of 15 days.

(5) When the extension of the right to residence is requested on the basis of marriage and additional verifications are necessary according to art. 63, the processing period may be extended by a maximum of 90 days, case in which the right to reside shall be extended de iure until the request shall be decided upon.

(6) If necessary, the applicant may be invited to an interview.

ART. 52

Refusal to extend the right to temporary residence in Romania

(1) If on the date of submission of the request the general and special conditions imposed according to the purpose of the stay are not met at the same time, as provided by the present section, the alien's request for extension of the right to temporary residence shall be rejected.

(2) The decision to refuse the extension of the right to residence, as well as the reasons for such a decision shall be communicated to the alien by the decision of return provided by Art. 82.

1. Extension of the temporary right to residence for carrying out economic, professional and commercial activities

ART. 53

The extension of the right to temporary residence for aliens who carry out economic activities

(1) The alien who has entered Romania for the purpose of carrying out economic activities independently or within family associations shall be granted an extension of the right to temporary residence for this purpose, if he/she:

- a) presents the authorisation for carrying out the activity under reference, in original and copy, issued according to the law;
- b) presents proof of legal tenancy for the space in which the activity is carried out;
- c) proves the existence of subsistence means to an amount of at least 250 Euro monthly;
- d) the activity carried out corresponds to the conditions initially imposed for issuing the right to reside;
- e) the object of the activity carried out is the initial one or a follow-up or a result of it.

(2) The request for extension of the temporary right to residence must be supported by following documents:

- a) authorisation for carrying out the activity, in original and copy, issued according to the law;
- b) proof of legal tenancy for the space the activity is carried out;
- c) documents to attest personal income to an amount of at least 250 Euro monthly, obtained from the activity carried out.

ART. 54

Extension of the right to residence for carrying out professional activities

The alien who has entered Romania for the purpose of carrying out professional economic activities individually shall be granted an extension of the right to temporary residence for this purpose, if he/she fulfils following conditions:

- a) proves the fact that he/she is carrying out effectively the professional activity, under the provisions of the special law;
- b) presents documents to attest personal income to an amount of at least 250 Euro monthly.

ART. 55

Extension of the right to residence for carrying out commercial activities

(1) The alien who has entered Romania for the purpose of carrying out commercial activities may be granted an extension of the temporary right to residence, under following conditions:

- a) has the agreement of the Romanian Agency for Foreign Investments;
- b) is a legal tenant of the registered office;
- c) is a shareholder or associate of the commercial company, with executive or management attributions;
- d) possesses means of subsistence to an amount of at least 700 Euro monthly, if being a shareholder, and 500 Euro monthly, if being an associate.

(2) Subsequent extensions of the temporary right to residence may be granted if the alien fulfils following conditions:

- a) the activity of the commercial company is carried out in conformity with the business plan;
- b) the object of the activity carried out is the initial one or a follow-up or a result of this;
- c) proves legal tenancy for the registered headquarters;
- d) is a shareholder or an associate of the commercial company, with executive or management functions;
- e) the investment has been realised either by capital or technology contribution to an amount of 70.000 Euro, in the case of the shareholder, or 50.000 Euro, in the case of the associate, or, alternatively, by creation of at least 15 new positions, in the case of the shareholders, or 10 in the case of the associate. In case of employment creation, these must be staffed with employees contracted full-time under legal conditions;
- f) possesses means of subsistence to an amount of at least 700 Euro monthly, if being a shareholder, or 500 Euro monthly, if being an associate, obtained from the activity carried out on the territory of Romania.

(3) Proof of fulfilment of the conditions imposed by the present article shall be made by providing following documents:

- a) business plan agreed by the Romanian Agency for Foreign Investment;
- b) documents attesting that the activity is being carried out in conformity with the business plan;
- c) protocoling certificate which should prove the quality of the applicant, name, registered office and main object of activity of the commercial company, mentions made by court instances, duration of functioning of the commercial company;
- d) written mentions as requested by law, with regard to any changes incurred to the documents of setting up the commercial company;
- e) certificate including main economic and financial indicators issued by the competent authority, which should provide, based on the yearly balance, data regarding total immovable assets, turnover, net profit or losses;
- f) certificate issued by the territorial labour inspectorate, which should attest the number of persons employed or labour contracts registered at the company.

(4) In the case of investments of at least 100.000 Euro or if at least 25 jobs have been created, proof of means of subsistence may be also made by means of other legal documents. For investments of at least 200.000 Euro or creation of at least 50 jobs, proof of means of subsistence is no longer necessary.

(5) The temporary right to reside for this purpose shall be extended subsequently for periods of one year, and in case of aliens who prove to have performed investments of at least 500.000 Euro or have created more than 50 full-time jobs, the right to reside shall be extended for periods of 3 years.

(6) The total value of the investment and the number of jobs created shall be calculated according to the ratio of participation of the associate or shareholder to the commercial company.

2. Extension of the right to temporary residence for employed aliens

ART. 56

Extension of the right to temporary residence for the purpose of employment

(1) Aliens who have entered Romania for the purpose of employment shall be granted an extension of the temporary right to residence, if:

- a) they hold a valid employment authorisation;
- b) present the individual employment contract approved by the territorial labour inspectorate responsible for the employer's office or a civil convention concluded with a sports unit under legal conditions, if the aliens carry out activities as professional sportspeople;
- c) the salary mentioned by the individual employment contract is at least at the level of the minimum salary guaranteed for payment;
- d) medical health certificate, to attest the fact that the aliens is fit for employment;
- e) tax certificate issued by the public finance administration in the territorial competence of which the employer has its headquarters, confirming timely disbursement of taxes to the national public budget, only in the case of subsequent extensions or if between the date of registration of the request for issuing the authorisation and the date of registration of the request for extending the right to residence there is a difference of more than 60 days;
- f) copy of the identity document and, by case, of the authorisation or other legal document to attest that the alien carries out an independent activity or profession, if the employer is a natural person.

(2) Subsequent extensions of the temporary right to residence for the purpose of employment shall be granted is the alien presents the documents provided by para. (1) letters. b), c) and e), as well as in the case that he fulfils the conditions for the extension of the authorisation of employment.

(3) The request for extension of the right to temporary residence shall be submitted by the alien the latest on the date the right to residence expires.

(4) The right to temporary residence shall be extended for a period equal to the duration of validity of the employment authorisation or, by case, for the period for which its validity is extended.

(5) Aliens who may be employed by natural or legal persons from Romania, without employment authorisation, under legal conditions, may be extended the right to residence without having to fulfil the condition mentioned by para. (1) letter a).

ART. 57

The extension of the right to residence for aliens whose access on the Romanian labour market is regulated by means of bilateral agreements concluded by Romania with other states

(1) The conditions regarding the entry and stay of aliens whose access to the labour market of Romania is regulated by means of bilateral agreements concluded with other states are provided by those agreements.

(2) The employer has the obligation to notify the territorial unit of the Romanian Migration office the data of the aliens mentioned by para. (1), within 5 days from the date of their entry to Romania.

3. Extension of the right to temporary residence for aliens arrived for study purposes

ART. 58

Extension of the right to temporary residence for study

(1) Aliens who have entered Romania for the purpose of study may request the extension of their right to residence as follows:

- a) in case of students, for subsequent periods of up to one year, if:
 - (i) they are enrolled for study with a state or private educational institution, accredited according to the law, within full-time courses, including PhD courses;
 - (ii) prove the disbursement of the tuition fees;
 - (iii) prove the availability of means of subsistence, to an amount of at least the net minimum

wage at national economy level, for the duration of the validity of the residence permit;
b) in the case of aliens taking part in a student exchange programme, for a period which may not exceed one year, if:

- (i) they are enrolled at a state or private educational institution accredited according to the law, in a full-time course;
- (ii) take part in a student exchange programme carried out by a legal organisation recognised for this purpose;
- (iii) if the organisation carrying out the students' exchange assumes the responsibility for ensuring accommodation, means of subsistence and possible costs of removal.

(2) Aliens of Romanian origin may be granted an extension of the temporary right to residence for the purpose of study, without fulfilling the condition mentioned by para (1) letter. a) point (iii).

(3) The right to temporary residence for study may be extended by a maximum of 90 days after concluding the studies, for the purpose of finalisation of school or academic situation and approval of the study documents.

ART. 59

Changing the specialisation

(1) The alien who has been granted or extended the right to residence for the purpose of study in Romania may change his profile of study or professional specialisation, in conformity with the valid legislation, on condition that the total duration of stay provided for the initial studies may not be exceeded.

(2) In the case that, by changing the profile of study or professional specialisation, the total duration of stay provided for the initial studies is exceeded, it is necessary to obtain a new long-term visa for the purpose of study.

ART. 60

Professional activities of aliens admitted for study

(1) Aliens who have been granted the right to residence for the purpose of study may work in order to complete their means of subsistence, only on a part-time basis.

(2) Work carried out for this purpose is not subject for issue of a residence permit for the purpose of employment.

ART. 61

Scholars of the Romanian state

(1) Aliens who have entered Romania for the purpose of study, who are scholars of the Romanian state, may be granted extension of the right to residence, under the conditions provided by Art. 58 and 59, without the obligation to present proof of subsistence means and disbursement of tuition fees.

(2) Residence permits for this category of aliens shall be issued for a period equal to the total duration of the studies and under exemption from the payment of consular taxes.

4. Extension of the right to residence for family reunification

ART. 62

Extension of the right to residence for family reunification

(1) Aliens who have entered Romania in conformity with the provisions of Art. 46, with exception of the persons mentioned by Art. 46 para. (16), may be granted an extension of the right to residence, as follows:

a) for the sponsor's spouse, if she/he:

- (i) presents documents to prove the marriage;
- (ii) there are no situations of bigamy and polygamy;
- (iii) spouses live together;
- (iv) they prove availability of subsistence means to an amount of at least the net minimum wage at the level of national economy;

- b) for the other family members of the sponsor, if:
- (i) they present documents to prove the existence of family connections;
 - (ii) they live in the sponsor's household, in the case of minors;
 - (iii) they prove availability of subsistence means to an amount of at least the net minimum wage at the level of national economy.
- (2) For family members of beneficiaries of the refugee status or subsidiary protection who request the extension of the temporary right to residence for family reunification there is no need to fulfil the conditions mentioned by para. (1) letter a) point. (iv), respectively by para. (1) letter b) point (iii).
- (3) Aliens who are family members of a Romanian citizen may be granted an extension of the right to residence, if the Romanian citizen has the domicile or residence in Romania, according to the law, as follows:
- a) for aliens married to Romanian citizens, if:
 - (i) they present the marriage certificate, under legal conditions;
 - (ii) there is no state of bigamy or polygamy;
 - b) for partners, if:
 - (i) they present the child's birth certificate;
 - (ii) both the alien and the Romanian citizen prove they are not married;
 - (iii) prove the cohabitation with the Romanian citizen;
 - c) for children of the Romanian citizen or his/her spouse, including adopted children, who have not reached the age of 21 years and who are under the care of the Romanian citizen, his/her spouse or partner, if:
 - (i) they present documents to prove the existence of family connections;
 - (ii) they live in the household of the Romanian citizen;
 - d) for relatives of the 1st degree in ascending line of the Romanian citizen or his/her spouse, if they present documents to prove the existence of the family connection.
- (4) In case of ascertaining a state of bigamy or polygamy, the applicant shall be refused the extension of the right to residence.
- (5) The right to temporary residence shall be extended individually, for each family member, for the same period for which the sponsor has been granted the right to residence. The spouse and family members of a Romanian citizen or of the sponsor holding a permanent right to residence may be granted the extension of the temporary right to residence for periods of up to 5.
- (6) Extension of the right to temporary residence for aliens mentioned by para. (3) shall be performed under exemption from payment of consular fees.

ART. 63

Marriage of convenience

- (1) The Romanian Migration Office shall refuse the extension of the right to residence obtained on the basis of marriage if, as a result of verifications carried out, it results that the marriage is one of convenience.
- (2) Elements on the basis of which a marriage of convenience may be ascertained may be following:
- a) matrimonial cohabitation does not exist;
 - b) spouses have not known each other before the marriage has been concluded;
 - c) lack of effective contribution to fulfilling the obligations incurred by marriage;
 - d) spouses do not speak a common language;
 - e) there is information that previously one of the spouses has concluded another marriage of convenience;
 - f) spouses are inconsistent in declaring data with personal character, regarding the circumstances they have met or any other relevant information;

g) conclusion of the marriage has been conditioned by payment of an amount of money between spouses, except the amounts received as gifts.

(3) Ascertaining the elements provided by para. (2) shall be performed by the interview officer. Such elements may result from:

- a) data obtained as a result of the interview;
- b) documents;
- c) statements of persons under reference or of third persons;
- d) visits to the matrimonial residence or other additional verifications.

ART. 64

Right of temporary residence granted independently to family members

(1) The alien holding a right to residence for family reunification may be granted an extension of the right to temporary residence in following cases:

- a) for family members of the sponsor, if:
 - (i) they become major;
 - (ii) the sponsor has deceased;
 - (iii) marriage has been dissolved;
- b) for family members of the Romanian citizen, if:
 - (i) they reach the age of 21 years;
 - (ii) the Romanian citizen has deceased;
 - (iii) the dissolution of the marriage has been pronounced.

(2) In order to be granted the extension of the right to residence the applicant shall additionally provide, by case, the birth certificate, the death certificate or court decision for dissolution of the marriage.

(3) The right to residence provided by para. (1) shall be extended for a period of up to 6 months.

(4) Subsequent extensions of the right to residence shall be granted also for purposes provided by the present emergency ordinance, without the need to leave the territory of Romania.

ART. 65

Carrying out economic activities and employment

(1) Aliens who hold a right to residence for family reunification may be employed or carry out economic activities, under legal conditions.

(2) The employment authorisation or, according to the case, the authorisation to carry out an activity, shall be issued under legal conditions, on the basis of the right to residence.

5. Extension of the temporary right to residence for humanitarian and religious activities.

Other situations of extension of the right to residence

ART. 66

Extension of the temporary right to residence for humanitarian and religious activities

(1) Aliens who have entered Romania on the basis of a long-term visa, for the purpose of carrying out humanitarian or religious activities, may request the extension of the right to temporary residence, if:

- a) they present the agreement of the Interdepartmental Commission for coordination and support of humanitarian activities within the Ministry of Public Health, in case they request granting or extension of a right to residence for humanitarian activities;
- b) present the agreement of the Ministry of Culture and Religions, in case of requesting to be granted or extended the right of residence for religious activities.

(2) The alien who requests the extension of the right to residence for humanitarian or religious activities does not need to prove the availability of subsistence means.

(3) The right to residence for this purpose shall be extended for a period equal to the duration of the agreement mentioned above.

ART. 67

Extension of the right to residence for carrying out scientific research activities

(1) Aliens who have entered Romania for the purpose of carrying out scientific research activities may be granted an extension of the right to temporary residence if they present the receiving agreement countersigned by the National Authority for Scientific Research.

(2) The right to residence for this purpose shall be extended for a period equal with the duration mentioned in the receiving agreement, but not longer than 5 years subsequently.

(3) The researcher, holder of a residence permit for this purpose, issued by another member state, who finds himself on the territory of Romania, may request the extension of the right to residence for carrying out an activity of scientific research without the need to previously obtain a long-term visa for this purpose. The residence permit shall be issued on the basis of the agreement of the National Authority for Scientific Research, provided by Art. 48 para. (2), under the conditions of para. (2).

ART. 68

Teaching activity

Aliens who hold a right to reside for carrying out activities of scientific research may also carry out educational activities under legal conditions.

ART. 69

Other situations for extension of the right to temporary residence

(1) Aliens who have entered Romania on the basis of a long-term visa, for other purposes, may request the extension of the temporary right to residence, as follows:

a) deployed aliens – by presenting the employment authorisation issued under legal conditions. The right to residence for this purpose may be extended for the whole duration of validity of the employment authorisation; for subsequent extensions, the legal provisions on the extension of the right to residence of employed aliens shall be applied;

b) aliens who are employed by legal persons with headquarters in one of the EU or EEA member states, deployed to Romania – upon submission of following documents:

(i) copy of the deployment order, translated and apostilled according to legal provisions;

(ii) residence permit issued by the state in which the employer has its headquarters, in original and copy;

c) aliens who undergo a form of long-term medical treatment – by presenting a letter of acceptance from a public or private medical facility, which should specify the diagnose and duration of treatment. Such a residence permit may also be issued to a possible accompanying person if the alien is not able to care for himself, if this is expressly mentioned in the letter of acceptance;

d) aliens designated as managers of a commercial company, while fulfilling, at the same time, following conditions:

(i) prove their managerial function;

(ii) prove that, at the date of request, they do not have the quality of associates or shareholders of the commercial company under reference or of any other Romanian legal person and that they did not have such qualities during the past 2 years;

(iii) there is no other alien in the commercial company under reference who has obtained a right to residence for this purpose;

(iv) the commercial company under reference has realised a contribution in capital or transfer of technology of at least 50.000 Euro. On subsequent extensions proof shall be made that the capital contribution has been substantiated in the establishment or purchase of buildings for carrying out the activities provided by the Register of Classification of Activities within the National Economy or in technology transfer;

e) aliens who have entered the territory of Romania for the purpose of unpaid vocational qualification within a public or private enterprise or with an accredited vocational training provider – upon submission of the training agreement for unpaid participation to a form of

vocational training;

f) aliens carrying out activities within voluntary work programmes – upon submission of the voluntary work agreement concluded with the host organisation, within the framework of which it is mentioned which activity shall be carried out by the alien, conditions of supervision in carrying out the tasks, as well as working hours;

g) aliens who carry out other activities which are not contrary to the Romanian legislation – under agreement from the competent authorities, when necessary, or by providing documents to justify their presence in Romania;

h) stateless persons of Romanian origin, who are repatriated on the basis of international agreements Romania is a party of – without fulfilling the general conditions for granting the temporary right of residence.

(2) Aliens whose stay in Romania is in the interest of the Romanian state, may be granted an extension of their temporary right to residence, upon request from the Parliament, Presidential Administration, Government, specialised central public administration authorities.

(3) Upon being granted or extended the right to temporary residence, aliens mentioned by para. (1) letters a), c), e), f) and g) shall provide proof of subsistence means, at least to the level of the average net wage for the national economy, the ones mentioned by para. (1) letter d), to an amount of at least 500 Euro monthly, resulted from the activity they carry out in their managerial position.

(4) Aliens mentioned by para. (1) letter h) are exempt from the obligation to prove availability of subsistence means as well as from the payment of consular fees. The right to residence for this category shall be extended for periods of 4 years.

(5) The right to residence for aliens mentioned by para. (1) letters e) and f) shall be granted for a maximum period of one year, without possibility of extension. In exceptional cases, for aliens mentioned by para. (1) letter e), the right to residence may be extended only once for a period of up to 6 months, in order to enable them to acquire a qualification for the profession they have been trained for.

SECTION 2

Granting the right to permanent residence

ART. 70

Right of permanent residence

(1) The right of permanent residence may be granted, upon request, under the conditions of the present emergency ordinance, for an undetermined duration, to aliens who hold a right to residence.

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

a) holders of a right to temporary residence for the purpose of study;

b) asylum seekers;

c) beneficiaries of temporary humanitarian protection or of temporary protections;

d) holders of a right to residence conferred by a diplomatic or official visa.

(3) The right to permanent residence ceases in following cases:

a) in case of annulment or revocation;

b) in case of being granted a right to permanent residence on the territory of another state;

c) in case of absence from the territory of the Romanian state for a period longer than 12 consecutive months, excepting the situation in which, during this period, the alien has benefited from a right of temporary residence in an EU member state

d) in the case of absence from the territory of the Romanian state for a period longer than 6 consecutive years, even if during this period the alien has benefited from a right of temporary residence in an EU member state.

(4) In the situation in which, upon termination of the right to permanent residence, the alien finds himself on the territory of Romania, and his presence does not present a threat to the public order or national security, he may request the issue of a temporary residence permit for the purposes and under the conditions provided by the present emergency ordinance.

(5) The alien whose right to permanent residence has been terminated in the conditions of para (3) letters b) or c) may be granted a new right to permanent residence, under the conditions of the present emergency ordinance, after a legal and continuous stay on the territory of Romania of at least 12 months.

ART. 71

Conditions for granting the right to permanent residence

(1) The right to permanent residence shall be granted to aliens mentioned by Art. 70 para (1), if they fulfil following conditions at the same time:

a) they can prove a continuous and legal stay on the territory of Romania during the last 5 years prior to submission of the request, as follows:

(i) the stay shall be considered as continuous when the period of absence from the territory of Romania is of less than 6 consecutive months and does not exceed 10 months in total;

(ii) the stay shall be considered legal if no measure of removal from the national territory has been ordered against the alien;

(iii) on establishing the period of continuous and legal stay, half of the duration of stay for the purpose of study shall be taken into consideration;

(iv) on determining the period of continuous and legal stay, the stay conferred by the diplomatic and official visa as well as the stay granted for the purpose of carrying out seasonal work shall not be taken into account;

b) prove the availability of means of subsistence at a level of the minimum net wage, while excepting the aliens who are family members of Romanian citizens;

c) provide the social health insurance;

d) prove the legal tenancy of the place of accommodation, under legal conditions;

e) know the Romanian language at a satisfactory level;

f) do not represent a danger to the public order and national safety.

(2) Aliens of Romanian origin or born in Romania, as well as those whose stay is in the interest of the Romanian state, may be granted the right to permanent residence without the need to fulfil the conditions provided by para. (1) letters a)-e).

(3) Minors whose parents are the holders of a permanent right to residence may be granted the same statute without fulfilling the conditions provided by para (1). In the case in which only one of the parents is the holder of a right to permanent residence, the agreement of the other parent shall be necessary, in authentic form.

(4) Aliens who prove that they have performed investments of at least 1.000.000 Euro or have created more than 100 full-time jobs may be granted the right to permanent residence without the need to fulfil the conditions provided by para. (1) letters a) and b).

ART. 72

Requesting the right to permanent residence

(1) Aliens mentioned by Art. 70 para (1) need to submit in person to the territorial offices of the Romanian Migration Office a formal application supported by following documents:

a) travel document;

b) proof of legal tenancy for the place of accommodation;

c) proof of means of subsistence;

d) proof of social health insurance;

e) police clearance certificate, issued by Romanian authorities.

(2) Upon submission of the request, the applicants shall be interviewed in order to establish the level of knowledge of the Romanian language.

ART. 73

Approval of the right to permanent residence

- (1) the right to permanent residence shall be approved by the Head of the Romanian Migration Office.
- (2) The requests shall be analysed by a special commission, set up by order of the Head of the National Migration Office, which formulates motivated proposals for each individual case.
- (3) The term for resolving the requests is of maximum 6 months from the date of registration. For objective reasons, the head of the Romanian Migration Office may extend this term by another 3 months, while notifying the applicant.
- (4) The approval shall be communicated in writing to the applicant, within a term of 15 working days from receipt of the request.
- (5) Within 30 days from receipt of the request, the alien who has been granted the right to permanent residence shall appear in person at the territorial unit of the Romanian Migration Office where the request has been submitted, in order to be issued the permanent resident permit.
- (6) Granting the right to permanent residence to aliens who are family members of Romanian citizens shall be made with exemption from payment of consular fees.

ART. 74

Refusal to grant the right to permanent residence

- (1) Should it be determined that the conditions in the present section have not been met, the Commission set up according to Art. 73 para (2) shall suggest to the Head of the Romanian Migration Office the refusal to grant the right to permanent residence.
- (2) The refusal, as well as the reasons on which this is based, shall be communicated to the applicant in writing, within a time limit of 15 working days from the day a decision has been made on the request.
- (3) The refusal to grant the right to permanent residence may be contested within 30 days from the date of communication, to the Court of Appeal of Bucharest city.
- (4) The refusal to grant the right to permanent residence does not produce judicial effects upon the right to residence of the applicant.

ART. 75

Equal treatment

The holders of a right to permanent residence benefit, under legal conditions, by an equal treatment with Romanian citizens, with regard to:

a) access to labour market, including with regard to employment and working conditions, to independent economic activities and to professional activities, with corresponding enforcement of the provisions of [Law No. 300/2004](#) *) on the authorisation of natural persons and family associations who carry out economic activities in an independent manner, with subsequent updates and amendments, in condition that the activity carried out shall not imply, even occasionally, the exercise of public functions;

*) [Law No. 300/2004](#) has been abolished by the [Emergency Ordinance No. 44/2008](#) on carrying out economic activities by authorised natural persons and family enterprises, published in the Official Journal of Romania, Part I, No. 328 from 25 April 2008.

- b) access to all forms and levels of education and vocational training, including to being granted scholarships for study;
- c) recognition of studies and diplomas, certificates, attestations of competence and professional qualifications, in conformity with valid regulations;
- d) social security, social assistance and protection;
- e) public health assistance;

- f) global income tax deductions and tax exemptions;
- g) access to public goods and services, including housing;
- h) freedom to association, affiliation and membership to a labour or professional organisation.

ART. 76

Establishing of the alien's residence in Romania

Aliens holding a permanent right to residence have the right to establish or move their residence on the territory of Romania under the same conditions as Romanian citizens.

SECTION 3

Cancellation and revocation of the right to residence in Romania

ART. 77

Cases of cancellation and revocation

(1) The Romanian Migration Office may cancel, by motivated decision, the right to permanent or temporary residence in Romania, if it is subsequently determined that:

- a) on the date of granting the right to permanent residence or extension of the right to temporary residence the alien had not been fulfilling the legal conditions for this purpose;
- b) the right to permanent residence or extension of the right to temporary residence has been obtained by providing false information or documents or forged documents or other illegal means;
- c) the right to residence has been obtained on the basis of a marriage of convenience, ascertained under the conditions of Art. 63;
- d) the alien has been previously removed from the territory of Romania and has re-entered, under a different identity, within the interdiction period.

(2) The Romanian Migration Office shall revoke, by means of a motivated decision, the right to permanent residence when ascertaining that the permanent resident is a threat to public order, as a result of offences committed on the territory of Romania.

(3) The Romanian Migration Office shall revoke, by motivated decision, the right to temporary residence when:

- a) as a result of verifications carried out by the Romanian Migration Office or of notifications received from other competent authorities, it has been ascertained that the alien ceases to fulfil the conditions on the basis of which his right to residence has been extended or the purpose for which this right has been granted is no longer respected;
- b) it is ascertained that the alien has infringed the provisions with regard to the state border or those regarding employment of aliens;
- c) it is ascertained that the alien suffers from an illness which jeopardizes public health and does not subject himself to the medical treatment as determined by the competent authorities.

ART. 78

Communication of the decision for cancellation or revocation

The decision of cancellation or revocation shall be communicated:

- a) by the Romanian Migration Office, to the alien who is on the territory of Romania, by the decision of return mentioned by rt. 82;
- b) by the Romanian Border Police, to the alien who is present at the border with the scope to enter Romania, by communication of the non-permission to enter.

SECTION 4

Integration of aliens in economic, cultural and social life

ART. 79

Assistance to integration of aliens

(1) The Romanian state shall ensure conditions for the integration of aliens who have been granted a right to reside in Romania, into the economic, social and cultural life of the country.

(2) For the purpose of integration following activities may be organised and carried out:

- a) Romanian language courses;
- b) courses and other forms of further education and vocational training;
- c) ensuring information on the rights and obligations of aliens, as well as on the opportunities of integration into the Romanian society;
- d) courses on the history, culture, civilisation and state of justice in Romania;
- e) meetings on the occasion of different events, in which Romanian citizens should also take part, for the purpose of promoting common understanding.

ART. 80

Participating institutions and organisations

(1) Public institutions shall cooperate, according to their competencies, with governmental and non-governmental organisations, for the purpose of subsequent promotion and implementation of programmes for the integration of aliens in society, as well as for identification of necessary financial resources.

(2) In all activities carried out, public institutions and NGOs shall ensure protection of aliens against any kind of discrimination.

CHAPTER. V

The regime of removal of aliens from the territory of Romania

SECTION 1

General conditions on the removal of aliens from the territory of Romania

ART. 81

Removal of aliens from the territory of Romania

(1) Against aliens who have entered illegally, whose stay on the territory of Romania has become illegal, whose visa or right to stay has been cancelled or revoked, as well as those who have been refused extension of the temporary right to residence or whose right to permanent residence has ceased, and former asylum seekers, the Romanian Migration Office may decide the measure of removal from the territory of Romania.

(2) In case of aliens who have been declared undesirable, as well as against those against whom the instance has disposed the safety measure of expulsion, removal from the territory of Romania shall be made by enforcement of the provisions of the Court decision by which the measure has been imposed.

ART. 82

Decision of return of aliens from the territory of Romania

(1) The decision of return is an administration act produced by the Romanian Migration Office or its territorial units, by which aliens mentioned by Art. 81 para. (1) are forced to leave the territory of Romania.

(2) The decision of return shall be drawn up in two copies, each of them in Romanian language and in a language of international use.

(3) The decision of return gives the alien the opportunity to leave the country unaccompanied, as follows:

a) within a limit of 15 days, for:

- (i) the alien whose stay has become illegal;
- (ii) the alien whose visa has been cancelled or revoked;
- (iii) former asylum seekers whose asylum procedure has been finalised;

b) within 30 days, for the alien whose temporary right to reside has been cancelled or revoked

or who has been refused the extension of this right;

c) within 90 days, for:

(i) the alien whose temporary right to residence for carrying out commercial activities has been refused extension of this right, as well as for his family members who have enjoyed a right to residence for family reunification;

(ii) the alien whose right to permanent residence, if he does not fulfil the conditions for extension of the right to temporary residence for one of the purposes provided by the present emergency ordinance.

(4) The time limits mentioned by para. (3) shall be counted from the date on which the decision of return has been communicated to the alien, in the conditions of the present emergency ordinance.

(5) For aliens who have illegally crossed the state border, as well as those who have stayed illegally and whose identity may not be established, a decision of escorted removal shall be issued, alongside with transfer to public custody, under the conditions provided by Art. 97.

ART. 83

Communication of the decision of return

(1) Communication of the decision of return shall be performed by the Romanian Migration Office or its territorial unity by remitting a copy of this decision.

(2) Remission may be made by handing over the copy, under signature, when the alien is present, or by post, with confirmation of receipt, to the addressed declared by the alien as residence, when the alien is not present.

(3) In case remission should not be possible, the notification of the decision of return shall be made by signposting a copy at the headquarters of the Romanian Migration Office or one of its territorial units.

(4) It shall be presumed that remission is not possible in following situations:

a) the alien refuses to receive the copy handed over or sent by post;

b) the alien no longer lives at the declared address;

c) the alien has not declared his address of residence.

ART. 84

Contesting the decision of return

(1) The decision of return may be contested within 10 days from the date of communication at the Bucharest Court of Appeal, in case this has been issued by the Romanian Migration Office, or to the court of appeal in whose area of competence the territorial unit which issued the decision of return has its office. The instance shall pronounce on the request within 30 days from its receipt. The decision of the instance shall be irrevocable.

(2) In case of aliens mentioned by Art. 82 para. (5), the decision of escorted return may be contested at the court of appeal in the territorial competence of which the accommodation centre is situated, within 3 days from the date of communication. The instance shall pronounce within 5 days, the decision being final and irrevocable.

(3) The contestation provided by para. (1) and (2) suspends the enforcement of the removal measure.

(4) The contestation of the decision of return formulated by aliens under public custody does not suspend the measure of public custody.

SECTION 2

Undesirable aliens

ART. 85

Declaration as undesirable

(1) The declaration as being undesirable is a measure ordered against an alien who has carried

out, is carrying out or there are well-founded indications that he intend to carry out activities which may jeopardise national security or public order.

(2) The measure mentioned by para. (1) shall be ordered by the Bucharest Court of Appeal, upon notification of the designated prosecutor of the Prosecutor's Office with the Bucharest Court of Appeal. The prosecutor notifies the court instance, upon suggestion of institutions with competencies in the field of public order and national security who hold well-founded data or indications in the sense of those mentioned by para. (1).

(3) The data and information on the basis of which the declaration of an alien as undesirable for reasons of national security is suggested shall be made available to the court instance, under the conditions established by normative documents which regulate the regime of activities relating to national security and protection of classified information.

(4) The notification mentioned by para. (2) shall be judged in the Chamber of Council, while summoning the parties. The court instance shall inform the alien about the facts, which found the notification, while respecting provisions of normative documents regulating the national security and protection of classified information.

(5) The Bucharest Court of Appeal shall pronounce, by a motivated decision, within 10 days from the notification formulated under the conditions of para. (2). The decision of the court instance is final. When declaring the alien as undesirable is based on reasons of national security, the contents of the decision shall not mention the data and information, which were the basis for its motivation.

(6) The decision shall be communicated to the alien, as well as, should the instance decide to declare him as undesirable, to the Romanian Migration Office, in order to be enforced.

(7) The alien's right to residence ceases on the date he has been declared as undesirable.

(8) Escorting the alien to the border or to the country of origin, by specialised staff of the Romanian Migration Office, shall carry out enforcement of the decision by which the alien has been declared undesirable.

(9) The duration for which an alien may be declared as undesirable is between 5 and 15 years, with possibility of extension of the term for a new period between these limits, in case it is determined that the reasons which determined such measure still exist. The extension of the time limit shall be made under the conditions provided by para. (2).

(10) Persons declared as undesirable shall be notified by the Romanian Migration Office to the General Directorate for Consular Affairs.

ART. 86

Appealing against the decision mentioned by art. 85 para. (5)

(1) The decision mentioned by art. 85 para. (5) may be attacked by appealing, within 10 days from the date of communication, to the High Court of Cassation and Justice. The instance shall pronounce within 5 days from the date of receipt of the request.

(2) Exercising a means of appeal as provided by para. (1) shall not produce a suspension effect to the enforcement of the decision by which the alien has been declared as undesirable. In well-justified cases and in order to prevent imminent damage, the alien may request the instance to suspend enforcement of the decision by which he has been declared undesirable, until the resolution of the appeal. The instance shall resolve the request of suspension in emergency procedure, the decision pronounced to this effect being executory *de iure*.

SECTION 3

Escorted removal of aliens

ART. 87

Escorted removal of aliens

(1) Escorted removal shall be carried out, under conditions of the present emergency

ordinance, by specialised staff of the Romanian Migration Office, for following categories of aliens:

- a) who did not voluntarily leave the territory of Romania on expiry of the term provided by the decision of return mentioned by. 82 para. (3);
- b) who have illegally crossed the state border;
- c) who have been declared undesirable;
- d) against whom the measure of expulsion has been ordered.

(2) Escorted removal may also be carried out in case of aliens who have physical or mental disabilities or represent a danger to public health.

ART. 88

Procedure of escorted removal

(1) Escorted removal supposes accompanying the alien by specialised staff of the Romanian Migration Office to the border or to the country of origin, transit or destination.

(2) If the aliens possess a valid travel document, financial means and other formalities are not necessary, escorted removal shall be performed within 24 hours.

(3) Aliens who do not possess travel documents shall be presented to the diplomatic missions or consular offices accredited in Romania of the states the citizens of which they are, for the purpose of being issued such documents.

(4) Procedures applicable in case of non-cooperation of some diplomatic missions with regard to the issue of travel documents for the removal of aliens from the territory of the Romanian state shall be determined by common order of the minister of foreign affairs and the minister of internal affairs and administration reform.

(5) For aliens originating from states, which do not have diplomatic missions or consular offices in Romania, relevant travel documents shall be requested from the country of origin, through the General Directorate for consular affairs within the Ministry of Foreign Affairs.

(6) In case the travel document may not be obtained under the conditions provided by para. (5), the Romanian Migration Office may issue a laissez-passer, according to the law.

(7) When there are well-founded indications that escorted removal may not be carried out within 24 hours, the alien shall be transferred into public custody.

ART. 89

Escorted removal based on readmission agreements

(1) Aliens mentioned by Art. 87 may be also removed under escort on the basis of readmission agreements concluded by Romanian with other states, under conditions provided by such agreements.

(2) Upon request from one of the states which have concluded readmission agreements with Romania, the alien who is subject of a readmission procedure by a third state may be allowed to transit the territory of Romania on condition to be escorted and to present guarantees that he may continue his journey and enter the state of destination.

ART. 90

Measures of assistance between EU member states in cases of removal of aliens by air

(1) In cases in which removal is not possible by using direct flights to the country of destination, the Romanian Migration Office may request other states to allow airport transit.

(2) In order to carry out the removal of the alien by air, the Romanian Migration Office shall order escorting of aliens to the country of transit or destination in following cases:

- a) the country of transit or destination requests for the alien to be escorted;
- b) medical assistance shall be granted to the alien during performance of removal operations;
- c) the alien needs to be supervised in order to avoid commitment of criminal offences during removal procedures;
- d) there are well-founded indications that the alien will not respect the measure of removal or intends to remain in the state of transit;

- e) Romanian public authorities with competencies in the field of public order and national security request that the alien should be escorted.
- (3) During performance of the removal measures, members of the escort shall be unarmed and wear civil attire. They have the obligation to respect the legislation of the state of transit, to use force only in cases of self-defence or in order to hinder the alien from escaping, self-mutilation, endanger the corporal integrity of other persons or produce material damages when the representatives of the state of transit are not present or they need support.
- (4) The National Migration Office shall make the necessary steps to return the aliens to the territory of Romania if, during removal by air, one of the following situations occur:
- a) authorisation for airport transit has been refused or revoked;
 - b) the alien has entered the territory of the respective state during transit;
 - c) removal of the alien to another country of transit or to the country of destination or boarding of the connecting flight have not been performed;
 - d) airport transit is no longer possible.
- (5) The General Inspectorate of the Border Police may approve requests of transit for aliens who are subject to removal measures, addressed by competent authorities from EU member states.
- (6) The request for transit mentioned by para. (5) may be refused if:
- a) the alien is charged or indicted in a penal cause or has to execute a sentence with imprisonment, as a result of committing an offence on the territory of Romania;
 - b) transit to other states or entry to the state of destination are not allowed;
 - c) during transit it is necessary to perform transfer to another airport on the territory of Romania;
 - d) the alien poses a threat to national security, public order and health or international relations of the Romanian state;
 - e) assistance requested is not possible at that moment for objective reasons; in this case, the General Inspectorate of Border Police shall notify, in the shortest possible time, the requesting authorities about a date as close as possible to the one initially requested, when assistance for transit may be granted.
- (7) In the case I which, subsequent to approval of the transit, any of the situations mentioned by para. (6) occur, the authorisations already issued shall be revoked, while informing applicant authorities on the reasons which brought about revocation.
- (8) A request for transit shall be forwarded in writing, latest two days before the transit. This term may be reduced in urgent and justified cases.
- (9) The form and contents of the request for transit shall be determined by order of the minister of interior and administration reform, to be published in the Official Journal of Romania, Part I.
- (10) The decision shall be communicated to the applicant member state within a time limit of 2 days. The deadline may be extended, in justified cases, by a maximum of 48 hours.
- (11) The General Inspectorate of order Police shall establish contact points in all important transit areas.
- (12) The transit operation shall not exceed 24 hours. In the case in which, for objective reasons, additional assistance measures are necessary for the continuation of the transit operation, this term ay be extended by a maximum of 48 hours.
- (13) Within the limit of available means and according to relevant international standards, the General Inspectorate of the Border shall ensure the necessary assistance measures from landing to leaving the airport to the alien's country of origin, with regard to:
- a) taking over the alien at aircraft and escorting him within the airport premises, especially to the connecting flight;
 - b) ensuring the alien and, if the case, to persons from his escort, emergency medical

treatment;

c) ensuring food for the alien and, if the case, for persons from his escort;

d) receipt, keeping and handing over travel documents, especially for unescorted aliens;

e) in case of unescorted aliens, notification of the applicant state on the place and time of the alien's departure from the territory of Romania;

f) notification of the applicant state with regard to any serious incidents occurring during transit;

g) while stationing in the transit airport, the head of the border crossing point may order accommodation of the alien in specially equipped places as well as use of legal means for preventing or hindering any attempt of the alien to oppose the transit.

(14) The costs of services ensured according to para. (13) shall be covered by the applicant state.

ART. 91

Organisation of joint flights with EU member states for the purpose of removal of aliens

(1) The Romanian migration Office may organise or take part in joint actions with competent authorities from one or more EU member states, for removal of aliens who are subject to removal measures.

(2) When the Romanian Migration Office decides to organise a flight for removal of aliens, to which other EU member states might take part, it shall inform the competent authorities from these states.

(3) In order to ensure a corresponding implementation of the flight, the National Migration Office shall take the necessary steps in order to select the carrier, obtain necessary authorisations from the states of transit and destination, define jointly with the competent authorities of the other states the number of necessary escorting officers, concluding of necessary financial agreements, as well as any other measures required.

(4) In case the National Migration Office decides to take part in a joint flight for removal of aliens, organised by an EU member state, it shall inform competent authorities of the organising state on the intention to participate, specifying the number of persons who are subject to removal, and ensures a sufficient number of escorting staff. In the case in which escort is ensured only by the organising state, the Romanian Migration Office shall ensure the presence of at least 2 representatives on board aircraft, who shall be responsible for handing over the aliens in their responsibility to the state of destination.

(5) The Romanian Migration Office ensures both aliens who are subject to removal measures, as well as to its own escort staff, valid travel documents, visas and any other necessary documents and requests, through the General Directorate of Consular Affairs, the necessary assistance from the diplomatic missions of Romania.

ART. 92

Interdiction of removal

(1) Removal shall be prohibited in following cases:

a) the alien is underage, and his parents hold a right to residence in Romania;

b) the alien is a parent of an underage Romanian citizen, if the minor is in his care or if there is the obligation to pay alimony, which is regularly fulfilled by the alien;

c) the alien is married to a Romanian citizen, and the marriage is not one of convenience;

d) the alien is aged over 80;

e) there are justified fears that the alien's life is in danger or that he would be exposed to torture, inhuman or degrading treatments in the state he is going to be sent to;

f) removal is prohibited by international documents Romania is a party of.

(2) The persons mentioned by para. (1) may be granted or, if the case, extended the right to residence in Romania, by the Romanian Migration Office, for one of the purposes mentioned in Chapter IV, without the need to previously obtain a long-term visa.

(3) The enforcement of the removal measures shall be suspended in the case of aliens who fall into one of the situations provided by Art. 15 para. (1), up to the date when the reasons for prohibition to leave the territory of Romania have ceased.

(4) An exception from the provisions of para. (1), (2) and (3), are the aliens who represent a danger to public order, national security or who suffer from a disease which endangers public health and refuse to be subject to treatment ordered by medical authorities.

ART. 93

Assisted voluntary humanitarian repatriation

(1) Aliens who find themselves on the territory of Romania may request the assistance of the Romanian Migration Office, as well as for that of international and non-governmental organisations with competencies in the field, for the purpose of assisted voluntary repatriation, if they do not possess financial means.

(2) The National Migration Office, jointly with international organisations and NGOs with attributions in the field, shall carry out common programmes for the identification of relevant means to support aliens mentioned by para. (1), with regard to their assisted voluntary repatriation for humanitarian purposes, as well as of financial resources necessary for this purpose.

(3) Aliens included in assisted voluntary repatriation programmes for humanitarian purposes shall be issued by the Romanian Migration Office repatriation certificates.

(4) Aliens mentioned by para. (1) may individually benefit only once from the support granted by the National Migration Office, though the programmes mentioned by para. (2), for assisted voluntary repatriation for humanitarian purposes.

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Expulsion of aliens

ART. 94

Carrying out expulsion of aliens

(1) Against the alien who has committed an offence on the territory of Romania it is possible to dispose the measure of expulsion in the conditions provided by the Penal code and the criminal procedure code.

(2) The right to residence of the alien ceases de iure on the date on which the measure of expulsion has been decided.

(3) The court instance may order that the alien shall be transferred to public custody, up to the date the expulsion is performed, while the duration of such measure may not exceed 2 years.

(4) If the alien does not possess a travel document or sufficient financial means, the Romanian Migration Office shall proceed according to the provisions of Art. 88 para. (3), (5) and (6).

(5) In the case in which the measure of expulsion cannot be enforced within a time limit of 24 hours, the alien shall be transferred to public custody according to the provisions of Art. 97 para. (11).

ART. 95

Prohibition of expulsion

(1) An alien may not be expelled to a state where there are serious reasons to believe that his life shall be endangered or that he shall be subject to torture or inhumane or degrading treatments.

(2) The measure of expulsion shall not be ordered, or in the case it has already been ordered, it shall not be enforced, if the alien fall under one of the situations mentioned by Art. 15 para. (1).

(1).

(3) Prohibition of expulsion shall be valid until the reasons on which it was based have ceased to exist.

(4) The ascertaining of the situations mentioned by para. (1) and (2) falls into the competence of the court instance, as a result of the notification made by the Romanian Migration Office.

ART. 96

Recognition of the decisions of removal of aliens from the territory of EU member states

(1) The decisions of removal of aliens, citizens of third countries, from the territory of EU member states, shall be recognised by the Romanian state and enforced by the Romanian Migration Office under the conditions of the present emergency ordinance, in following cases:

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

(i) when the alien has been convicted for an offence for which the law provides sentence by imprisonment of more than one year;

(ii) as a result of the fact that the alien carries out or of indications that the alien plans to carry out activities which may endanger public order or national security;

b) the decision of removal is made as a result of the alien's failure to fulfil the conditions regarding entry and stay on the territory of the state under reference.

(2) The criteria and practical arrangements for compensation of financial imbalance resulted from the recognition of decisions for removal mentioned by para. (1) shall be established by Government decision.

(3) In order to be enforced, it is necessary that the decisions for removal mentioned by para. (1) should not have been revoked or suspended by the issuing authorities.

(4) Exceptions from the provisions of para. (1) are aliens family members of Romanian citizens, as well as family members of citizens of EU member states.

(5) In order to enforce the present article, the Romanian Migration Office cooperates and exchanges information with competent authorities of EU member states.

(6) Expenses incurred by the Romanian Migration Office for the purpose of removal of aliens, based on the decisions mentioned by para. (1), shall be covered by the budget of income and expenses approved to the Ministry of the Interior and Administration Reform for the Romanian Migration Office, for this purpose.

(7) The amounts representing the expenses mentioned by para. (6), recovered from the EU member state who issued the decision of removal, represent reallocations of budgetary credits, if the expenses have been performed for the current year, or become an income to the state budget, if the expenses have been performed during previous years.

(8) The Romanian Migration Office shall reimburse the expenses performed by other EU member states which enforce the decisions of removal up to a period of 4 years after these having been issued by the Romanian authorities, within the limit of the budget for income and expenditures approved the Ministry of the Interior and Administration Reform for the Romanian Migration Office with this destination.

(9) Requests for reimbursement of the expenses performed by the EU member state may be rejected by the Romanian Migration Office when they are performed more than one year after the measure of removal has been carried out.

SECTION 5

Transfer of aliens into public custody. Accommodation centres

ART. 97

Transfer of aliens into public custody

(1) Transfer into public custody is a measure of temporary restriction of the freedom of movement on the territory of the Romanian state, ordered by the magistrate against the alien who could not be removed under escort within the term provided by the law, as well as

against the alien who has been declared undesirable or with regard to whom the court instance has ordered expulsion.

(2) In case of aliens who could not be removed under escort within the term provided by the law, transfer to public custody shall be ordered by the specially designated prosecutor from the Prosecutor's Office within the Bucharest Court of Appeal, for a period of 30 days, upon request of the Romanian Migration Office or its territorial units.

(3) In case of aliens against whom the measure of expulsion has been ordered, the court instance may order for the alien to be transferred under public custody until the moment when police bodies perform the expulsion, according to the provisions of the Criminal procedure Code, on condition that the period of public custody shall not exceed 2 years.

(4) Transfer into public custody of aliens declared as undesirable shall be ordered by the court instance by means of the decision mentioned by Art. 85 para. (5). Public custody of aliens who have been declared undesirable shall cease on the date the decision of the court instance is being enforced, under the conditions mentioned by Art. 85 para. (8).

(5) Extension of the duration for transfer into public custody of aliens mentioned by para. (2), who could not be removed from the territory of Romania within 30 days shall be decided upon by the court of appeal in whose area of territorial competence the accommodation centre is situated, upon motivated request of the Romanian Migration Office. The court shall decide before the expiry of the term of transfer into public custody previously ordered, and the court decision shall be irrevocable.

(6) The maximum duration for public custody for aliens against whom a return measure has been ordered may not exceed 6 months.

(7) In the case when, subsequent to an alien's transfer into public custody, the existence of one of the cases mentioned by Art. 92 para. (1) or the alien requests for the first time a form of protection, the measure of transfer into public custody shall cease de iure. In formulating a second request, the measure of public custody ceases at the date of granting the access to a new procedure.

(8) Exceptions from the provisions of para. (7) are situations in which, for reasons of national security or public order, it is necessary to remove the aliens from the territory of Romania or maintain the alien in public custody up to the finalisation of the procedure for granting the refugee status.

(9) Aliens against whom the transfer into public custody has been ordered, under the conditions provided by para. (2), may submit, within a limit of 5 days, a complaint to the Court of Appeal of Bucharest city, which has the obligation to process it within 3 days from the date of registration.

(10) Aliens taken under public custody, as well as those removed under escort within the 24 hours, shall be fingerprinted and photographed.

(11) In the case mentioned by para. (3), if the court instance which has pronounced the penal decision has not ordered transfer of the alien into public custody, the Romanian Migration Office may request the Bucharest Court of Appeal the transfer into public custody of the alien who shall be expelled. The court shall process the request within 3 days from its receipt. The decision of the instance shall be final and irrevocable.

ART. 98

Accommodation centres

(1) Aliens taken into public custody shall be placed into accommodation centres, further on referred to as centres.

(2) The centres are closed spaces, especially equipped for this purpose, under administration of the Romanian Migration Office, and serve the purpose of temporary accommodation for aliens who have been declared undesirable or against whom the measures of return or expulsion have been ordered and they have been transferred into public custody.

(3) Centres are organised and function on the basis of the regulation to be approved by the minister of the interior and administration reform.

(4) Centres are set up, organised, authorized for sanitary standards, furnished and equipped in order to offer adequate conditions of accommodation, catering, medical assistance and personal hygiene.

ART. 99

Rights and obligations of the aliens accommodated in centres

(1) Aliens accommodated within centres enjoy rights provided by the law, as well as those mentioned by treaties and international agreements to which Romania is a party.

(2) Aliens accommodated in centres have the right to legal, medical and social assistance and to respect for their own opinion and traditions, with regard to religion, philosophy and culture.

(3) Aliens accommodated within centres have the right to be informed, immediately after having been delivered to such places, in the language they speak or in a language they understand, about the main reasons which have led to deciding this measure, as well as about the rights and obligations they have during their residence in the centres. The reasons for being taken into public custody, as well as the rights and obligations of the aliens accommodated within centres shall be communicated in writing by the persons designated to manage such centres.

(4) For the whole duration of stay the aliens shall be granted access to communication with diplomatic and consular officers of their country of origin.

(5) The staff of the centres shall treat the aliens accommodated in a non-discriminatory manner with regard to race, sex, age, culture, nationality, religion or membership to a certain social group.

(6) During the whole duration of accommodation within the centres, aliens have the obligation to respect the rules, daily schedule and internal order defined by the regulation for organisation and functioning of the centres.

(7) Minors accommodated in centres shall have free access to the compulsory education system.

ART. 100

Medical assistance for aliens taken into custody

(1) Aliens transferred into public custody have the right to medical assistance, medicine and sanitary materials free of charge.

(2) Medical services provided by para. (1) shall be ensured, whenever the case, by means of the medical service of the accommodation centres or by medical facilities of the Ministry of the Interior and Administration Reform or the Ministry of Public Health. Reimbursement of expenses incurred shall be ensured by the Ministry of the Interior and Administration Reform, from the budget allocated to the Romanian Migration Office, especially allocated for this purpose.

ART. 101

Special measures

(1) Aliens transferred into public custody, convicted by final court decisions, shall be accommodated separately from other categories of aliens.

(2) As long as aliens mentioned by para. (1) are under public custody, their transfer outside the centre's premises shall be made under escort.

SECȚIUNEA a 6-a

Toleration of stay on the territory of Romania

ART. 102

Granting toleration

(1) Toleration of stay on the territory of Romania, further on called toleration, is the permission to stay on the territory of the country, granted by the Romanian Migration Office to alien who do not have a right to reside and do not leave the territory of Romania for objective reasons.

(2) By objective reasons, in the sense of the present emergency ordinance, are meant such circumstances which are independent of the alien's will, cannot be foreseen and removed, which do not allow the alien to leave the territory of Romania.

(3) Refusal to grant toleration by the Romanian Migration Office may be appealed against within 5 days from notification, at the territorially competent court of appeal. The instance shall pronounce within 30 days, the court decision being irrevocable.

ART. 103

Situations of toleration on the territory of Romania

Aliens mentioned by Art. 102 para. (1) may be tolerated in following instances:

- a) when they fall under the situations mentioned by Art. 15 para. (1) and do not fulfil the conditions provided by the law to be granted a residence permit;
- b) when aliens taken into public custody, against whom a measure of return has been ordered, could not be removed for a period of 6 months;
- c) when aliens taken into public custody, against whom the court instance has ordered expulsion, could not be expelled for a period of 2 years from the date of having been transferred into public custody;
- d) when their presence on the territory of Romania is required by important public interests. In this case, toleration shall be granted upon request of the competent state bodies;
- e) when there are serious reasons to believe that the aliens are victims of trafficking of human beings. In this case, toleration shall be granted upon request of the prosecutor or of the instance;
- f) when the Romanian Migration Office determines that the aliens are unable to leave the territory of Romania for other objective reasons.

ART. 104

Regime of toleration

(1) Toleration shall be granted for a period of up to 6 months, which may be extended for new periods of up to 6 months, until the reasons do no longer exist.

(2) Toleration does not cancel the obligation of the aliens to leave the territory of the Romanian state when the reasons for which it has been granted cease to exist.

(3) Toleration ceases at the moment the alien leaves the territory of Romania.

(4) When the reasons for which toleration has been granted cease to exist, the alien shall be removed from the territory of Romania, without previous notification.

(5) In the case of persons mentioned by Art. 103 letter e), the prosecutor, by means of an ordinance, or the instance, by means of closure, may order extension of toleration if their presence is necessary for carrying out the criminal proceedings. In this case toleration shall be extended subsequently, under the conditions provided by para. (1), up to the conclusion of the court proceeding.

(6) The alien has the obligation to appear in person, monthly or as often as summoned, before the territorial unit of the Romanian Migration Office which has granted toleration and notify any change of residence.

(7) Toleration has limited territorial validity only for the area of competence of the Romanian Migration Unit, which has granted it, and any travel outside this area shall be possible only upon previous approval.

(8) Upon failure to respect the obligations mentioned by para. (6) or (7) it is possible to order the measure of the alien's transfer into public custody.

(9) In case of aliens mentioned by Art. 103 letters b) and c), if the reasons for which they

could not be removed from the territory of Romania within the duration of public custody ceased to exist, they may be transferred again into public custody, for a period of up to 30 days, under the conditions of Art. 97 para. (2), for the purpose of their removal from the territory of Romania.

SECTION 7

Prohibition of entry on the territory of Romania

ART. 105

Ordering the measure of prohibition of entry to Romania

(1) At the same time with issuing the decision of return or enforcement of the measure of expulsion, the Romanian Migration Office may also order, under legal conditions, prohibition of entry to Romania for a limited period.

(2) The measure provided by para. (1) may be ordered by the Romanian Migration Office or by the General Inspectorate of Border Police, under legal conditions, even in the situation when the alien was not subject to any measure of removal or against aliens mentioned by Art. 8 para. (1) letters b)-d) and para. (2) letters a) and b).

(3) Enforcement of the measure of prohibition of entry shall be performed by initiating nominal interdiction at state border crossing points and, if possible, by applying into the travel documents of a stamp indicating the duration of the measure.

(4) Initiation of the measure of prohibition of entry to Romania shall be communicated to aliens, in writing, by the body that has decided on the measure, alongside with the reasons on which the measure was based.

(5) Prohibition of entry to Romania may be appealed against by the alien within 10 days at the court of appeal responsible for the area where the body, which decided the measure, is located. The appeal does not suspend performance of removal measures. Decision of the instance shall be irrevocable.

(6) All the cases in which prohibition of entry to Romania has been ordered shall be communicated by the body which ordered such a measure to the General Directorate for Consular Affairs within the Ministry of Foreign Affairs.

ART. 106

Determining the duration of prohibition of entry to Romania

(1) Against aliens who have legally entered into Romania, whose stay has subsequently become illegal, the duration of prohibition of entry to Romania shall be as follows:

a) one year, in the case of:

(i) an illegal stay from 30 days to one year, for aliens who did not leave the territory of Romania on expiry of the right to residence conferred by the visa or on the basis of international conventions or normative documents for unilateral cancelling of the visa regime;

(ii) an illegal stay from 3 months to one year, for aliens who held a temporary residence permit;

(iii) aliens who failed to respect the return decision and have been removed under escort;

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

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

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

(2) The limits of prohibitions mentioned by para. (1) shall be reduced to a half for aliens who:

a) request assisted voluntary repatriation, under the conditions provided by Art. 93;

b) cover the expenses incurred by their removal from the territory of Romania;

c) reimburse subsequently to the Romanian Migration Office the expenses incurred by their removal from the territory of Romania;

d) do not require any expenses related to international transport for their removal from the

territory of Romania;

(3) In case of aliens against whom the court has ordered the safety measure of expulsion, the duration of the interdiction shall be equal to the duration of the punishment they have been sentenced to, but not less than 3 years.

(4) Against aliens who have or attempted to illegally cross the stat border, the duration of prohibition shall be of 5 years.

(5) Against aliens mentioned by Art. 105 para. (2) the duration of prohibition shall be as follows:

a) 15 years – for aliens mentioned by Art. 8 para. (1) letters b)-d);

b) 5 years – for aliens mentioned by Art. 8 para. (2) letters a) and b).

CHAPTER. VI

Documents to be issued to aliens

SECTION 1

Residence permits

ART. 107

Issue of residence permits

(1) The alien who has been granted or, by case, extended the right to residence in Romania, shall be issued a residence permit by the Romanian Migration Office, through its territorial units, as follows:

a) temporary residence permit to the alien who has been granted, or extended the right to temporary residence;

b) residence permit for the purpose of employment to the alien who has been granted or extended the right to temporary residence and the right to employment;

c) permanent residence permit to the alien who has been granted the right to permanent residence.

(2) The provisions referring to the temporary residence permit shall be also applied, correspondingly, to the residence permit for the purpose of employment.

ART. 108

Regime of residence permits

(1) The residence permit issued to the alien under the conditions of the present emergency ordinance is a proof of identity, of the address of residence and attests the existence of the right to residence in Romania, as well as the duration and purpose for which this right has been granted.

(2) The holder of the residence permit has the obligation to carry the document with him at all times, not to transfer it to other persons and to present it to the bodies of competent authorities as often as he is requested.

ART. 109

Temporary residence permit

(1) The temporary residence permit shall be issued to aliens upon granting or extension of the right to temporary residence. The temporary residence permit shall mention the address declared by the alien as his residence on the territory of Romania.

(2) The temporary residence permit has a limited validity for the duration for which the right to temporary residence has been granted or extended. The temporary residence permit shall be renewed each time upon extension of the right to temporary residence.

ART. 110

Permanent residence permit

(1) The permanent residence permit shall be issued to aliens, on the basis of the right to

permanent residence obtained, for a period of 5 years and may be subsequently renewed for the same period.

(2) The permanent residence permit shall mention the address declared by the alien to be his domicile on the territory of Romania.

(3) The request for granting the permanent residence permit shall be submitted by the holder of the right to permanent residence to the territorial unit of the Romanian Migration Office in the competence area of which the alien resides and shall be supported by following documents:

a) travel document, in original and copy;

b) documents which proved legal tenancy of the place of accommodation at the address declared by the alien as his domicile on the territory of Romania, in original and copy.

(4) For the renewal of the permanent residence permit, the applicant shall submit, at least 30 days before expiry of the document's validity, an application supported by the documents to prove legal tenancy of the place of accommodation at the address declared by the alien as his domicile on the territory of Romania.

ART. 111

Cancellation of the residence permit

In case the right to permanent residence of the holder of the residence permit is revoked or cancelled, the document shall be cancelled on the date of the decision and shall be withheld the latest on the date on which the decision has been communicated to the alien.

ART. 112

Theft, loss, deterioration or destruction of the residence permit

(1) The holder of the residence permit has the obligation to notify the territorial unit of the Romanian Migration Office which has issued the document about its theft, loss, deterioration or destruction, within a limit of 5 days from ascertaining one of these situations.

(2) The alien shall be issued by the territorial unit of the Romanian Migration Office a new resident permit to replaced the stolen, lost or damaged one.

(3) The residence permits the validity of which has expired, as well as the damaged ones shall be cancelled by the competent territorial unit of the National Migration Office.

ART. 113

Form and contents of residence permits

The form and contents of the residence permits shall be established by decision of the Government of Romania.

SECȚIUNEA a 2-a

Residence cards for aliens who are family members of Romanian citizens

ART. 114

Issuance of residence cards

(1) The alien who is a family member of a Romanian citizen, who has been granted or extended the right to residence in Romania, shall be issued by the Romanian Migration Office through its territorial units a residence card, as follows:

a) residence card for aliens – family members – to the alien who is a family member of the Romanian citizen, who have been granted or extended the right to temporary residence;

b) permanent residence card for aliens – family members of the Romanian citizen, who have been granted the right to permanent residence.

(2) The residence card and the permanent residence card shall bear the address which the alien has declared to be the residence or domicile on the territory of Romania.

(3) The form and contents of residence cards shall be similar to those issued to family members of EU citizens, while correspondingly applying the provisions of [Government](#)

[Decision No. 1.864/2006](#) for the approval of the Methodological norms for the enforcement of the [Emergency Ordinance of the Government No. 102/2005](#) on the free movement on the territory of Romania of citizens from member states of the European Union and the European Economic Agreement and on establishment of the form and contents of the documents to be issued to EU citizens and their family members.

(4) Materials necessary for the production of the residence cards issued to aliens family members of Romanian citizens shall be ensured from stocks purchased by the Ministry of the Interior and Administration Reform for the production of identity cards for Romanian citizens, according to [Art. 23 para. \(1\) of the Government Emergency Ordinance No. 84/2001](#) on setting up, organisation and functioning of the public community services of person's registration, approved with subsequent updates and amendments by the [Law No. 372/2002](#), with subsequent updates and amendments.

ART. 115

Validity of residence cards

(1) The residence cards shall be issued upon granting or extension of the right to temporary residence and has a limited validity for the period for which the right to temporary stay has been issued or extended.

(2) The permanent residence card shall be issued upon obtaining the right to permanent residence, for a period of 10 years, and shall be subsequently renewed for the same period.

ART. 116

Regime of residence cards

(1) The residence card is a proof of identity of the alien – family member of a Romanian citizen and attests his right to reside in Romania.

(2) The holder of the residence card has the obligation not to transfer it to any other persons and to present it to the authorities whenever requested.

(3) It is prohibited to hand over, accept or request the documents mentioned by Art. 114 as a guarantee for performing services, entrusting goods or values, for payment of debts or for any other purposes.

(4) Any amendment, addition or mention, others than those provided by the law, to be performed in the documents mentioned by Art. 114, shall be prohibited and entails their nullity.

(5) In the situations mentioned by para. (4), the nullity shall be ascertained by the officers of the Romanian Migration Office.

(6) The officer ascertaining one of the situations mentioned by para. (4) shall be obliged to retain the document under reference and forward it to the nearest territorial unit of the Romanian Migration Office.

(7) The holder of the residence card has the obligation to appear in person to the competent territorial unit of the Romanian Migration Office in order to be issued a new document, in any of the following situations:

- a) when any changes have occurred with regard to name, citizenship and address;
- b) in case of destruction or damage to the residence card;
- c) in case of loss or theft, only after notification of the event to the territorially competent police body.

ART. 117

Cancellation of residence cards

In the case in which the holder of the residence card has been revoked or cancelled the right to residence, the document shall be cancelled on the date of the decision and shall be withdrawn at the latest when the decision has been communicated to the alien.

SECTION 3

Travel documents to be issued to aliens

ART. 118

Types of travel documents to be issued to aliens

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

a) laissez-passer – to following categories of aliens:

(i) stateless aliens resident abroad, temporarily staying on the territory of Romania, who are no longer in the possession of a travel document and, for objective reasons, cannot be issued such a document by the diplomatic mission of the residence country;

(ii) foreign citizens staying on the territory of Romania, who are no longer in the possession of a national passport and, for objective reasons, cannot obtain a travel document from the diplomatic mission of their state;

(iii) stateless persons permanently residing in Romania with residing temporarily abroad, who are no longer in the possession of the Romanian travel documents;

b) passport for persons without citizenship – to stateless persons permanently residing in Romania, as well as to stateless persons of Romanian origin, who are repatriated on the basis of international agreements to which Romania is a party of.

(2) For students residing on the territory of Romania, who intend to travel or transit an EU member state in the framework of a school trip, in conformity with Council Decision No. 94/795/JHA with regard to a common action adopted by the Council on the basis of Art. K.3.2.b of the Treaty on the European Union, referring to the travel facilities for students from third countries who reside in a member state, published in the Official Journal of the European Communities No. 327 of 19 December 1994, the Romanian Migration Office shall confirm the resident status of the aliens included in the list of participants and the authenticity of data presented in such document.

(3) Notification of member states with regard to the status of the list of participants as travel document by students who reside on the territory of Romania shall be performed by the Ministry of Foreign Affairs.

ART. 119

Issuing a laissez-passer

(1) For persons mentioned by Art. 118 para. (1) letter a) points (i) and (ii) the laissez-passer shall be issued by the Romanian Migration Office through its territorial unity and shall be valid for a single travel, for a period of 30 days, with possibility of extension for another 30 days.

(2) For persons mentioned by Art. 118 para. (1) letter a) point (iii) the laissez-passer shall be issued by diplomatic missions or consular offices of Romania abroad, upon agreement from the National Migration Office, for the purpose of their return to Romania. Upon return to the country, the laissez-passer shall be handed over by the holder to the territorial unit of the National Migration Office where the holder resides.

ART. 120

Regime of passports for persons without citizenship

(1) Passports for persons without citizenship are proofs of identity and of the quality of a stateless person with residence in Romania and enables the holder to enter and leave the country through any of the state border crossing points open for persons' travel.

(2) When abroad, the passport for persons without citizenship ensures the holder the right to receive assistance and protection from the diplomatic missions and consular offices of Romania.

(3) Passports for persons without citizenship are property of the Romanian state.

ART. 121

Issuing passports for persons without citizenship

Passports for persons without citizenship shall be issued by the Romanian Migration Office through its territorial units, upon request, for a period of 5 years, which may be extended only once, without exceeding 10 years from the date of issue.

ART. 122

Conditions with regard to the request for issuing passports for persons without citizenship

(1) The request for issue of a passport for persons without citizenship shall be submitted by the persons mentioned by Art. 118 para. (1) letter b) to the territorial units of the Romanian Migration Office and shall be supported by the following documents:

a) valid permanent residence permit, for stateless persons with a right to permanent residence in Romania;

b) valid temporary residence permit, in case of stateless persons of Romanian origin, who are repatriated on the basis of international agreements Romania is a party of.

(2) Passports shall be issued within a term of 30 days from submission of the request.

ART. 123

Cancellation of passports for persons without citizenship

In case the holder of the passport for persons without citizenship loses his quality as a stateless person with permanent residence in Romania or obtains the citizenship of a different state, he has the obligation to submit the document to the competent territorial unit of the National Migration Office, which shall withdraw and cancel the document.

ART. 124

Theft, loss, damage or destruction of the passports for persons without citizenship

(1) The holder of the passport for persons without citizenship has the obligation to notify the territorial unit of the Romanian Migration Office, which has issued the document, about its loss, theft, damage or destruction, within a maximum of 5 days from ascertaining any of such situations.

(2) The alien shall be issued, upon request, under the conditions stipulated by Art. 120, a new document to replace the one he declared as stolen, lost, damaged or destroyed, within a term of maximum 30 days.

(3) Passports for persons without citizenship, which have been damaged, shall be withdrawn and cancelled by the territorial office of the Romanian Migration Office.

ART. 125

Form and contents of travel documents

The form and contents of travel documents stipulated under this section shall be determined by decision of the Government of Romania.

CAP. VII

Processing and protection of alien's personal data

ART. 126

Institutions with competencies in processing personal data of aliens

(1) For the purpose of enforcement of the provision of the present emergency ordinance, or regulations or instructions issued on its basis, the Romanian Migration Office, the Romanian Border Police, as well as other authorities with competencies in the field may carry out activities of processing personal data of aliens.

(2) Processing of personal data of aliens may be carried out under conditions stipulated by the Law on the protection of persons with regard to personal data processing and free movement of such data.

ART. 127

Organising the records

(1) At the level of the Romanian Migration Office the National System for Registration of Aliens shall be set up, as complex system for processing alien's personal data, necessary for the fulfilment of legal attributions related to the entry, stay, removal of aliens and prohibition of their entry to the territory of Romania.

(2) Registration of aliens shall be organised according to the principle of the place of residence or domicile through the Romanian Migration Office, at central level, and its territorial units, at local level.

(3) Each alien who has been granted an extension of the temporary right to residence or permanent right to residence shall be awarded by the Romanian Migration Office a personal identification number which shall be entered into the residence permit.

(4) The types and categories of records shall be defined by the Romanian Migration Office and approved by the Minister of the Interior and Administration Reform.

CHAPTER. VIII

Legal regime applicable to special categories of aliens

ART. 128

Aliens with permanent right to residence in EU member states

(1) Aliens who are citizens of third countries or stateless and enjoy a right to permanent residence in EU member states, may enter and stay on the territory of the Romanian state for a duration of 90 days within 6 months, without the need to obtain an entry visa.

(2) Persons mentioned by para. (1) may be extended the right to temporary residence, without previously having to fulfil the condition of obtaining a long-term visa, under the conditions stipulated by the present Emergency Ordinance.

(3) Persons mentioned under para. (1) shall enjoy equal treatment in the fields and under the conditions stipulated by Art. 75.

(4) By exception from the provisions of para. (3), access to the labour market for aliens holding a right to permanent residence in an EU member state shall be possible taking into account relevant labour legislation and the need to occupy vacancies mentioned within the register of occupations in deficit on the territory of Romania, established by the specialised structure within the Ministry of Labour, Family and Equal Chances.

ART. 129

Family members of aliens holding a right to permanent residence in EU member states

(1) Family members of aliens mentioned by Art. 128, who hold a right to temporary residence in an EU member state for the purpose of family reunification, may enter Romania on the basis of a long-term visa granted for the same purpose by diplomatic missions or consular offices of Romania, while fulfilling the general conditions for granting visas, as well as presenting proof of the right to residence on the territory of the EU member state in this quality.

(2) Family members of the aliens mentioned by Art. 128, who do not hold a right to temporary residence in an EU member state for the purpose of family reunification, shall fall under the provisions of Art. 46.

(3) Aliens mentioned under para. (1) may be extended the right to residence while fulfilling general conditions stipulated by the law, if they:

a) present the residence permit in an EU member state;

b) prove the fact that they have resided as family members of an alien with right to permanent residence in an EU member state;

c) prove the availability of subsistence means to the monthly amount equivalent to the minimum wage at national economy level.

(4) Aliens mentioned by para. (2) may be extended the right to residence, according to the provisions of Art. 62.

ART. 130

Granting the right to temporary residence to aliens who are victims of trafficking of human beings, trafficking of immigrants or of the offence stipulated by Art. 141

(1) Aliens who are victims of trafficking of human beings, trafficking of migrants or the offence stipulated by Art. 141 may be granted a right to temporary residence, even if they have entered illegally, upon request of the prosecutor or the court instance, under following conditions:

a) they show a clear intention to cooperate with the Romanian authorities in order to facilitate the identification and prosecution of participants to the offences the victims of which they have been;

b) they have stopped relations with persons suspected of committing offences the victims of which they are;

c) granting the right to reside is favourable to carrying out judicial investigations;

d) their stay in Romania does not present a danger to public order and national security.

(2) The right to residence may be granted, for a duration of 6 months, with the possibility of extension for new periods, under similar conditions.

(3) The right to residence may be revoked in following situations:

a) the conditions stipulated under para. (1) are no longer fulfilled;

b) the holder of the right to reside has renewed, with intention, the contacts to the persons suspected to have committed the offences stipulated by para. (1);

c) if ascertained that the alien intentionally mislead the competent authorities with regard to the quality of a victim or to the data and information provided;

d) when the victim stops cooperation;

e) when competent authorities ascertain the existence of one of the cases stipulated by Art. 10 of the criminal procedure Code.

(4) The residence permit for the persons mentioned by para. (1) shall be issued free of charge.

ART. 131

Judicial regime applicable to unaccompanied underage aliens

(1) In the situation of underage aliens who enter the territory of Romania unaccompanied or who remain unaccompanied after they having entered the territory of Romania, the National Migration Office and its territorial unity shall proceed as follows:

a) define their identity as well as the way by which they have entered the country;

b) without regard of the manner in which they have entered Romania, they shall be ensured representation by a competent institution according to the law, which shall also ensure necessary protection and care, including accommodation in special centres for protection of minors under the same conditions as for Romanian minors;

c) measures to identify the parents shall be initiated, without regard of the parents' place of residence, for the purpose of family reunification;

d) before the parents have been identified, minors of school age shall be granted access to the education system;

e) in case the minor's parents do not reside on the territory of Romania, he shall be returned to the parents' country of residence or to the country where other family members have been identified, with their agreement;

f) in the case the parents or any other family members cannot be identified or if the minor is not accepted by the country of origin, he/she shall be granted the right to temporary residence on the territory of Romania.

(2) For the purpose of identification of adequate solutions, the Romanian Migration Office shall cooperate with other institutions, as well as with national and international organisations,

specialised in the field of minor's protection.

ART. 132

Access to education of underage aliens

(1) Underage aliens who reside in Romania shall have free access to compulsory education, under the same conditions as underage Romanian citizens.

(2) The Ministry of Education, Research and Youth shall determine, according to the law, the limits and conditions for the recognition of studies carried out in the country of origin, in order to enrol foreign students into the national education system.

CAP. IX

Contraventions and offences

ART. 133

Legal liability in case of infringement of the provisions of the present emergency ordinance

Infringement of the provisions of the present emergency ordinance shall entail, by case, criminal, civil, contraventional or administrative responsibility of the guilty person.

ART. 134

Contraventions

Following actions are considered to be contraventions:

1. failure of the carrier to respect the prohibitions stipulated by Art. 7 para. (1);
2. failure of the alien to leave the territory of Romania after the date when the right to reside in Romania stipulated by Art. 11, ceases;
3. failure of the alien to respect the obligation to register with the territorially competent police authority within a maximum of 3 days from the term stipulated by Art. 12 para. (1);
4. failure of the alien to respect the obligation stipulated by Art. 13 para. (2);
5. failure to provide the information stipulated by Art. 13 para. (1) and (3), within the time limits stipulated by Art. 13 para. (4);
6. granting permission to leave the country to aliens who fall into one of the situation of prohibition to leave the country stipulated by Art. 15 para. (1);
7. failure to respect the term for submission of the request for extension of the right to temporary residence, stipulated by Art. 51 para. (1);
8. failure of the aliens to respect obligations stipulated by Art. 50 para. (3);
9. failure of the employer to respect the obligation to notify on the nominal situation, stipulated by Art. 57 para. (2);
10. failure of the alien to respect the obligation to appear before the territorial unit of the Romanian Migration Office, within the time limit of 30 days stipulated by Art. 73 para. (5);
11. failure of the alien to respect the obligation with regard to the residence permit, stipulated by Art. 108 para. (2), respectively with regard to the residence card, stipulated by Art. 116 para. (4), as well as failure to present travel documents, in case of aliens staying in Romania on the basis of a visa or of international conventions or normative documents for unilateral cancellation of the visa regime;
12. failure to respect the term for submission of the request for renewal of the residence permit, stipulated by Art. 110 para. (4);
13. failure to respect the term for notification of theft, loss, damage or destruction of the residence permit, stipulated by Art. 112 para. (1);
14. failure to respect the term for notification of the theft, loss, damage or destruction of the passport for persons without citizenship, stipulated by Art. 124 para. (1);
15. withholding the travel document of an alien or the residence permit by unauthorised persons;
16. facilitation, in any form, of the illegal stay of aliens on the territory of Romania.

ART. 135

Penalties

Contraventions mentioned by Art. 134 shall be fined as follows:

- a) with a fine from 100 lei to 500 lei, for those stipulated by points. 3, 4, 5, 7, 8, 10, 11, 12, 13 and 14;
- b) with a fine from 500 lei to 1000 lei for those stipulated by point 6;
- c) with a fine from 2000 lei to 3000 lei for those stipulated by points. 9, 15 and 16;
- d) with a fine from 5000 lei to 15000 for those stipulated by point. 1;
- e) in the case of the contravention stipulated by point 2, the fine shall be applied as follows:
 - (i) from 400 lei to 700 lei, in case of a stay of up to 30 days after conclusion of the right to residence;
 - (ii) from 600 lei to 1000 lei, in case of a stay of up to 60 days after conclusion of the right to residence;
 - (iii) from 800 lei to 1200 lei, in case of a stay of more than 60 days after conclusion of the right to residence.

ART. 136

Ascertaining contraventions

Ascertaining contraventions and enforcement of penalties shall be performed by specially designated staff from the Ministry of the Interior and Administration Reform or, by case, by specially designated agents on behalf of other institutions, according to the competencies.

ART. 137

Regime of contraventions

(1) The provisions of the present emergency ordinance shall be completed by the provisions of the [Government Ordinance No. 2/2001](#) on the legal regime of contraventions, approved with updates and amendments by the [Law No. 180/2002](#), with subsequent updates and amendments.

(2) In the case of contraventions stipulated by Art. 134 points 5, 11 and 16, the contravening person may pay, immediately or within a term of 48 hours from protocolling or, by case, from the date of communication, half of the minimum fine stipulated by Art. 135, the ascertaining agent mentioning this in the protocol.

ART. 138

Elusion from measures of removal from the territory of Romania

Bad-faith elusion from enforcement of the obligations imposed by the competent authorities by the alien subject to the measure of expulsion, return or to any of the measures of prohibition to remain on the territory of the country or temporary establishment of residence in certain areas or places shall be considered an offence and shall be punished by imprisonment from 6 months to 5 years.

ART. 139

Fraudulent entry of the alien who had been declared undesirable or subject to the measure of prohibition of entry to the territory of Romania

(1) Entering the territory of Romania by illegal border crossing or by using another identity, by the alien who has been declared undesirable or who has been prohibited, in any manner, the right to enter or stay in the country, is considered an offence and shall be punished by imprisonment for a period between 2 and 6 years.

(2) If the act stipulated by para. (1) has been performed repeatedly, the punishment shall be imprisonment for a period between 3 and 7 years.

ART. 140

Carrying out activities prohibited by law

(1) Setting up by aliens, on the territory of Romania, of political parties or any other organisations or groupings as stipulated by Art. 4 para. (2), or joining by an alien of one of

these organisations, as well as initiation, organisation and participation to rallies or meetings which endanger public order and national security shall be considered an offence and shall be punished with imprisonment from 3 months to 2 years or with a fine.

(2) The penalty stipulated by para. (1) shall also apply to the aliens who finance political parties, organisations, groups, or rallies or meetings as stipulated by Art. 4 para. (3).

(3) Amounts of money, goods of any nature or any other valuables received while having infringed the provisions of Art. 4 para. (3) shall be confiscated.

ART. 141

Facilitating the illegal stay of aliens on the territory of Romania

(1) Intentionate facilitation, in any possible way, of the illegal stay of aliens on the territory of Romania shall constitute an offence and shall be punished by imprisonment between 6 months to 5 years.

(2) The action stipulated by para. (1), carried out under following circumstances:

a) by two or more persons, jointly;

b) caused to aliens a severe violation of their life and physical integrity, shall be punished with imprisonment from 2 to 8 years.

(3) If the action led to decease of the alien, the punishment shall be imprisonment from 3 to 15 years.

(4) If the action mentioned by para. (1) is carried out by a person who belongs to an organised group or who has produced or obtained for himself important material benefits, the special maximum of the punishment shall be increased by 3 years.

(5) The tentative shall be punished.

ART. 142

Liability of legal persons

(1) If the offence mentioned by Art. 141 has been committed in the name or in the interest of a legal person, by its bodies or representatives, it shall be punished by a fine between 15.000 lei and 30.000 lei.

(2) The same punishment shall be applied for the offence mentioned by Art. 141, if it has been carried out in the interest of a legal person, as a result of the failure of the persons mentioned by para. (1) of their control attributions, by any person falling under their authority.

(3) The liability of the legal person shall not exclude the penal liability of natural persons taking part to the offence stipulated by Art. 141.

CAP. X

Final and transitory provisions

ART. 143

Romanian Migration Office

In applying the provisions of the present emergency ordinance, the officers of the National Migration Office are enabled:

a) to perform ascertaining acts in order to notify the prosecution bodies when they ascertain offences related to the regime of aliens;

b) to apprehend and accompany to the headquarters of the territorial units those aliens who infringe legal provisions on the regime of aliens in Romania or those whose identity cannot be established, to verify and decide on the legal measures within a maximum of 24 hours from apprehension;

c) to organise and carry out, under legal conditions, controls in places and environments frequented by aliens, in public and private institutions, as well as within the premises of companies, when there are data or indications on the existence in such places of aliens who do not respect legal provisions on the regime of aliens in Romania;

d) to use, free of charge, public means of transport and rail transportation, for work purposes, in order to carry out missions which cannot be carried out in a different manner.

ART. 144

Covering expenses

(1) Expenses incurred by removal from the territory of Romania of aliens who possess financial means shall be carried by those.

(2) If the alien does not possess financial means and has entered Romania on the basis of an invitation, expenses incurred by removal shall be covered by the natural or legal person who has issued the invitation. The invitation shall be an executory title in the situation the invited alien shall not leave Romania before the date the right to residence granted by the visa has expired. The amounts to be reimbursed shall be determined by the Romanian Migration Office by establishing a note of ascertaining expenses incurred by the removal of the invited alien.

(3) The employer, natural or legal person, shall be obliged to cover the expenses for removal of the alien whom he has employed illegally or whose residence permit is no longer valid.

(4) The unit for research-development shall be obliged to cover the expenses incurred by the removal of the alien who has been accepted by this to carry out activities of scientific research within the framework of a project, in case the alien continues to stay on the territory of Romania after the right to residence has expired. The liability of the institute of research and development shall cease after 6 months after the expiry of the validity of the agreement of accepting the researcher.

(5) Expenses incurred by the removal of aliens who do not possess sufficient means in this respect, those for the transport, food, subsistence and accommodation within centres, as well as those for medical assistance and stationary treatment shall be covered from the budget of the Ministry of Interior and Administration Reform.

(6) Costs related to the construction, equipment, maintenance and functioning of centres shall be covered from the budget of the Ministry of the Interior and Administration Reform.

(7) Necessary funds to cover the expenses mentioned by para. (5) and (6) shall be provided by the state budget for the Ministry of the Interior and Administration Reform.

(8) The norms for equipment of the centres, those referring to materials for subsistence and personal hygiene, as well as the norms for food for aliens transferred into public custody shall be determined by Government decision.

ART. 145

Granting medical assistance in special cases

In special situations and for humanitarian purposes, the competent territorial body of the Ministry of the Interior and Administration Reform may request the competent authorities granting of medical assistance for aliens under the conditions stipulated by Art. 100.

ART. 146

Exceptions from enforcement of the present emergency ordinance

The Government may establish, by decision, the exemption of aliens who are citizens of states for which there are no visa requirements for entry to Romania, from fulfilling the condition stipulated by Art. 6 para. (1) letter. c), as well as of conditions for the extension of the right to residence provided by the present emergency ordinance.

ART. 147

Enforcement of special provisions

The provisions of [Law No. 122/2006](#) on the asylum in Romania shall be applied with priority against the provisions of the present emergency ordinance, with the exception of situations in which reasons of national security or public order impose their removal from the territory of Romania.

ART. 148

General provisions

In all complaints and requests addressed to the court instances on the basis of the present emergency ordinance, to which the National Migration Office is a party, participation of the prosecutor is compulsory.

ART. 149

Time limits for enforcement of the present emergency ordinance regarding some categories of aliens

Starting with the date of Romania's accession to the European Union, the provisions of the present emergency ordinance shall no longer be applied to citizens of EU and EEA member states.

ART. 150

Provisions applicable from the date of accession of Romania to the EU

The provisions of Art. 5 para. (3) and (4), Art. 90, 91, 96, 128 and of Art. 129 shall come into force from the date of accession of Romania to the European Union.

ART. 151

Transitional provisions

(1) Within 3 months from the date the present emergency ordinance comes into force, aliens with illegal stay may request the Romanian Migration Office to issue an order for leaving the territory.

(2) The issue of an order to leave the territory, under the conditions provided by para. (1), shall not be accompanied by a measure of prohibition of entry into Romania.

(3) All the situations under processing at the date the present emergency ordinance comes into force shall be finalised according to its provisions.

ART. 152

Coming into force

(1) The present emergency ordinance shall come into force within 30 days from the date of its publication in the Official Journal of Romania.

(2) On the date the present emergency ordinance comes into force, the [Law No. 123/2001](#) on the regime of aliens in Romania, published in the Official Journal of Romania, Part I, No. 168 from 3 April 2001, shall be abolished, as well as [Government Decision No. 476/2001](#) for the approval of the Methodological norms for the enforcement of [Law No. 123/2001](#) on the regime of aliens in Romania, published in the Official Journal of Romania, Part I, No. 276 from 29 May 2001, as well as any other contrary orders.

NOTE:

Below we enclose the provisions of [Art. II and the mention to transpose the Community normatives from Law No. 56/2007](#) on the updates and amendment of the [Government Emergency Ordinance No. 194/2002](#) on the regime of aliens in Romania, as well as Art. 8 and the mention of transposition of Community Regulations from the [Government Emergency Ordinance No. 55/2007](#) on setting up the Romanian Migration Office by reorganisation of the Authority for Aliens and the National Office for Refugees, as well as by amendment and update of normative documents by the [Law No. 347/2007](#), texts which have not been included into the republished version of the [Government Emergency Ordinance No. 194/2002](#):

- [Law No. 56/2007](#):

Art. II - (1) Within the term of 6 months from the date the present law shall come into force, aliens who do not hold a right to reside in Romania may request the Authority for Aliens to issue an order for return, without prohibition of entry to Romania.

(2) All the situations under processing at the date the present law shall come into force shall be finalised according to the provisions of [Government Emergency Ordinance No. 194/2002](#) on the regime of aliens in Romania, republished, with subsequent amendments and updates, as they have been updated and amended according to the present Law.

(3) Ordinances for declaring aliens as being undesirable, issued by the prosecutor especially designated by the Prosecutor's Office of the Bucharest Court of Appeal, which have not been enforced yet, shall become ineffective on the date the provisions of the present Law come into force.

- The present Law transposes the Council Directive No. 86/2003 on the right to family reunification, published in the Official Journal of the European Communities (JOCE) No. L251 from 3 October 2003, The Council Directive No. 109/2003 on the status of citizens of third countries who are long-term residents, published in the Official Journal of the European Communities (JOCE) No. L16 from 23 January 2004, Council Directive No. 110/2003 on providing assistance in case of transit for the purpose of removal by air, published in the Official Journal of the European Communities (JOCE) No. L321 from 6 December 2003, and Council Directive No. 114/2004 on the conditions for the admission of citizens of third countries for the purpose of studies, students' exchange, unpaid training or voluntary services, published in the Official Journal of the European Communities (JOCE) No. L375 from 23 December 2004.

- [Government Emergency Ordinance No. 55/2007](#):

Art. 8 – Within the contents of valid normative documents, the terms «Authority for Aliens» and «National Refugee Office» shall be correspondingly replaced by the term “Romanian Migration Office”.

- The present Emergency Ordinance transposes the Council Directive 2005/71/CE regarding a special procedure for admission of residents of third countries for the purpose of carrying out an activity of scientific research, published in the Official Journal of the European Union No. 289 from 3 November 2005.