

REGIME OF REFUGEES IN ROMANIA. THE LEGAL FRAMEWORK AND ITS RECENT DEVELOPMENTS

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Abstract

The present paper offers a general overview of the legal framework of the Romanian asylum system and of its most recent developments, triggered by the "refugee crisis" that created turmoils and generated debates at the European and international levels. Although traditionally a transit country for migrants, that remained largely unaffected by the crisis, the controversies around the issue and the perspective of an increase of the migration flow, represented an incentive for the adoption of measures at national level, aiming to improve the asylum system and the perspectives of social integration of those who were granted a form of international protection. This study aims to highlight these developments and to place them in a larger international/European context.

Keywords: migration, asylum system, refugee law

1. Introduction

The paper analyses the legal regime of the persons granted a form of international protection in Romania (refugees and persons with subsidiary protection), emphasizing the impact that the current situation, at international and European levels, has on its evolution.

Romania is party to the 1951 Geneva Convention regarding the status of refugees and to the 1967 New York Protocol supplementing the Geneva Convention, ratified by Law no 46/04.07.1991¹.

The Romanian legislative framework regarding asylum and migration reflects the country's international and European commitments and obligations.

Romania has traditionally been rather a transit country for migrants and its asylum and migration system was not configured to cope with a larger number of arrivals.

Despite the turmoil generated by the "refugee crisis" within the European Union, in contrast with the flows that affected other neighboring European states, Romania continued to have a low number of third country national and a low rate of irregular migration².

Nevertheless, the debate generated by the international context in the field of asylum and migration led to some developments at national level, aiming to increase the capacity of the system.

The paper will present the general situation of asylum in Romania, the existent legal framework and the evolution of the asylum system within the current context.

2. General overview of the situation of asylum and migration in Romania³

According to the latest migration and migrant population statistics, published by Eurostat, a total of 3.8 million people immigrated to one of the EU-28 Member States during 2014. Among these 3.8 million immigrants during 2014, there were an estimated 1.6 million citizens of non-member countries⁴.

With a total number of 98 586 foreign citizens residing legally on the Romanian territory in 2014, among which 57 471 third country nationals (most of them being nationals of the Republic of Moldova - 9838, Turkey - 8816 and China - 7359)⁵, representing a share of 0.26% of the state's total population⁶, Romania is one of the EU countries with a rather low number of migrants.

In 2015, there was a rise in the number of foreign citizens, in general (104 139)⁷, with an increase of the number of third country nationals residing in Romania (60 257 - most of them being nationals of Moldova, Turkey and China), but there weren't any major fluctuations.

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¹ http://www.cdep.ro/pls/legis/legis_pck.act?ida=1318&frame=0, last accessed 22 January 2017.

² <https://www.politiadefrontiera.ro/ro/main/i-analiza-activitatii-politiei-de-frontiera-romane-pe-anul-2015-6678.html>, last accessed 22 January 2017.

³ Based on updated information contained in the research report Oana Iacob, „Rapid Assessment of the Asylum and Migration Policy Area” (unpublished), Oxford Research, 01.08.2016, financed by the Norwegian Financial Mechanism Office.

⁴ http://ec.europa.eu/eurostat/statistics-explained/index.php?title=Migration_and_migrant_population_statistics&oldid=292846, last accessed 22 January 2017.

⁵ <http://igi.mai.gov.ro/comunicate/citeste/ro/1140/Evaluarea-activitatii-Inspectoratului-General-pentru-Imigrari-n-anul-2014>, last accessed 22 January 2017.

⁶ http://ec.europa.eu/dgs/home-affairs/e-library/multimedia/infographics/index_en.htm#0801262489e0e61e/c_, last accessed 22 January 2017.

⁷ <http://igi.mai.gov.ro/comunicate/citeste/ro/1335/Evaluarea-activitatii-Inspectoratului-General-pentru-Imigrari-n-anul-2015>, last accessed 22 January 2017.

In 2016, the situation seemed to remain within the same parameters - there is an increase, but no major fluctuations in number or changes in the general profile of the migrant population: 112 114 foreign nationals, among which 64 903 third country nationals (most of them coming from Moldova – 10 485, Turkey – 9087 and China – 7727)⁸.

Figure no 1 – Number of non – nationals in Romania

Country of origin (EU/non EU)	Year			
	2013	2014	2015	2016
Third country nationals	58.497	57.471	60.257	64.903
EU, EEA, Swiss Confederation nationals	40.478	41.115	43.882	47.211
Total number of non-nationals	98.975	98.586	104.139	112 114

A more significant evolution trend was observed in the field of asylum. According to the General Inspectorate for Immigration, in 2016 there were 1886 asylum requests registered, 49% more than in 2015, when there was a total of 1266 asylum requests. This was due to the fact that last year, 554 were relocated to Romania from Greece and Italy, in accordance with decisions taken at EU level. Most asylum seekers are coming from Syria (816), Iraq (472), Pakistan (93) and Afghanistan (80)⁹. Of the 1886 requests registered in 2016, to this date, 824 people were granted a form of protection in Romania¹⁰. The total number of refugees and persons with subsidiary protection in Romania is around 3000.

Figure no 2 – Number of asylum requests – evolution trend

Year	2013	2014	2015	2016
Number of asylum requests	1499	1547	1266	1886

Source: Evaluation of the General Inspectorate for Immigration Activity, Bucharest, 14 February 2017

3. International and European legislation regarding asylum

3.1. The 1951 Geneva Convention and the 1967 New York Protocol

Romania is party to the 1951 Geneva Convention regarding the status of refugees and to the 1967 New York Protocol supplementing the Geneva Convention. Romania has ratified both the 1951 Convention and the 1967 Protocol in 1991, through Law no 46/04.07.1991¹¹.

According to the two universal international instruments, the term “refugee” designates any person that “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it”¹².

The Geneva Convention establishes:

- *inclusion clauses* - basic criteria for the recognition of the refugee status (as stated in the above-mentioned definition);

- *cessation clauses* - “the conditions under which a refugee ceases to be a refugee. They are based on the consideration that international protection should not be granted where it is no longer necessary or justified” (Article 1 C (1) to (6) of the 1951 Convention)¹³: voluntary re-availment of national protection, voluntary re-acquisition of nationality, acquisition of a new nationality and protection, voluntary re-establishment in the country where persecution was feared, nationals/stateless persons whose reasons for becoming a refugee have ceased to exist.

- *exclusion clauses* - “The 1951 Convention, in Sections D, E and F of Article 1, contains provisions whereby persons otherwise having the characteristics of refugees (...) are excluded from refugee status. Such persons fall into three groups. The first group consists of persons already receiving United Nations protection or assistance; the second group deals with persons who are not considered to be in need of international protection; and the third group enumerates the categories of persons who are not considered to be deserving of international protection”¹⁴.

- *the principle of non-refoulement* - basic

⁸ <http://igi.mai.gov.ro/ro/comunicat/evaluarea-activit%C4%83C5%A3ii-inspectoratului-general-pentru-imigr%C4%83ri-%C3%AEn-anul-2016>, last accessed 22 February 2017.

⁹ <http://igi.mai.gov.ro/ro/comunicat/evaluarea-activit%C4%83C5%A3ii-inspectoratului-general-pentru-imigr%C4%83ri-%C3%AEn-anul-2016>, last accessed 22 February 2017.

¹⁰ *Ibidem*.

¹¹ *Legea nr. 46/ 1991 pentru aderarea României la Convenția privind statutul refugiaților, precum și la Protocolul privind statutul refugiaților*, available at http://www.cdep.ro/pls/legis/legis_pck.http_act?id=1318&frame=0, last accessed 22 February 2017.

¹² Convention relating to the Status of Refugees, Geneva, 1951, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx> and *Protocol relating to the Status of Refugees*, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolStatusOfRefugees.aspx>, last accessed 22 February 2017.

¹³ *Handbook and Guidelines on Criteria for Determining Refugee Status*, Geneva, December 2011, available at <http://www.unhcr.org/3d58e13b4.pdf>, p. 23, last accessed 24 February 2017.

¹⁴ *Ibidem*, p. 28.

obligation of receiving states, according to which “no refugee should be returned in any manner whatsoever to any country where he or she would be at risk of persecution”¹⁵.

– *standards of treatment* - The Convention proposes, as a minimum standard, that refugees should receive at least the treatment which is accorded to aliens generally. Most-favored-nation treatment is called for in respect of the right of association (article 15), and the right to engage in wage-earning employment (article 17, paragraph 1). “National treatment”, that is, treatment no different from that accorded to citizens, is to be granted in respect of a wide variety of matters, including the freedom to practice religion and as regards the religious education of children (article 4); the protection of artistic rights and industrial property (article 14); access to courts, legal assistance, and exemption from the requirement to give security for costs in court proceedings (article 16); rationing (article 20); elementary education (article 22, paragraph 1); public relief (article 23); labor legislation and social security (article 24, paragraph 1); and fiscal charges (article 29)¹⁶.

3.2. European legislation

All EU Member States are parties to the to the 1951 Geneva Convention regarding the status of refugees and to the 1967 New York Protocol supplementing the Geneva Convention. These two international instruments are considered to be key elements providing “the cornerstone of the international legal regime for the protection of refugees” and form the basis of the European regulations regarding asylum.

Nevertheless, given the fact that the definition of the term “refugee”, as prescribed by the Geneva Convention, was generally considered too restrictive, excluding large categories of persons who are in need of protection, but do not meet the criteria established by the Convention, the Conclusions of the 1999 European Council in Tampere state that these provisions “should also be completed with measures on subsidiary forms of protection offering an appropriate status to any person in need of such protection”¹⁷.

The EU Member States also agreed over the necessity of establishing a common European Asylum system and, in consequence, in the following years, a series of measures were adopted for the improvement of the European legal framework in this field and the establishment of common procedures and a common asylum regime. These regulations were gradually improved and reformed.

Article 63 of the Treaty of Lisbon provides the legislative basis for the future European Asylum system:

The forms of international protection granted within the European Union are:

– *the refugee status* - granted in accordance with the 1951 Geneva Convention and the European legislation;

– *the subsidiary protection* - According to the Qualification Directive (Directive 2011/95/EU), the subsidiary protection is granted to “a third country national or a stateless person who does not qualify as a refugee but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin, or in the case of a stateless person, to his or her country of former habitual residence, would face a real risk of suffering serious harm”. The serious harm consists of: “(a) the death penalty or execution; or (b) torture or inhuman or degrading treatment or punishment of an applicant in the country of origin; or (c) serious and individual threat to a civilian’s life or person by reason of indiscriminate violence in situations of international or internal armed conflict”¹⁸.

– *the temporary protection* - defined in the Council Directive 2001/55/EC as “a procedure of exceptional character to provide, in the event of a mass influx or imminent mass influx of displaced persons from third countries who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the asylum system will be unable to process this influx without adverse effects for its efficient operation, in the interests of the persons concerned and other persons requesting protection”¹⁹.

The main European regulations that form the legal basis of the European Asylum System are:

– *The Qualification Directive* - Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted²⁰;

– *The Common Procedures Directive* - Directive 2013/32/EU of the European Parliament and of the Council on common procedures for granting and

¹⁵ Guy S. Goodwin-Gill, *Convention relating to the Status of Refugees, Protocol relating to the Status of Refugees, Introductory Note*, available at <http://legal.un.org/avl/ha/prsr/prsr.html>, last accessed 03 March 2017.

¹⁶ *Ibidem*.

¹⁷ *Tampere European Council, 15 and 16 October 1999, Presidency Conclusions*, available at http://www.europarl.europa.eu/summits/tam_en.htm, last accessed 03 March 2017.

¹⁸ *Directive 2011/95/EU*, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>, last accessed 03 March 2017.

¹⁹ *Council Directive 2001/55/EC*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>, last accessed 03 March 2017.

²⁰ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:en:PDF>, last accessed 03 March 2017.

withdrawing international protection²¹;

- *The Reception Conditions Directive* - Directive 2013/33/EU of the European Parliament and of the Council laying down standards for the reception of applicants for international protection²²;

- *The Regulations establishing the Dublin system*:

- Regulation (EU) no 604/2013 of the European Parliament and of the Council establishing the criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person²³;

- Regulation (EU) no 603/2013 of the European Parliament and of the Council on the establishment of 'Eurodac' for the comparison of fingerprints²⁴.

- *The Temporary Protection Directive* - Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof²⁵.

The European Agenda on Migration, adopted on the 13th of May 2015 sets out a comprehensive approach for improving the management of migration in all its aspects. This included a commitment to prioritize implementation of the Common European Asylum System²⁶. As a result, on the 23rd of September 2015, the European Commission adopted 40 infringement decisions against several Member States for failing to fully implement legislation making up the Common European Asylum System. Romania was among the states targeted by the infringement decisions, for failing to communicate the transposition of the Common Procedures Directive - Directive 2013/32/EU - and the Reception Conditions Directive - Directive 2013/33/EU²⁷.

Romania transposed the directives and regulations regarding the asylum and migration system in its national legislation.

The transposition of the Common Procedures Directive (Directive 2013/32/EU) and the Reception Conditions Directive (Directive 2013/33/EU) was completed through the Government Decision no 14/2016²⁸, adopted on the 19th of January 2016, after

being partially transposed in December 2015, through Law no 331/2015. The two normative acts brought modifications to Law no 122/2006 regarding asylum in Romania and its Methodological Norms approved by Government Decision no. 1.521/2006. The latter law and its methodological norms had already transposed many of the core elements prescribed by the above-mentioned directives, that were established through the previous legal instruments (now reformed), respectively, the Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers²⁹.

4. National legal framework regarding asylum³⁰

4.1. Specific national legislation

The national legislative framework in the field of asylum is established by Law no 122/2006³¹ with subsequent modifications and completions and the Methodological Norms for the enforcement of Law no 122/2006, approved by Government Decision no. 1.521/2006 with subsequent modifications and completions. The framework on the social integration of migrants who were granted a form of international protection in Romania is also regulated by Government Ordinance No. 44/2004, with subsequent modifications and completions and the Methodological Norms for the enforcement of Government Ordinance no.44/2004, approved by Government Decision no. 1.483/2004.

The general framework regulating the status of aliens in Romania (that is applicable in the field of asylum in situations not covered by the specific legislation) is established by Government Emergency Ordinance no 194/2002 on the regime of aliens in Romania, republished, with subsequent modifications and completions.

There are 3 forms of international protection granted by the Romanian state, in accordance with Law no 122/2006, that transposed the European regulations mentioned above (according to Art. 22 of Law no 122³²):

- refugee status;
- subsidiary protection;
- temporary protection.

²¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013L0032>, last accessed 03 March 2017.

²² <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0033&from=RO>, last accessed 03 March 2017.

²³ <http://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32013R0604>, last accessed 03 March 2017.

²⁴ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0001:0030:EN:PDF>, last accessed 03 March 2017.

²⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32001L0055>, last accessed 03 March 2017.

²⁶ https://ec.europa.eu/malta/news/implementing-common-european-asylum-system-commission-escalates-8-infringement-proceedings_en, last accessed 03 March 2017.

²⁷ http://europa.eu/rapid/press-release_IP-15-5699_en.htm, last accessed 07 March 2017.

²⁸ <https://ec.europa.eu/migrant-integration/news/romania-increase-of-assistance-granted-to-asylum-seekers-approved-by-governement>, last accessed 07 March 2017.

²⁹ See *Substantiation Note for Government Decision no 14/2016*, available at <http://gov.ro/ro/print?modul=subpagina&link=nota-de-fundamentare-hg-nr-14-19-01-2016>, last accessed 07 March 2017.

³⁰ Based on the research report Oana Iacob, „Rapid Assessment of the Asylum and Migration Policy Area” (unpublished), Oxford Research, 01.08.2016, financed by the Norwegian Financial Mechanism Office.

³¹ *Law no 122/2006 on asylum in Romania*, available at <http://legislatie.just.ro/Public/DetaliuDocument/71808>, last accessed 07 March 2017.

³² *Ibidem*.

4.2. Asylum procedure

4.2.1. Processing the request

Any foreigner on the territory of Romania or at a border-crossing point may lodge an application for asylum. A person becomes an asylum seeker from the moment they request the protection of the Romanian state, in writing or verbally, in front of competent authorities (structures within the General Inspectorate for Immigration/ Border Police/ National Administration of Penitentiaries/ police units)³³.

The asylum request will be processed either through an ordinary procedure or through an accelerated procedure.

The ordinary asylum procedure is structured in two stages, administrative and judicial. In the administrative stage, the applications for asylum are examined on a case-by-case basis by administrative authorities, based on the interview of the asylum seeker, the documents in the personal file and the country of origin information. The administrative stage of the procedure falls within the competence of the Directorate for Asylum and Integration within the General Inspectorate for Immigration. It should last 30 days since the registration of the asylum request, but if it is deemed necessary the time limit may be extended. At the end of this stage, the General Inspectorate for Immigration will issue a decision that either: grants the refugee status; or grants subsidiary protection; or rejects the application for asylum. The possibility of granting subsidiary protection is analyzed if conditions for recognizing the refugee status are not met.

In the judicial stage, asylum seekers whose applications were rejected in the administrative stage may exercise two remedies and their situation shall be examined by the courts of law.

The accelerated procedure is within the competence of the Directorate for Asylum and Integration of the General Inspectorate for Immigration. This procedure is swifter (3 days) and it applies in specific cases of asylum requests that are: evidently unfounded; or submitted by persons who come from countries of origin that are considered to be safe; or submitted by persons who undertook activities that endanger the Romanian national security or the public order. In case the request is rejected, the applicant has one judicial remedy against the administrative decision.

If after the rejection of the asylum request, new elements are found, that did not exist or could not be invoked during the previous asylum procedure, the Directorate for Asylum and Integration from the

General Inspectorate for Immigration may grant the applicant access to a new asylum procedure. If the request for a new procedure is approved, a new asylum procedure will start.

4.2.2. Basic rights of asylum seekers during the procedure

The rights of the asylum seekers during the asylum procedure are established by Law no 122/2006, with subsequent modifications and completions and the Methodological Norms for the enforcement of Law no 122/2006, approved by Government Decision no. 1.521/2006 with subsequent modifications and completions. Among the asylum seeker's basic rights are:

- **The right to stay in Romania** until the expiry of a 15 days period from the completion of the asylum procedure, if the request is rejected and protection is not granted³⁴.

- The right to assistance:

- A. *Legal assistance*

- B. *Assistance provided by UNHCR and/or NGOs*

- C. *Assistance for interpretation and translation, free of charge*

- D. *Material assistance and accommodation:*

- the right to benefit, throughout the procedure, upon request, from material reception conditions, in order to guarantee subsistence and protect the physical and mental health of the asylum seeker, in case he/she does not have the necessary material means³⁵.

- the right to be accommodated in reception and accommodation centers subordinated to the General Inspectorate for Immigration, until the cessation of the right to stay on the territory of Romania, in case of asylum seekers who do not have the necessary material means of support³⁶. Currently, there are 6 such accommodation centers with an overall capacity of 900 places³⁷.

- E. *Medical assistance*

- F. *Social assistance*

- **The right to work**

- the right to be granted access to the labor market under the conditions laid down by the law for Romanian citizens, after the expiry of 3 months from the lodging of the application for asylum, if the asylum seeker is still subject to the administrative procedure aimed at determining a form of protection, as well as throughout the judicial procedure³⁸.

- **The right to education**

- the right of minor asylum seekers to be granted access to compulsory education under the same

³³ <http://igi.mai.gov.ro/en/content/submitting-application-asylum>, last accessed 07 March 2017.

³⁴ *Law no 122/2006 on asylum in Romania*, available at <http://legislatie.just.ro/Public/DetaliuDocument/71808>, last accessed 07 March 2017.

³⁵ *Ibidem*.

³⁶ *Ibidem*.

³⁷ *Evaluation of the General Inspectorate for Immigration Activity*, Bucharest, 14 February 2017, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/Prezentare%202016%20%20Animation%20text%20final.pdf, accessed 10 March 2017.

³⁸ *Ibidem*.

conditions as minor Romanian citizens³⁹;

- **The right to participate in cultural adaptation activities** - activities that should be organized by the General Inspectorate for Immigration in collaboration with NGOs active in the field of asylum.

4.3. Integration of beneficiaries of a form of protection

4.3.1. General provisions

The refugee status and the subsidiary protection are granted for an undetermined period. Thus, a system encouraging their social integration was created. Its legislative basis is found in Law no 122/2006 and its Methodological Norms, Government Ordinance no 44/2004 and its Methodological Norms.

The specific legislation on integration (respectively GO no 44/2004 with its subsequent modifications) defines social integration as “the active participation of foreigners who were granted a form of protection or a right of residence in Romania and citizens of Member States of the European Union and European economic Area in the economic, social and cultural development of Romanian society in order to prevent social exclusion, respectively to adapt to the conditions of Romanian society”⁴⁰. Thus, the goal of the system should be that of creating a framework (through the involvement of all relevant institutions) that would enable foreigners to actively participate in the economic, social and cultural life⁴¹.

Generally, each institutional actor (Ministry of Internal Affairs, Ministry of Education, Ministry of Labor, etc) is responsible for the integration of the beneficiaries of a form of protection in their field of competence. The General Inspectorate for Immigration provides through its regional structures, specific services aimed at facilitating the integration into Romanian society of persons granted refugee status or subsidiary protection. It also coordinates and monitors activities regarding the process of integration, that fall within the competence of other institutions⁴².

4.3.2. Rights of beneficiaries of a form of protection (refugee status, subsidiary protection)

The beneficiaries of a form of protection are issued identification and travel documents, according to their status.

Generally, by virtue of the legal provisions in force, beneficiaries of a form of protection enjoy a treatment equal to the one granted to the Romanian citizens (with the exception of electoral rights and other

specific situations). For instance, such equal treatment is granted to them regarding:

- the right to work (although there still are professions regulated by specific legislation, that are not fully accessible to beneficiaries of a form of protection- for example, in order to practice a medical profession in Romania, beneficiaries of a form of protection must either be a family member of a Romanian citizen or have obtained long term residence in Romania);
- the right to education (In order to be integrated into the Romanian education system, minors who were granted a form of protection in Romania benefit from a free of charge basic Romanian language course for a full academic year. While attending the Romanian language courses, minors who were granted a form of protection in Romania also participate in educational activities of a theoretical, practical or recreational nature, organized in schools, free of charge, without their attendance being registered in official records.)⁴³
- the recognition of studies, diplomas, professional qualifications;
- access to social housing;
- access to social insurance, social assistance measures (including child allowance), health insurance;
- access to justice and administrative assistance.

4.3.3. Integration program

In order to facilitate the social integration of the beneficiaries of a form of protection, a series of services and activities are offered through a cooperative effort of public institutions, local communities and nongovernmental organizations active in the field, under the coordination of the General Inspectorate for Immigration, in the form of the integration program. Enrollment in the integration program takes place within 30 days from the granting of a form of protection and generally lasts for 6 months. The program is established and implemented based on the beneficiaries' needs, without any discrimination, by respecting their cultural background⁴⁴. It may include activities such as:

- a) “counseling and support activities for ensuring access to the following rights: right to employment, right to housing, right to medical and social assistance, social security, right to education;
- b) cultural adaptation sessions;
- c) Romanian language courses”⁴⁵.

In addition to that, beneficiaries of a form of protection that are registered and actively participate in the integration program may also be granted a non-

³⁹ *Ibidem*.

⁴⁰ <http://igi.mai.gov.ro/en/content/integration-program>, last accessed 10 march 2017.

⁴¹ *Ibidem*.

⁴² *Ibidem*.

⁴³ Ordinance No. 44 of 2004 on the Social Integration of Aliens Who Were Granted a Form of Protection in Romania, available at <http://www.refworld.org/docid/404c6d834.html>, art. 10, para. (1) and (2), last accessed 10 march 2017.

⁴⁴ *Ibidem*.

⁴⁵ *Ibidem*, art. 18, para. (2).

reimbursable financial aid (of around 550 RON (120 euros)/person/month) for an initial period of 6 months, with the possibility of extension for another 6 months⁴⁶.

5. Latest legal developments in the field of asylum at national level⁴⁷

5.1. The National Strategy on Immigration for the period 2015-2018

The National Strategy on Immigration (approved by Government Decision no 780/2015)⁴⁸ establishes the objectives at national level, in the field of migration, for the period 2015-2018, that will be implemented by the Romanian authorities through concrete actions and measure, based on action plans adopted annually. It was drafted in accordance with the priorities set by the European Agenda for Migration. The Strategy was adopted in September 2015 and reflects the main developments at international and EU levels. It has in view an improvement of the migration and asylum system, that currently is not fully equipped to cope with a larger migration flow. As shown above, Romania has been and still is mostly a transit country for migrants, with a rather low number of non-nationals with right of residence on Romanian soil. Nevertheless, Romania's European commitments, the expected Schengen adherence and the regional and international instabilities are expected to lead to an increased migration flow.

On July, the 2nd 2015, the Romanian Government has approved the Memorandum⁴⁹ for the implementation of the European Council's Conclusions from the 25th - 26th of June 2015⁵⁰, regarding the migration field. The Memorandum enshrines Romania's commitment to take in a quota of 1705 migrants, within the intra-EU relocation scheme, and 80 migrants who have been identified as in need of international protection, within the extra-EU resettlement program.

On the 14th of September 2015, the Justice and Home Affairs Council within the EU adopted a decision "establishing a temporary and exceptional relocation mechanism over two years from the frontline member states Italy and Greece to other member states"⁵¹. The mechanism envisioned the relocation of 40.000 persons in clear need of international protection.

On the 22nd of September 2015, the European Union interior ministers met again in the Justice and Home Affairs Council and approved a plan to relocate 120,000 migrants "in clear need of international protection" over a period of two years from the frontline states Italy, Greece and Hungary to other 22 EU countries⁵². Through this plan, quotas were established based on "the size of economy and population of each state, the unemployment rate and the average number of asylum applications,"⁵³. The decision was taken by majority vote.

According to the relocation scheme, Romania was expected to receive 2475 people during the first year: 585 from Italy and 1890 from Greece⁵⁴. Another quota of 2.171 migrants would be allocated to Romania in the second year. So, in September 2015, Romania was expecting to receive a total of 6.351 migrants within a time span of 2 years. Romania, initially has "sustained a position against the mandatory quotas, expressing its solidarity with other EU states, but, nevertheless, explaining that, for the time being, the "physical limit" of reception for Romania was 1785 people, with the possibility of improving and increasing its capacity in the future"⁵⁵.

In such a context, one of the 4 general strategic objectives set out by the national Strategy for Immigration for the period 2015-2018 was the improvement of the national asylum system, in order to increase its efficiency and ensure its conformity with the legal national, European and international standards.

The strategic objectives set out under the above mentioned general objective are:

1. continuing to ensure access to the asylum procedure and fully respect the principle of *non-refoulement*;
2. processing asylum requests in an efficient manner and in conformity with the existent legal national, European and international standards;
3. effective fight against the abuse of the asylum procedure;
4. ensuring a dignified standard of living for asylum seekers, in accordance with the national, European and international legal standards;
5. ensuring compatibility and interoperability with other EU Member States asylum systems, coordination with the European Asylum Support

⁴⁶ Methodological Norms for the implementation of Law no 122/ 2006, available at <http://legislatie.just.ro/Public/DetaliiDocument/75384>, art. 60, para. (1), last accessed 10 March 2017.

⁴⁷ Data contained in the research report Oana Iacob, „Rapid Assessment of the Asylum and Migration Policy Area” (unpublished), Oxford Research, 01.08.2016, financed by the Norwegian Financial Mechanism Office.

⁴⁸ *National Strategy on Immigration for the period 2015 – 2018*, available at <http://www.monitoruljuridic.ro/act/strategie-na-ional-din-23-septembrie-2015-privind-imigra-ia-pentru-perioada-2015-2018-annex-nr-1-emitent-guvernul-173049.html>, last accessed 10 March 2017.

⁴⁹ <http://www.cdep.ro/interpel/2015/r7942A.pdf>, last accessed 10 March 2017.

⁵⁰ *European Council Conclusions, 25 – 26 June 2015*, available at <http://www.consilium.europa.eu/en/press/press-releases/2015/06/26-euco-conclusions/>, last accessed 10 March 2017.

⁵¹ <http://www.consilium.europa.eu/en/meetings/jha/2015/09/22/>, last accessed 10 March 2017.

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⁵⁴ *Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece*, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015D1601>, last accessed 10 March 2017.

⁵⁵ <https://ec.europa.eu/migrant-integration/news/romania-refugee-crisis-relocation-quotas-and-accommodation-capacity>, last accessed 10 March 2017.

Office, as well as consolidating and improving the quality of the asylum procedure and of the measures facilitating the integration of beneficiaries of a form of protection in the Romanian society.

6. unitary and coherent management of situations of influx of irregular migrants, caused by political, social, economic or military crisis, and efficient management of Romania's participation in the EU resettlement and relocation mechanisms⁵⁶.

5.2. Subsequent developments

5.2.1. Action Plan for 2015 and other developments

The National Strategy for Immigration for the period 2015-2018 was approved by Government Decision no 780/2015, alongside with the afferent Action Plan for the year 2015.

The Action Plan⁵⁷ established the concrete measures to be taken for the implementation of the general and specific strategic objectives, the time frame, the responsible institutions and the available funding. Many of the measures referring to the field of asylum - ranging from the improvement of the reception conditions (increasing accommodation capacity, better responding to needs of vulnerable groups, providing material, medical and social assistance to asylum seekers etc.) to enhancing inter-institutional cooperation and increasing the level of knowledge and information on asylum issues, at the level of local authorities - depend to a great extent on external funding from the EU (especially the Asylum, Migration and Integration Fund – a financial instrument set up for the period 2014 - 2020⁵⁸) and on the cooperation with NGOs active in this field.

In October 2015, after some informal meetings with the representatives of the civil society, the Romanian Government announced its intention to create a platform of cooperation and dialogue with NGOs in order to better manage the efforts undertaken with the purpose of facilitating the social integration of refugees. Through Prime-Minister Decision no 312 from the 27th of November 2015, the Inter-ministerial Committee “the National Coalition for the Integration of Refugees” was founded. The Committee was supposed to meet monthly and whenever it was deemed

necessary, with representatives of NGOs as permanent guests.

One of Romania's top priorities, according to the Strategy and its 2015 Action Plan, was the modification of the national legislation on asylum as to fully transpose the legal instruments that are the basis of the Common European Asylum System. Romania has completed the transposition of the Common Procedures Directive (Directive 2013/32/EU) and the Reception Conditions Directive (Directive 2013/33/EU) through the Government Decision no 14/2016⁵⁹, adopted on the 19th of January 2016, after being partially transposed in December 2015, through Law no 331/2015. One of the most important modifications was brought to the provisions regulating the material and financial assistance granted to asylum seekers, that hadn't been changed since 2006 and were below the limits of subsistence. Between 2006 and January 2016, asylum seekers received, upon request, food within the limit of 3 RON (0.67 euro) per person per day, accommodation within the limit of 1.8 RON (0.40 euro per person per day - if the asylum seeker is not housed in one of the reception and accommodation centers subordinated to the General Inspectorate of Immigration - and other expenses within the limit of 0.6 RON (0.13 euro) person per day. After the modification operated through Government Decision no 14/2016, “the asylum seeker shall receive, upon request, food within the limit of 10 RON (2.23 euros) per person per day, clothing within the limit of 67 RON (14.92 euros) per person per summer season and 100 RON (22.27 euros) per person per winter season and other expenses within the limit of 6 RON (1.34 euro) per person per day”⁶⁰.

Also, another important legislative development was the adoption in November 2015 of Government Emergency Ordinance (GEO) no 53/2015 for the establishment of measures applicable in case of a massive migration flow at the Romanian state border⁶¹. “According to this GEO, in such a case, by order of the general inspector, head of the Romanian Border Police, one or several integrated centers implementing activities for state border control, protection of public health and clarification of the legal status of foreign nationals crossing the border, may be founded. Foreign nationals that are object to such activities within the above mentioned integrated centers will be granted, free of charge, accommodation, food, medical assistance and personal hygiene materials, with consideration to their opinion and personal religious

⁵⁶ *National Strategy on Immigration for the period 2015 – 2018*, available at <http://www.monitoruljuridic.ro/act/strategie-na-ional-din-23-septembrie-2015-privind-imigra-ia-pentru-perioada-2015-2018-annex-nr-1-emitent-guvernul-173049.html>, last accessed 10 March 2017.

⁵⁷ *Action Plan 2015 for the implementation of the National Strategy on Immigration for the period 2015 – 2018*, available at <http://legeaz.net/monitorul-oficial-789-2015/hg-780-2015-strategie-nationala-imigratia/anexa-nr-2-plan-de-actiune-pe-anul-2015>, last accessed 12 March 2017.

⁵⁸ https://ec.europa.eu/home-affairs/financing/fundings/migration-asylum-borders/asylum-migration-integration-fund_en, last accessed 12 March 2017.

⁵⁹ <http://gov.ro/ro/guvernul/sedinte-guvern/modificari-in-reglementarea-asistentei-de-care-pot-beneficia-in-romania-solicitantii-de-azil>, last accessed 12 March 2017.

⁶⁰ <https://ec.europa.eu/migrant-integration/news/romania-increase-of-assistance-granted-to-asylum-seekers-approved-by-governement>, last accessed 22 February 2017.

⁶¹ *Government Emergency Ordinance (GEO) no 53/2015 for the establishment of measures applicable in case of a massive migration flow at the Romanian state border*, available at <http://legislatie.just.ro/Public/DetaliiDocument/172739>, last accessed 10 March 2017.

and cultural profile, regardless of their legal status”⁶² On the 27th of April 2016, was published a draft Order of the Romanian Minister of Internal Affairs regarding the supply of food, the equipment of the accommodation locations and the provision of personal hygiene materials to foreign nationals that are object to activities carried out within the integrated centers mentioned by GEO no 53/2015⁶³. ”The draft order is meant to establish minimum measures in order to ensure a standard of living that guarantees subsistence and protects the physical and mental health of foreigners”⁶⁴.

5.2.2. Action Plans for 2016 and 2017

The Draft Action Plans for 2016 and 2017⁶⁵ target, among others, the improvement of reception conditions (with a focus on vulnerable groups also, as, at the practical level, the system is far from actually responding to their needs) and ensuring the access of asylum seekers and beneficiaries of a form of protection to their basic rights, facilitating integration of beneficiaries of a form of protection (modifications of Government Ordinance no 44/2004 on integration are also being prepared), enhancing inter-institutional cooperation (including through the Inter-ministerial Committee “the National Coalition for the integration of refugees”) etc. - with great support from NGOs and the same financial focus on AMIF and external funding.

As to the stage of the implementation of the EU relocation scheme (that actually triggered the latest developments in the field of asylum), according to the General Inspectorate for Immigration, in 2016, 568 people were relocated from Greece (523) and Italy (45)⁶⁶.

6. Conclusions

Romania’s asylum system, from a legislative point of view, is in accordance with the European legislation. However, since the country has a rather low number of migrants, there hasn’t been an actual incentive to practically develop the system until now. The current international and European context have put it under scrutiny nonetheless, revealing its shortcomings and triggering the necessity to adapt it even further to a prospective increase of the migration flow. An improvement of reception conditions for asylum seekers, and better interinstitutional cooperation in order to ensure access to rights and increase the integration perspectives for beneficiaries of a form of international protection in Romania are among the expectations to be fulfilled in the near future. But such improvements must, nevertheless, go beyond the letter of the law and eventually transpose themselves into good practices in order to prove their efficiency.

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⁶² <https://ec.europa.eu/migrant-integration/news/romanian-government-prepares-measures-to-accommodate-migrants-in-case-of-massive-migration-flows>, last accessed 10 March 2017.

⁶³ Draft Order of the Romanian Minister of Internal Affairs regarding the supply of food, the equipment of the accommodation locations and the provision of personal hygiene materials to foreign nationals that are object to activities carried out within the integrated centers mentioned by GEO no 53/2015, available at <http://www.mai.gov.ro/documente/transparenta/OMAI%20norma%20hrana%20straini.pdf>, last accessed 10 March 2017.

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⁶⁶ Evaluation of the General Inspectorate for Immigration Activity, Bucharest, 14 February 2017, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/Prezentare%202016%20%20Animation%20text%20final.pdf, accessed 10 March 2017.

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