

**QUESTIONNAIRE FOR THE NATIONAL REPORT ON THE IMPLEMENTATION  
OF THE DIRECTIVE :**

**TEMPORARY PROTECTION OF 20 JULY 2001**

**IN**

**ROMANIA**

By

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*The person in the team of thematic coordination in charge of this directive that you can contact if you have a question or need help when completing this questionnaire is:*

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<b>FIRST PART</b>
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**1. NORMS OF TRANSPOSITION AND JURISPRUDENCE**

**Q.1.A. Identify the central norm(s) of transposition and indicate its legal nature**

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is called a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)
- About legal nature in the table below: *legislative* refers to a norm adopted in principle by the Parliament; *regulation* refers to a norm complementing the law and adopted in principle by the executive power; *circular or instructions* refer to practical rules about implementation of laws and regulations and adopted in principle by the administrative authorities

*When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

Table 1

<b>This table is about:</b> <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b> LAW REGARDING THE ASYLUM IN ROMANIA
<b>DATE:</b> May 4, 2006
<b>NUMBER:</b> 122
<b>DATE OF ENTRY INTO FORCE:</b> in principle, within 90 days from the publication in the Official Gazette of Romania; exceptionally, some articles enter into force at the date of adhesion of Romania to the EU, meaning January 1st, 2007
<b>PROVISIONS CONCERNED :</b> transposes the CE Directive 2001/55/CE; CE Directive 2003/9/CE; CE Directive 2003/86/CE and CE Directive 2004/83/CE <b>(for example if the norm also pursues other objectives than the transposition of the directive)</b>
<b>REFERENCES OF PUBLICATION</b> <b>IN THE OFFICIAL JOURNAL:</b> OFFICIAL GAZETTE OF ROMANIA, SECTION I, NO. 428/May 18, 2006; rectification in the OFFICIAL GAZETTE OF ROMANIA, SECTION I, NO. 68/January 29, 2007
<b>LEGAL NATURE</b> (please tick the correct box): <input checked="" type="checkbox"/> <b>LEGISLATIVE</b> <input type="checkbox"/> <b>REGULATION</b> <input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

Table 2

<b>This table is about:</b> <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b> GOVERNMENT DECISION ON THE APPROVAL OF THE METHODOLOGICAL NORMS REGARDING THE IMPLEMENTATION OF THE LAW NO. 122/2006
<b>DATE:</b> September 13, 2006
<b>NUMBER:</b> 1251
<b>DATE OF ENTRY INTO FORCE:</b> in principle, within 3 days from the publication in the Official Gazette of Romania; exceptionally, some articles enter into force at the date of adhesion of Romania to the EU, meaning January 1st, 2007
<b>PROVISIONS CONCERNED :</b> transposes the CE Directive 2001/55/CE; CE Directive 2003/9/CE and CE Directive 2004/83/CE; creates the legal frame necessary for the direct application of the Regulations no. 1030/2002 and no. 2252/2004 <b>(for example if the norm also pursues other objectives than the transposition of the concerned directive)</b>
<b>REFERENCES OF PUBLICATION</b> <b>IN THE OFFICIAL JOURNAL:</b> OFFICIAL GAZETTE OF ROMANIA, SECTION I, NO. 805/September 25, 2006; rectification in the OFFICIAL GAZETTE OF ROMANIA, SECTION I, NO. 833/October 10, 2006
<b>LEGAL NATURE</b> (please tick the correct box): <input type="checkbox"/> <b>LEGISLATIVE</b> <input checked="" type="checkbox"/> <b>REGULATION</b> <input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

Table 3

<b>This table is about:</b> <input checked="" type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b> GOVERNMENT EMERGENCY ORDINANCE REGARDING THE FOUNDATION OF THE ROMANIAN OFFICE FOR IMMIGRATION
<b>DATE:</b> June 20, 2007
<b>NUMBER:</b> 55
<b>DATE OF ENTRY INTO FORCE:</b> the day of the publication in the Official Gazette of Romania
<b>PROVISIONS CONCERNED :</b> organization and functioning of the Romanian Office for Immigration (for example if the norm also pursues other objectives than the transposition of the concerned directive)
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b> OFFICIAL GAZETTE OF ROMANIA, SECTION I, NO. 424/June 26, 2007
<b>LEGAL NATURE</b> (please tick the correct box): <input checked="" type="checkbox"/> <b>LEGISLATIVE</b> <input type="checkbox"/> <b>REGULATION</b> <input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

Table 4

<b>This table is about:</b> <input type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b>
<b>DATE:</b>
<b>NUMBER:</b>
<b>DATE OF ENTRY INTO FORCE:</b>
<b>PROVISIONS CONCERNED :</b> (for example if the norm also pursues other objectives than the transposition of the concerned directive)
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b>
<b>LEGAL NATURE</b> (please tick the correct box): <input type="checkbox"/> <b>LEGISLATIVE</b> <input type="checkbox"/> <b>REGULATION</b> <input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

Table 5

<b>This table is about:</b> <input type="checkbox"/> a text already adopted <input type="checkbox"/> a text which is still a project to be adopted
<b>TITLE:</b>
<b>DATE:</b>
<b>NUMBER:</b>
<b>DATE OF ENTRY INTO FORCE:</b>

<b>PROVISIONS CONCERNED :</b> (for example if the norm also pursues other objectives than the transposition of the concerned directive)
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b>
<b>LEGAL NATURE</b> (please tick the correct box): <input type="checkbox"/> <b>LEGISLATIVE</b> <input type="checkbox"/> <b>REGULATION</b> <input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

**Q.1.B.**

Please list the others norms of transposition according to their hierarchical position in your legal system\_(first laws, to be followed by regulations; and circulars or instructions):

- This question includes even norms adopted before the adoption of the directive but ensuring its transposition (what is termed a pre-existing norm in the table of correspondence).
- Quote the norm of transposition and not only the norm modified by it (the same is true in case of existence of a code of aliens law)

*When answering this question, please use one or more of the tables below (one norm per table). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

*Table 1*

<b>TITLE:</b>
<b>DATE:</b>
<b>NUMBER:</b>
<b>DATE OF ENTRY INTO FORCE:</b>
<b>PROVISIONS CONCERNED :</b> (for example if the norm also pursues other objectives than the transposition of the directive)
<b>REFERENCES OF PUBLICATION IN THE OFFICIAL JOURNAL:</b>
<b>LEGAL NATURE</b> (indicate by ticking the correct box): <input type="checkbox"/> <b>LEGISLATIVE</b> <input type="checkbox"/> <b>REGULATION</b> <input type="checkbox"/> <b>CIRCULAR OR INSTRUCTIONS</b>

**Q.2.**

This question needs to be answered only for **FEDERAL OR SIMILAR MEMBER STATES LIKE AUSTRIA, BELGIUM, GERMANY, ITALY, SPAIN**

**Q.2.A.**

Explain which level of government is competent to adopt the norms of transposition.

Please include your answer in the tables below

<b>LEGISLATIVE RULES</b>
<b>COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:</b>
<b>COMPETENCES OF THE COMPONENTS:</b>
<b>EXPLANATIONS IF NECESSARY:</b>

<b>REGULATIONS</b>
<b>COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:</b>
<b>COMPETENCES OF THE COMPONENTS:</b>
<b>EXPLANATIONS IF NECESSARY:</b>

<b>CIRCULAR OR INSTRUCTIONS</b>
<b>COMPETENCES OF THE FEDERAL/CENTRAL LEVEL:</b>
<b>COMPETENCES OF THE COMPONENTS:</b>
<b>EXPLANATIONS IF NECESSARY:</b>

**Q.2.B.** Where appropriate, please explain if the federal structure and the distribution of competences between the different levels creates any problem or difficulty regarding the transposition and/or the implementation of the directive.

**Q.3.** Explain which authorities are competent for the practical implementation of the norm of transposition by taking the decisions in individual cases.

*When answering this question, please use one or more of the tables below (one table per competence concerned). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

Table 1

<b>COMPETENCE CONCERNED:</b>	ALL COMPETENCES IN THE FIELD
<b>CENTRAL MINISTRY OF:</b>	MINISTRY OF INTERNAL AFFAIRES AND ADMINISTRATIVE REFORMS
<b>DIRECTION OR SERVICE WITHIN THE ABOVE MINISTRY:</b>	ROMANIAN OFFICE FOR IMMIGRATION
<b>OTHER LEVEL OF ADMINISTRATION:</b>	The Romanian Office for Immigration is organized at central and territorial levels

<b>IF NECESSARY, COMMENT ABOUT THE NATURE OF THE AUTHORITY (for instance if it is independent of the competent minister)</b>	The Romanian Office for Immigration is a public institution functioning under the subordination of the Ministry of Internal Affairs and Administrative Reforms
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**Q.4.A. Has the central regulation foreseen by the central norm of transposition already been adopted?**

YES  NO

**Q.4.B. If the central norm(s) of transposition foresee(s) the adoption of one or several regulations, indicate if they have all been adopted:**

YES  NO

**If NO, please indicate the missing text(s) in the table below. Where necessary, please add further explanations (specify in particular if the missing texts are at least under preparation or foreseen in the very near future):**

*When answering this question, please use one or more of the tables below (one table per missing text). If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

*Table 1*

<b>MISSING TEXTS</b>
<i>INDICATE HERE THE MISSING TEXTS</i>

## SECOND PART

### **Duration and implementation of temporary protection**

**Q.5.** According to article 5(1) in the Directive the existence of a mass influx of displaced persons shall be established by a Council Decision adopted by a qualified majority on a proposal from the Commission, which shall also examine any request by a Member State that it submit a proposal to the Council. According to article 5(3) the Council Decision shall have the effect of introducing temporary protection for the displaced persons to which it refers, in all the Member States, in accordance with the provisions in the Directive.

**Do the national norms of transposition in your Member State mandate the Council to decide about the existence of a mass influx of displaced person, with the effect of introducing temporary protection for the displaced persons to which it refers in your Member State?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation** (if the answer is “no”, how is a Council decision transposed ad hoc into national law?)

As provided by article 131 of the Law no. 122/2006:

- (1) The existence of a great influx of displaced persons is established through a Decision of EU Council.
- (2) Romania may make a proposal to the EU Council to issue a decision presenting the existence of a great influx of displaced persons. The proposal shall contain a description of the specific groups of persons to whom temporary protection shall be granted, the date when the temporary protection enters into force and an assessment of the scale of movement of the displaced persons.
- (3) Aliens to whom temporary protection has been granted shall benefit from this form of protection from the date provided for in the Decision of EU Council.
- (4) If temporary protection is granted through the decision of EU Council, the Romanian Government on the proposal of National Council for Refugees shall issue a decision stipulating the concrete conditions to grant temporary protection to persons displaced on the Romanian territory, as well as the financing source for expenses incurred by ensuring temporary protection.

**Q.6.** According to article 6 in the Directive, temporary protection shall come to an end when the maximum duration has been reached or at any time by Council Decision on a proposal from the Commission. *See article 6 (1-2).*

**Do the national norms of transposition mandate the Council to decide when temporary protection in your Member State shall come to an end?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

### **Explanation:**

According to the Law no. 122/2006, art. 132, letter b):

Temporary protection shall cease [...] anytime through a Decision of the EU Council adopted to this effect.

**Q.7.** According to article 7, a Member States may extend temporary protection, as provided for in the Directive, to additional categories of displaced persons over and above those to whom a Council decision applies, where they are displaced for the same reasons and from the same country or region of origin. *See optional provision in article 7 (1-2).*

**Do the national norms of transposition allow your Member State to extend temporary protection to additional categories of displaced persons?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:** (If the answer is "yes", if any, what are the criteria for extending protection to additional categories of displaced persons)?

There are no norms under the legislation in force.

### **Obligations of the Member States towards persons enjoying temporary protection**

**Q.8.** Questions regarding obligations of the Member States towards persons enjoying temporary protection. *See article 8(1-3):*

**Q.8.A. Does your Member State provide persons enjoying temporary protection with a residence permit? *See mandatory provision in article 8(1).***

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:** (if the answer is 'no', what are the practical Consequences for the individual?)

According to the Law no. 122/2006, art. 133 par. 1 letter a):

During the temporary protection, the beneficiaries of this form of protection shall have the following rights: the right to have issued a document granting the permission to stay on the Romanian territory.

**Q.8.B. Answer this question if the answer on Q.8.A is 'yes': Is the residence permit valid for the entire period of temporary protection? *See mandatory provision in article 8(1).***

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No



**Explanation:** (if the answer is 'no', what are the practical Consequences for the individual?)

**Q.8.C. Will documents or other equivalent evidence for the residence permit be issued?** *See mandatory provision in article 8(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 1 letter a):  
During the temporary protection, the beneficiaries of this form of protection shall have the following rights: the right to have issued a document granting the permission to stay on the Romanian territory.

**Q.8.D. Will your Member State provide persons enjoying temporary protection with a document, in a language likely to be understood by them, in which the provisions relating to temporary protection, and which are relevant to them, is clearly set out?** *See mandatory provision in article 9.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 1 letter b):  
During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] the right to be informed in writing about the provisions regarding the temporary protection, in a language that the person in question is supposed to understand.

**Q.8.E. Will the personal data of the persons enjoying temporary protection (name, nationality, date and place of birth, marital status, and family relationship) be registered?** *See mandatory provision in article 10.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 134:  
The National Council for Refugees shall record the personal data of the beneficiaries on temporary protection on the Romanian territory.

**Q.8.F. Will your Member State provide facilities for obtaining the necessary visas, including transit visas, to persons which will be admitted to the territory for the purposes of temporary protection?** *See mandatory provision in article 8(3).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 3:

(3) Where it is deemed necessary, persons to be admitted on the Romanian territory for temporary protection shall benefit from any facility to obtain the necessary visa, including transit visa. To this effect National Council for Refugees shall request the Ministry of Foreign Affairs to issue the entry visa in the shortest possible time due to urgent situation. The visa shall be free of charge or its cost shall be reduced to minimum.

**Q.8.G. According to the national law of your Member State: Will the visas referred to in Q.8.F, be free of charge? See mandatory provision in article 8(3).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:** (if the answer is “no”, please indicate the amount charged and indicate amounts charged for other types of visas)

As provided by art. 133 par. 3, the final phrase from the Law no. 122/2006:  
The visa shall be free of charge or its cost shall be reduced to minimum.

**Q.9. According to national law of transposition, is your Member State responsible to take back a person enjoying temporary protection on its territory if that person seeks to enter onto or remains on the territory of another Member State without authorisation during the period of temporary protection? See mandatory provision in article 11.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

There is no explicit principal norm in the Romanian legislation in force providing such a measure.

**Q.10. Has your Member State concluded bilateral agreements with other Member States regulating the responsibility for persons enjoying temporary protection under the Directive? See optional provision in article 11, final sentence.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:** (If the answer is “yes”, please specify with which country)

There are bilateral agreements concluded with several states before the January 1st, 2007 (date of the Romanian adhesion to the EU). These readmission agreements concern the general situation of foreigners, but without any specifically reference to the responsibility to take back beneficiaries of temporary protection. However, the general form of the text implies that beneficiaries of temporary protection are included into the category of foreigners, so these readmission agreements concern indirectly the beneficiaries of temporary protection.

**Q.11.** Questions regarding work and other activities during temporary protection: *See mandatory provision in article 12.*

**Q.11.A.** Are the persons enjoying temporary protection allowed to engage in:

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- |  |  |                                    |
|--|--|------------------------------------|
| <b>Employed activities?</b>                  | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>Self-employed activities?</b>             | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>Educational opportunities for adults?</b> | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>Vocational training?</b>                  | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>Practical workplace experience?</b>       | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 1 letter c):

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] the right to be employed by natural or legal persons, to develop independent activities observing the rules applicable to the respective profession, as well as activities such as educational opportunities for adults, vocational training and work practical experience under the law.

**Q.11.B.** According to optional provision in article 12, Member States may, for reasons of labour market policies, give priority to EU citizens and citizens of States bound by the Agreement on the European Economic Area and also to legally resident third-country nationals who receive unemployment benefit.

**Do the national norms of transposition in your Member State give priority, or allow giving priority, to:**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- |   |  |                                    |
|---|--|------------------------------------|
| <b>EU citizens?</b>   | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>Citizens of the European Economic Area?</b>                                      | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>Legally resident third-country nationals who receives unemployment benefits?</b> | <input checked="" type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |

### Explanation:

According to the Law no. 122/2006, art. 133 par. 4:

Priority to unemployment aids, due to reasons regarding labor market policy, may be granted to EU citizens, citizens from states obliged under the Agreement on European Economic Space and citizens from third states with a legal right of stay vis-a-vis the possibilities of employment of the beneficiaries of temporary protection. However, the text is not mandatory, but only allows such a possibility.

Question to be answered only if persons enjoying temporary protection are allowed to work:

**Q.11.C.** According to article 12, final sentence, the general law in force in the Member States applicable to remuneration, access to social security systems relating to employed or self-employed activities and other conditions of employment shall apply if persons enjoying temporary protection are allowed to work.

**If persons enjoying temporary protection are allowed to work: Will your country's general laws be applicable regarding:**

Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Remuneration?**  Yes  No

**Access to social security systems relating to employed or self-employed activities and other conditions of employment?**  Yes  No

### Explanation:

According to the Law no. 122/2006, art. 5:

The provisions of the Law no. 122/2006 shall apply without discrimination, irrespective of race, nationality, ethnic origins, language, religion, social status, convictions, sex, sexual orientation, age, disability, non-contagious chronic illness, HIV infection, or appartenance to a defavorised category, material status, acquired status or any other distinction.

**Q.12.** Questions regarding the Member States obligation towards the temporary protected regarding accommodation, subsidies, medical care etc. *See article 13(1-4).*

**Q.12.A.** **Is your Member State obliged under national law to provide the persons enjoying temporary protection with suitable accommodation or means in order to obtain housing?** *See mandatory provision in article 13(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

### Explanation :

According to the Law no. 122/2006, art. 133 par. 1 letter d) and par. 2:

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] the right to benefit, upon request, from necessary support for living/maintenance when he/she does not have the necessary material means.

(2) The amounts given for food, accommodation, medical assistance, medical assistance for persons with special needs, as well as other expenses shall be established through Government Decision issued under the conditions of the Law no. 122/2006 and shall be covered from the state budget, through the budget of the Ministry of Internal Affairs and Administrative Reforms and/or from the European funds.

**Q.12.B. Will your Member State, according to national law, be obliged to provide the persons enjoying temporary protection with economic assistance such as social welfare and means of subsistence? See mandatory provision in article 13(2).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 1 letter d), e) and par. 2:

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] the right to benefit, upon request, from necessary support for living/maintenance when he/she does not have the necessary material means; [...] the right to receive free of charge primary medical assistance and emergency assistance in hospital, as well as free of charge medical assistance and treatment in case of acute or chronic disease which poses an imminent risk to their life.

(2) The amounts given for food, accommodation, medical assistance, medical assistance for persons with special needs, as well as other expenses shall be established through Government Decision issued under the conditions of the Law no. 122/2006 and shall be covered from the state budget, through the budget of the Ministry of Internal Affairs and Administrative Reforms and/or from the European funds.

**Q.12.C. Do the persons enjoying temporary protection have access to emergency medical care and essential treatment of illness? See mandatory provision in article 13 (2).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:** (If the answer is “yes”, please provide details whether persons enjoying temporary protection have access to *general medical care* or if it is restricted to *emergency care and essential treatment of illness*?)

According to the Law no. 122/2006, art. 133 par. 1 letter e) and par. 2:

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] the right to receive free of charge primary medical assistance and emergency assistance in hospital, as well as free of charge medical assistance and treatment in case of acute or chronic disease which poses an imminent risk to their life.

(2) The amounts given for food, accommodation, medical assistance, medical assistance for persons with special needs, as well as other expenses shall be established through Government Decision issued under the conditions of the Law no. 122/2006 and shall be covered from the state budget, through the budget of the Ministry of Internal Affairs and Administrative Reforms and/or from the European funds

**Q.12.D. Will your Member State, according to national law, be obligated to provide for necessary medical or other assistance to persons enjoying temporary protection who have special needs such as unaccompanied minors, persons who have undergone torture, rape or other serious forms of**

**psychological, physical or sexual violence?** *See mandatory provision in article 13(4).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:** (If the answer is “yes”, please provide details about the assistance given to different groups of persons with special needs, for example psychological help for persons who have undergone torture).

According to the Law no. 122/2006, art. 133 par. 1 letter f) and par. 2:

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] the right of beneficiaries of temporary protection having special needs to receive an adequate medical assistance.

(2) The amounts given for food, accommodation, medical assistance, medical assistance for persons with special needs, as well as other expenses shall be established through Government Decision issued under the conditions of the Law no. 122/2006 and shall be covered from the state budget, through the budget of the Ministry of Internal Affairs and Administrative Reforms and/or from the European funds.

**Q.13.** Questions regarding access to education. *See article 14 (1-2):*

**Q.13.A. Do persons who are under 18 years of age and enjoying temporary protection have access to the education system under the same conditions as nationals of your Member State?** *See mandatory provision in article 14(1).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 1 letter g):

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] in case of beneficiaries of temporary protection who are under 18 years old, the right to have access to public educational system according to the provisions of the law for Romanian citizens.

**Q.13.B. If the answer on Q.13.A is ‘yes’: Is access to education confined to the state education system or does it cover all kinds of educational institutions?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 133 par. 1 letter g):

(1) During the temporary protection, the beneficiaries of this form of protection shall have the following rights: [...] in case of beneficiaries of temporary protection who are under 18 years old, the right to have access to public educational system according to the provisions of the law for Romanian citizens.

The text refers to the public educational system only.

**Q.13.C. Do adults enjoying temporary protection have access to the general education system?** *See optional provision in article 14(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

There is no general norm in this respect.

**Q.14.** Questions regarding right to family reunification. *See article 15:*

**Q.14.A. Do the national norms of transposition in your Member State allow separated family members, which enjoy temporary protection in different Member States, to reunite?** *See mandatory provision in article 15(2).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 135 par. 2:

(2) If the members of separated family are granted temporary protection in different member states, family members shall be reunited taking into account their desire.

**Q.14.B. Do the national norms of transposition in your Member State allow family members who are not yet in a Member State to reunite with a person enjoying temporary protection in your Member State?** *See mandatory provision in article 15(3).*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 135 par. 3:

(3) When one or more family members of the beneficiary of temporary protection are not in Romania yet, the family is reunited if it is considered they need protection and are not in one of the cases of exclusion provided by the Law no. 122/2006 under art. 141.

**Q.14.C. For the application of the rules regarding family reunification: Whom does your Member State consider a “family member”?** *See article 15(1)(a)(b).*

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

**The spouse of the person enjoying temporary protection.**

- The unmarried partner in a stable relationship to the person enjoying temporary protection.**
- The minor unmarried children of the person enjoying temporary protection or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted.**
- Other close relatives who lived as part of the family unit with the person enjoying temporary protection at the time of the events leading to the mass influx, and who were wholly or mainly dependent on him/her at the time.**

**Explanation:**

According to the Law no. 122/2006, art. 135 par. 1 letters a) and b):

(1) For the purpose of this article, if families were already formed in the country of origin and were separated due to circumstances from the mass influx, the following persons shall be considered family members of the beneficiary of temporary protection:

(a) husband/wife;

(b) unmarried under age offspring of beneficiary or of her husband/his wife, even if the child was born during or outside the marriage or adopted.

The unmarried partner in a stable relationship to the person enjoying temporary protection is not eligible for family reunification. Domestic legislation and practice does not treat unmarried couples in a way comparable to married couples.

**Q.14.D. What means of proof is needed in your Member State to verify family membership, is for example documentary evidence needed?**

There are no express norms in the field.

**Q.14.E. Explain which measures have been taken in your Member State to ensure that ‘the best interest of the child’ is accounted for when applying the provisions on family reunification in the national norms of transposition? *See mandatory provision in article 15(4).***

Art. 8 of the Law no. 122/2006 provides that:

For the purposes of this law, all decisions with regard to minors shall be taken with due regard of the superior interest of the child.

This is a mandatory provisions with value of principle.

**Q.14.F. According to article 15(5), Member States shall decide in which Member State the reunification shall take place. Please indicate which authority possesses the competency to take such decisions?**

**Name and function of the Authority:** The competent Authority is the National Council for Refugees.

**According to the Law no. 122/2006, art. 135 par. 4:**

**(4) In order to determine the state where the family shall be reunited, the National Council for Refugees shall cooperate with similar institutions from responsible member states.**



**Q.14.G. If there is a formal procedure foreseen for such decisions, please describe it briefly:**

According to the Law no. 122/2006, art. 135 par. 4:

(4) In order to determine the state where the family shall be reunited, the National Council for Refugees shall cooperate with similar institutions from responsible member states.

**Q.14.H. Are reunited family members in your Member State granted residence permits under temporary protection?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 135 par. 5:

(5) If the family is reunited in Romania, family members of the beneficiary of temporary protection shall be issued documents granting the permission to stay in Romanian territory.

**Q.14.I. Are documents or other equivalent evidence issued for persons who comes to your Member State and receives temporary protection under the provisions regarding family reunification?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 135 par. 5:

(5) If the family is reunited in Romania, family members of the beneficiary of temporary protection shall be issued documents granting the permission to stay in Romanian territory.

**Q.14.J. Does the national norms of transposition in your Member State comply with the provision in article 15(8) stating that a Member State shall at the request of another Member State, provide information on a person receiving temporary protection which is needed to process a matter of family reunification? See mandatory provision in article 15(8).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 135 par. 8:

(8) The National Council for Refugees, on the request of similar institutions from other member states, shall provide information regarding certain beneficiary of temporary protection, if the information is necessary to apply the provisions of this article, regarding family reunification.

**Q.15.**                      Questions regarding unaccompanied minors: *See article 16:*

**Q.15.A. Explain how the representation of unaccompanied minors enjoying temporary protection in your Member State is arranged according to national law. See mandatory provision in article 16(1).**

The Law no. 122/2006, art. 136 par. 1:

(1) In case of unaccompanied minors who are being granted temporary protection, the National Council for Refugees shall request to the competent authorities to appoint a legal representative in the shortest time possible.

**Q.15.B. Does your Member State provide for unaccompanied minors to be placed with: See mandatory provision in article 16(2).**

(Please indicate by ticking the correct box/boxes and **EXPLAIN YOUR ANSWER**)

- Adult relatives ?**
- A foster-family ?**
- In reception centres with special provisions for minors, or in other accomodation suitable for minors ?**
- With the person who looked after the child when fleeing ?**

**Explanation:**

According to the Law no. 122/2006, art. 136 par. 2 letters a), b), c) and d):

(2) During the temporary protection, the unaccompanied minor may be accommodated:

- (a) with adult relatives;
- (b) with a host family;
- (c) in accommodation centers with special facilities for minors or other accommodation center suitable for minors.
- (d) with the person taking care of the child when he/she left the country of origin.

**Q.15.C. Do the national norms of transposition in your Member State meet the requirement that the views of the child shall be taken into account when arranging placement for the minor? See mandatory provision in article 16(2).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

- Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 136 par. 3:

(3) In order to apply the provisions of the law regarding the accommodation of an unaccompanied minor, the consent of the adult person or persons in question is needed. The opinion of the underage child is taken into account depending on the age and maturity of the child.

## **Access to the asylum procedure in the context of temporary protection**

**Q.16.** Questions regarding access to the asylum procedure. *See article 3 and 17-19:*

According to mandatory provision in article 3(1) temporary protection shall not prejudice recognition of refugee status under the Geneva Convention.

**Q.16.A. Does temporary protection in any way prejudice recognition of refugee status under the Geneva Convention in your Member State?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 137 par. 1:

(1) The beneficiaries of temporary protection may apply for asylum at anytime.

**Q.16.B. Does your Member State allow persons enjoying temporary protection to apply for asylum at any time during the period of temporary protection? See mandatory provision in article 17(1).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 137 par. 1:

(1) The beneficiaries of temporary protection may apply for asylum at anytime.

The status determination procedure for the person concerned will not be suspended during the period of temporary protection.

**Q.16.C. Does your Member State allow persons enjoying temporary protection to stay in the Member State during the examination of their asylum claim, even though the period of temporary protection has ended? See mandatory provision in article 17(2).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 137 par. 2 and 4:

(2) The examination of an asylum application which was not solved before the expiry of the duration of the temporary protection period shall be completed on the date such period expires.

(4) If, after solving the asylum application, the status of refugee shall not be granted and neither subsidiary protection to a person eligible to the temporary protection, this person shall benefit or, as the case may be, shall continue to benefit from temporary protection until the period for which this form of protection has been granted expires.

**Q.16.D. What criteria are provided by the norms of transposition in your Member State to determine the responsibility amongst Member States for examining an asylum application submitted by a person enjoying temporary protection in another Member State? See mandatory provision in article 18.**

According to the Law no. 122/2006, art. 115 par. 1:

(1) Starting with the date of entry into force of the Treaty of adhesion to the European Union, Romania shall apply the provisions of the conventions or other acts directly applicable of the European Union, which settle the criteria and the mechanisms for determining the state responsible with the examination of an application for asylum lodged in one of the member states by a citizen of a third country.

**Q.16.E. Has your Member State decided that temporary protection may not be enjoyed concurrently with the status of asylum seeker while applications are under consideration? See optional provision in article 19.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:** If the answer is “yes”, please provide details concerning differences between the reception conditions for asylum seekers and persons enjoying temporary protection in your Member State which might lead to withdrawal or reduction of rights for a temporary protected who lodges an application for asylum.

According to the provisions of the Law no. 122/2006, art. 137 par. 3, 4 and 5:

(3) Temporary protection shall not be granted simultaneously with the status of asylum applicant while the applications are under examination.

(4) If, after solving the asylum application, the status of refugee is not granted and subsidiary protection to an eligible person to temporary protection is not granted either, this person shall benefit or, as the case may be, shall continue to benefit from temporary protection until the period granted for this form of protection has expired.

(5) The provisions of paragraph (4) above shall apply without prejudice to the provisions of the law regarding the exclusion criteria.

**Q.16.F. If refugee status or, where applicable, other kind of protection is not granted to a person who is eligible for or already enjoys temporary protection is that person allowed to enjoy or continue to enjoy temporary protection in your Member State? See mandatory provision in article 19(2).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the provisions of the Law no. 122/2006, art. 137 par. 4:

(4) If, after solving the asylum application, the status of refugee is not granted and subsidiary protection to an eligible person to temporary protection is not granted either, this person shall benefit or, as the case may be, shall continue to benefit from temporary protection until the period granted for this form of protection has expired.

**Return and measures after temporary protection has ended**

**Q.17.** Questions regarding the voluntary return of persons enjoying temporary protection:

**Q.17.A. According to mandatory provision in article 21(1) the Member States shall ensure that the provisions governing voluntary return of persons enjoying temporary protection facilitate their return with respect for human dignity. How is that reflected in the national norms of transposition in your Member State?**

According to the Law no. 122/2006, art. 138 par. 1 and 2:

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

**Q.17.B. Please explain how your Member State ensures that a decision of persons enjoying temporary protection, or whose temporary protection has ended, to return voluntarily is taken in full knowledge of the facts. See mandatory provision in article 21(1).**

According to the Law no. 122/2006, art. 138 par. 1 and 2:

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

**Q.17.C. Is it possible for the temporary protected in your Member State to make exploratory visits to the home country? See optional provision in article 21(1).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

There is no explicit norm.

**Q.17.D. Please explain if and how your Member State has transposed article 21(2) stating that Member States shall, for such time as the temporary protection has not ended and on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the host Member State from persons who have enjoyed temporary protection and exercised their right to a voluntary return?**

According to the Law no. 122/2006, art. 138 par. 2:

(2) As long as the temporary protection period has not elapsed and on the basis of circumstances still in force in the country of origin, the beneficiaries of temporary protection who have exercised their right to voluntary repatriation may request to be admitted again on the Romanian territory. If these requests are accepted, the persons who are admitted again on the Romanian territory shall benefit from temporary protection until this period has expired.

**Q.17.E. Is it possible, under the national norms of transposition in your Member State, for persons enjoying temporary protection to continue receive their benefits as temporary protected after the period of temporary protection has ended, if they benefit from a voluntary return programme? See optional provision in article 21.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:** (If the answer is “yes”, for how long is that possible).

There is no explicit norm.

**Q.18.** Questions concerning enforced return of persons who have enjoyed temporary protection. *See articles 22:*

**Q.18.A. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(1), obliging Member States to ensure that the enforced return of persons whose temporary protection has ended and who are not eligible for admission shall be conducted with due respect for human dignity.**

There is no explicit norm in the law of transposition.  
There are insufficient norms in the legislation regarding the aliens.

**Q.18.B. Explain if and how the laws of your Member State comply with the mandatory provision in article 22(2) obliging Member States to consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases.**

There is no explicit norm in the law of transposition.  
There are insufficient norms in the legislation regarding the aliens.

**Q.18.C. In the national law of your Member State, are there any other grounds (except for the one referred to in Q.18.B) for allowing persons who have enjoyed temporary protection to stay in your Member State?**

There is no explicit norm in the law of transposition.  
There are insufficient norms in the legislation regarding the aliens.

**Q.19.** Questions concerning forcible return of persons who have enjoyed temporary protection. *See article 23:*

**Q.19.A. Does the national law and practice of your Member State comply with the mandatory provision in article 23, providing that persons who have enjoyed temporary protection and who cannot, in view of their state of health reasonably be expected to travel, are not expelled as long as that situation continues? The provision exemplifies with persons who would suffer serious negative effects if their treatment was interrupted.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

There is no explicit norm in the law of transposition.  
There are insufficient norms in the legislation regarding the aliens.

**Q.19.B. Does your Member State allow families whose children attend school in a Member State, to benefit from residence conditions allowing the children concerned to complete the current school period before return? See optional provision in article 23.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

There is no explicit norm in the law of transposition.  
There are insufficient norms in the legislation regarding the aliens.

## **Solidarity**

**Q.20. Please describe how your Member State ensures that persons eligible for temporary protection defined in a Council Decision under article 5 and who have not arrived in the Community have expressed their will to be received on their territory? See mandatory provision in article 25(2).**

According to the Government Decision no. 1251/2006, art. 68 par. 3:  
(3) The Romanian competent authorities, acting in cooperation with the competent international organizations, shall make sure that the persons eligible defined in the decision of the EU Council which have not yet entered on the EU territory, expressed their desire to be accepted on the Romanian territory.

**Q.21. Questions concerning the transferral between Member States of persons enjoying temporary protection. See article 26:**

**Q.21.A.** According to mandatory provision in article 26(1) the Member States shall cooperate with each other with regard to transferral of the residence of persons enjoying temporary protection from one Member State to another, subject to the *consent* of the persons concerned to such transferral.

**Does the national law of your Member State comply with article 26(1) regarding the *consent* of the person who are about to be transferred?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**

**No**

**Explanation:**

According to the Law no. 122/2006, art. 140 par. 1:

(1) During the temporary protection, Romania shall cooperate in order to transfer the beneficiaries of temporary protection to Romania or to other state, according to the provisions of this law. The transfer of the beneficiaries of the temporary protection shall be performed only if the persons concerned gave their consent.

**Q.21.B. Do the national norms of transposition in your Member State comply with article 26(2) stating that a Member State shall communicate requests for transfers to the other Member States and notify the Commission and UNHCR?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**

**No**

**Explanation:**

According to the Law no. 122/2006, art. 140 par. 2:

(2) Romania shall communicate the applications for transfer to other member states and shall notify the European Commission and the United Nations High Commissioner for Refugees (UNHCR).

**Q.21.C. According to the national norms of transposition, is your Member State obliged to, at the request of another Member State, provide information as set out in Annex II of the Directive, on a person enjoying temporary protection, which is needed to process a matter of transferral? (See mandatory provision in article 26(3)).**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**

**No**

**Explanation:**

According to the Law no. 122/2006 art. 140 par. 4:

(4) The National Council for Refugees, on request of the similar institutions from other member states, shall provide information regarding a beneficiary of temporary protection, if the information is needed in order to put into effect the provisions of this article, regarding the transfer of the beneficiaries of temporary protection.

According to the Government Decision no. 1251/2006, art. 69:

In order to put into effect the provisions of the Law no. 122/2006 regarding the provision of information about a beneficiary of temporary protection, for the purpose of family reunification, respectively for the purpose of the



transfer of the beneficiaries of temporary protection, the National Council for Refugees register information regarding the beneficiaries of temporary protection, according to annex 10 to the Government Decision.

Annex 10 to the Government Decision no. 1251/2006 provides for:

Information regarding the beneficiaries of the temporary protection:

The information regarding the beneficiaries of the temporary protection, for the purpose of their transfer or family reunification include, as necessary, one or more of the following documents or data:

- a) personal data regarding that person (name, citizenship, date and place of birth, marital status, family relations);
- b) identification documents and travel documents of the concerned person;
- c) documents proving the family relations (marriage certificate, birth certificate, adoption certificate);
- d) other information essential for the determination of the identity of the person or the family relations;
- e) permits of temporary stay, decision of not-granting the visa or the permit of temporary stay issue for the concerned person by the member state and the documents on which the decision was grounded;
- f) applications for granting the permit of temporary stay and the visa, lodged by the concerned person and being analysed in the member state, as well as the study of the procedure in these cases.

The requested member state shall notify the requesting member state about any change brought to the provided information.

**Q.21.D. According to the national law in your Member State, will the residence permit of a person who is transferred, from your Member State to another Member State, expire? See mandatory provision in article 26(4)**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 140 par. 5:

(5) On the date of transfer of a beneficiary of temporary protection to other member state, the permit of stay in Romania shall be withdrawn and the obligations of Romania towards the concerned persons with regard to the temporary protection shall cease.

**Q.21.E. When a person, who has been enjoying temporary protection in your Member State is transferred to another Member State, will the obligations relating to temporary protection in your Member State come to an end upon the transferral? See mandatory provision in article 26(4)**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 140 par. 5:

(5) On the date of transfer of a beneficiary of temporary protection to other member state, the permit of stay in Romania shall be withdrawn and the obligations of Romania towards the concerned persons with regard to the temporary protection shall cease.

**Q.21.F. If a person, who previously has enjoyed temporary protection in another Member State, is transferred to your Member State, will your Member State grant temporary protection to that person? See mandatory provision in article 26(4), last sentence.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 140 par. 6:

(6) If a beneficiary of the temporary protection is transferred to the territory of Romania, aiming at family reunification, Romania shall grant temporary protection to the concerned person.

The transposition of the directive is imperfect, because Romania will grant temporary protection to a transferred person only if this transfer concerns family reunification. However, this norm can be considered as transposing art. 15(6) of the directive.

**Q.21.G. Will the ‘model pass’ set out in annex I of the Directive be used in a foreseen transferral procedure?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:**

According to the Law no. 122/2006, art. 140 par. 7:

(7) In order to perform the transfer of a beneficiary of temporary protection, the National Council of Refugees issues a document to the beneficiary of temporary protection, according to the communitarian regulations.

The Annex 11 of the Government Decision no. 1251/2006 provides for the model of document for passing the border in case of transfer of the beneficiaries of temporary protection.

**Q.22. What authority in your Member State is appointed as national contact point according to the mandatory provision in article 27?**

**The name and function of the authority is:** The Romanian Office for Immigration within the Ministry of Internal Affairs and Administrative Reforms

**Q.23.** Questions regarding exclusion from temporary protection:

**Q.23.A. Are there any criteria for exclusion from temporary protection in your Member State? See optional provision in article 28.**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes  No

**Explanation:** (If yes, specify the criteria).

According to the Law no. 122/2006, art. 141 par. 1:

(1) An alien shall be excluded from granting temporary protection if:

a) there are serious reasons to consider that: (i) he/she has committed a serious crime against peace, a war crime, or a crime against humanity, as they are defined in the international instruments formulated in order to regulate such crimes; (ii) he/she has committed a serious crime, other than those provided under point i., outside Romania, before entering Romania as person who enjoys temporary protection; (iii) is guilty of acts against the aims and principles of the United Nations;

b) there are serious reasons to consider that the alien represent a risk for the Romanian security, or, being condemned by a final sentence for having committed a particular serious crime, the alien represents a danger for the public order in Romania.

**Q.23.B. If the answer to A. is “yes”, please indicate whether they in any way exceed the exhaustive list of criteria in article 28(1)(a) and (b).**

Yes

No

**Explanation:**

According to the Law no. 122/2006, art. 141 par. 1:

(1) An alien shall be excluded from granting temporary protection if:

a) there are serious reasons to consider that: (i) he/she has committed a serious crime against peace, a war crime, or a crime against humanity, as they are defined in the international instruments formulated in order to regulate such crimes; (ii) he/she has committed a serious crime, other than those provided under point i., outside Romania, before entering Romania as person who enjoys temporary protection; (iii) is guilty of acts against the aims and principles of the United Nations;

b) there are serious reasons to consider that the alien represent a risk for the Romanian security, or, being condemned by a final sentence for having committed a particular serious crime, the alien represents a danger for the public order in Romania.

**Q.23.C. Do the national norms of transposition in your Member State meet the terms in article 28(2) stating that the grounds for exclusion shall be based solely on the personal conduct of the person concerned?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

**Explanation:**

According to the Law no. 122/2006, art. 141 par. 2:

(2) The exclusion reasons as referred to as in paragraph (1) of art. 141 shall be based only on the individual behaviour of the concerned person. The exclusion decisions shall be based on the principle of proportionality.

**Q.23.D. Do the national norms of transposition in your Member State meet the terms of article 28(2) stating that exclusion decisions or measures shall be based on the principle of proportionality?**

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 141 par. 2:

(2) The exclusion reasons as referred to as in paragraph (1) of art. 141 shall be based only on the individual behaviour of the concerned person. The exclusion decisions shall be based on the principle of proportionality.

**Q.24.**            Questions concerning the right to legal challenge:

**Q.24.A. Do the laws of your Member State allow a person to mount a legal challenge if he/she has been:** *See mandatory provision in article 29.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

**excluded from the benefit  
of temporary protection**                       **Yes**                       **No**

**denied family reunification**                       **Yes**                       **No**

**Explanation:**

According to the Law no. 122/2006, art. 142 par. 1:

(1) The aliens who have been excluded from being granted the temporary protection or the family reunification may lodge a complaint against the rejection decision delivered by the National Council for Refugees.

A judiciary legal challenge is possible against any exclusion decision, without exception.

**Q.24.B. If the answer on any of the questions in Q.24.A is “yes”, please describe the applicable legal procedures for challenging the decision, in your Member State.**

According to the Law no. 122/2006, art. 142 par. 2-6:

(2) The representatives of National Council for Refugees shall immediately transmit in writing to the applicant, directly or by mail at the last declared domicile of the concerned person, the decision for exclusion from the temporary protection or family reunification.

(3) The time frame for lodging the complaint is 10 days from the communication of the decision.

(4) The complaint shall be solved by the court who has jurisdiction over the competent structure within the National Council for Refugees that delivered the decision.

(5) The court shall grant a reasoned decision within 30 days.

(6) The decision provided under paragraph (5) above is irrevocable.

**Q.25.**            Questions regarding penalties applicable to infringements of the national provisions.

**Q.25.A. Are there penalties applicable to infringements of the national provisions in your Member State?** *See mandatory provision in article 30.*

(Please indicate by ticking the correct box and **EXPLAIN YOUR ANSWER**)

Yes

No

**Explanation:** (If yes, specify the penalties).

There are no explicit norms provided for in the law of transposition.

**Q.25.B. Explain if the penalties, according to your opinion, comply with the Directive concerning them being effective, proportionate and dissuasive?**  
See mandatory provision in article 30.

There are no explicit norms provided for in the law of transposition.

### **Final questions**

**Q.26. Can you refer us to any study, report or research by any source on the practice of granting temporary protection in the event of a mass influx in your Member State?**

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**Q.27. Has there been a political or public debate on the implementation of the Directive? If so, please summarize the main issues of the debate**

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**Q.28. Are there any problems of legislation or practice in your Member State which relate to temporary protection and have not been covered in preceding questions?**

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**THIRD PART**

**IMPACT OF THE DIRECTIVE ON NATIONAL LAW**

**Q.29** Question regarding the evolution of national law: **Did the transposition of the Directive make the rules related to the protection of third country nationals in cases of a mass influx become, from the point of view of the third-country national concerned, more favourable or less favourable. Please make also a comparison with the standard of the directive in the last column of the table below**

<b>OBJECTIVE</b> <i>To enhance the protection of displaced persons in cases of a mass influx</i>		<b>EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW</b>	<b>EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE</b>
<p>Explain the situation <u>before</u> transposition</p> <p>Humanitarian temporary protection for persons from armed conflict areas (not involving Romania), for a maximum of 2 year, without any European cooperation. Legal bases: Government Ordinance nr. 102/2000 on status and regime of refugees in Romania and Government Decision nr. 622/2001 on methodological norms.</p>	<p>Explain the situation <u>after</u> transposition</p> <p>Law nr. 122/2006 for the asylum in Romania, adopted on May 4th, 2006, published on Mai 18th, 2006 and entered into force 90 days after publication. Rules in principle in lines with the directive.</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input checked="" type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input checked="" type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

**Q. 30.** **From your point of view, did the transposition of the directive imply other interesting changes for the third country national concerned regarding other elements than the ones mentioned in the previous question? Please make also a comparison with the standard of the directive in the last column of the table below**

*When answering this question, please use one or more of the tables below. If the 3 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

*Table 1*

OBJECTIVE (to be indicated by the national rapporteur)		EVALUATION REGARDING THE EVOLUTION OF NATIONAL LAW	EVALUATION IN COMPARISON WITH THE STANDARD OF THE DIRECTIVE
Explain the situation before transposition	<p>Explain the situation after transposition</p> <p>(To evaluate the impact of the directive, please consider also national norms which were adopted before the deadline for transposition or even before the adoption of the directive, in cases of Member States having amended their national legislation in advance in accordance with the directive. Please indicate the precise date of adoption of the change)</p>	<p><input type="checkbox"/> <i>Less favourable than previous national rules</i></p> <p><input type="checkbox"/> <i>Status quo</i></p> <p><input type="checkbox"/> <i>More favourable than previous national rules</i></p>	<p><input type="checkbox"/> <i>Less favourable than the Directive</i></p> <p><input type="checkbox"/> <i>In line with the directive</i></p> <p><input type="checkbox"/> <i>More favourable than the directive</i></p>

**Q.31.A.** Question regarding the method of transposition: **Did your Member State copy the provisions of the directive into national legislation without any redrafting or adaptation to national circumstances.**

YES  NO

**Q.31.B.** **If yes, did this method of transposition create any problems (for example difficulties of implementation, risk that a provision remain unapplied).**

YES  NO

**Q.31.C.** **If yes, give some of examples:**

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**Q.31.D.** **If only some provisions of the directive have been copied and if this may create any problem, please quote them and explain the problem.**

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**Q.32.** Quote interesting decisions of jurisprudence related to the directive, its transposition or implementation (this question concerns in principle decisions after the national norms of transposition entered into force, but decisions prior to that may be quoted if relevant). Quote in particular decisions of supreme Courts; limit yourself to the appeal Courts and ignore the first resort if there are too many decisions at this level, unless there is a certain jurisprudence made of a group of decisions.

*When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

Table 1

<b>DECISION OF SUPREME COURTS</b>	<b><u>DATE:</u></b>	<b><u>REFERENCE OF PUBLICATIONS:</u></b>	<b><u>SUMMARY OF CONTENT:</u></b>
<b>DECISION OF APPEAL COURTS</b>	<b><u>DATE:</u></b>	<b><u>REFERENCE OF PUBLICATIONS:</u></b>	<b><u>SUMMARY OF CONTENT:</u></b>
<b>DECISION(S) IN FIRST RESORT</b>	<b><u>DATE:</u></b>	<b><u>REFERENCE OF PUBLICATIONS:</u></b>	<b><u>SUMMARY OF CONTENT:</u></b>

ANY SUPPLEMENTARY COMMENT ABOUT THE TREND OF THE JURISPRUDENCE:

**Q.33.** Are there any problems with the translation of the text of the directive in the official language of your Member State and give in case a list of the worst examples of provisions which have been badly translated.

**There are no problems with the translation of the directive.**

**There are some problems with the translation of the directive.**

**Explanation:** (If there are such problems, please specify the most problematic provisions in the Directive when it comes to translation).

**Explain the difficulties that this could create:**



**ANY OTHER INTERESTING ELEMENT**

**Q.34.** Following your personal point of view, mention from the point of view of third country nationals and/or from the Member State any interesting or innovative practice in your Member State

*When answering this question, please use one or more of the tables below. If the 5 tables below are not enough please duplicate the table (see technical information at the beginning of the questionnaire).*

*Table 1*

<b>OBJECTIVE OF THE PRACTICE</b>	<b>EXPLANATION</b>

**Q.35.** Please add here any other interesting element in your Member State which you did not have the opportunity to mention in your previous answers.

Observation: The evolution of the legislation, the jurisprudence and the practical aspects are not relevant, as Romania became an EU member only from January 1st, 2007.