



MINISTRY OF INTERIOR AND ADMINISTRATIVE REFORM  
GENERAL INSPECTORATE OF BORDER POLICE



ROMANIAN NATIONAL COUNCIL FOR REFUGEES  
FOUNDATION OF PUBLIC UTILITY

**TRIPARTITE MEMORADUM OF UNDERSTANDING**  
**ON MODALITIES OF MUTUAL CO-OPERATION AND COORDINATION TO**  
**SUPPORT THE ACCESS OF ASYLUM SEEKERS TO THE TERRITORY OF,**  
**AND THE ASYLUM PROCEDURES IN ROMANIA**

**PREAMBLE**

The General Inspectorate of the Romanian Border Police (IGPF), the UNHCR Representation in Romania (UNHCR) and the Romanian National Council for Refugees (CNRR) - as UNHCR's implementing partner, hereafter referred to as the "Co-operating Parties".

- (a) **Recognizing** that the right of all persons to seek and enjoy in other countries asylum from persecution is a basic right enshrined, *inter alia*, in Article 14(1) of the 1948 Universal Declaration of Human Rights;
- (b) **Recalling** the United Nations Convention Relating to the Status of Refugees adopted on 28 July 1951 (hereinafter the 1951 Geneva Convention) and the Protocol Relating to the Status of Refugees adopted in New York on 31 January 1967, adopted by Romania through Law No. 46 on 17 July 1991; in particular Article 1 of the 1951 Geneva Convention, concerning the definition of the term refugee, Article 31 concerning refugees unlawfully in the country of refuge and Article 33 concerning the prohibition of return ("refoulement") of refugees;
- (c) **Recalling** Article 35 of the 1951 Geneva Convention obliging contracting States to co-operate with the Office of the United Nations High Commissioner for Refugees in the exercise of its functions, in particular providing appropriate information and statistical data concerning the condition of refugees, the implementation of the 1951 Geneva Convention, and related national laws, regulations and decrees which may relate to refugees.

- (d) **Recalling** that the United Nations General Assembly Resolution 428(V) of 14 December 1950, which adopted the Statute of UNHCR, ascribes to the High Commissioner the function of providing international protection to refugees, including promoting the admission of refugees, not excluding those in the most destitute categories, to the territories of States Parties to the Convention, and of seeking durable solutions for the problems of refugees;
- (e) **Recalling** the Constitution of Romania and in particular Article 18 providing the right to seek asylum;
- (f) **Recalling** provisions of Law No. 122/2006 regarding asylum in Romania as well as its methodological norms (Government Decision no. 1251/2006), outlining specifically the rights of persons seeking asylum in Romania;
- (g) **Considering** that ensuring access to the territory and asylum procedures, constitutes the most efficient and effective way to provide protection to refugees, asylum-seekers and others of concern (persons in need of international protection), and that Conclusions 22 (Session XXXII), 81 (Session XLVIII), 82 (Session XLVIII), 71 (Session XLIV), 74 (Session XLV) of the Executive Committee of the High Commissioner's Programme set out internationally accepted principles and standards governing the protection of refugees in this regard;
- (h) **Bearing** in mind the importance of the co-operation Agreement of 12 August 1992 between United Nations High Commissioner for Refugees and Romania, which this memorandum of understanding does not amend;
- (i) **Recognising** the need to remove from the Romania territory those persons found not to be in need of international protection following a fair and efficient asylum procedure, in a humane and dignified manner and in full respect for their human rights, without resorting to excessive force and, in the case of children, always taking due account of their best interests.

Have agreed to carry out a joint activity that will be guided by the following principles and modalities:

## **Chapter I**

### **ESTABLISHMENT OF A BORDER MONITORING FRAMEWORK**

#### **Article 1**

With due regard to the principle that the State has the primary responsibility of ensuring that persons in need of international protection have access to the territory and asylum procedures, in accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code), the provisions of the Law No.122/2006 regarding asylum in Romania and its Methodological Norms, the Co-operating Parties hereby agree to jointly monitor the access of such persons' on the territory and to the asylum procedures in Romania as well as their protection against forced return (*refoulement*) from the border or territory.

#### **Article 2**

The Co-operating Parties will carry out the process of monitoring in an orderly, humane, safe and dignified manner as dictated by the sensitivity necessary to treat persons in need of international protection.

#### **Article 3**

IGPF undertakes to facilitate the monitoring activities of UNHCR and CNRR stipulated in Articles 1 and 2, as well as sharing relevant information, in particular statistical information related to persons of concern, information related to Frontex operations in Romania that may involve asylum related issues, as well as training activities organised by IGPF where UNHCR and/or CNRR may contribute.

#### **Article 4**

In accordance with the principle of family unity, the Co-operating Parties shall make every effort to ensure that asylum seeking families are admitted into the territory and asylum procedure as units.

## **Chapter II**

### **RESPONSIBILITIES OF IGPF**

#### **Article 5**

IGPF undertakes to guarantee and facilitate the admission of persons in need of international protection to the asylum procedures in Romania, and, as a co-operating agency in refugee affairs, to take, in consultation with the UNHCR, CNRR and other relevant governmental bodies, all the necessary measures to uphold these fundamental principles of international protection.

**Article 6**

IGPF will take all measures necessary to ensure that persons in need of international protection are in full knowledge of their rights, according to the national relevant legislation, in particular the right to seek asylum and to access legal assistance in Romania. It also undertakes to make available to persons of concern, the publications of UNHCR and CNRR as well as other relevant protection information.

**Article 7**

IGPF, with the consent of the person of concern, shall facilitate unsupervised contact with UNHCR and/or CNRR in order to allow the monitoring forming the subject of this Agreement.

**Article 8**

The staff of the Border Police stationed at the international airports and other entry points into Romanian territory shall facilitate unimpeded access and activities of the duly authorised representatives of UNHCR and/or of CNRR to areas designated for the processing, interviewing and accommodation of persons of concern.

**Article 9**

IGPF undertakes to provide access to copies of files of persons of concern to UNHCR and CNRR. Representatives of UNHCR and CNRR shall respect the confidentiality of data provided in accordance with the provisions of Law No. 677/2001 for data protection.

**Article 10**

IGPF undertakes to provide from its records, upon the request of UNHCR and/or CNRR, accurate statistical data and relevant information regarding the persons of concern.

**Article 11**

IGPF shall without delay inform UNHCR, in an electronic form or by facsimile, the number and nationality of aliens, in particular those apprehended at the border for whom penal files were initiated for illegally crossing the border (to or out of Romania), who are persons of concern and might be in need of specialised assistance and counselling.

### **Chapter III**

#### **RESPONSIBILITIES OF UNHCR**

**Article 12**

UNHCR will be granted free and full access by IGPF to persons of concern, who are in the custody of the border police, to ensure that these persons have access to the asylum procedure and to the Romanian territory, as well as to specialised legal assistance/counselling and representation.

**Article 13**

UNHCR will undertake monitoring visits to areas and places defined in Chapter VI where persons in need of international protection may be located, in order to examine and verify the implementation and adherence to international protection standards. In case of identified issues of concern, UNHCR will immediately inform IGPF and communicate the concerns in writing or in a meeting with relevant/designated IGPF staff.

**Article 14**

In its monitoring activity, UNHCR shall focus in particular on the treatment of persons with special needs (including women heads of households, unaccompanied and separated children, persons with disabilities) to ensure that their fundamental rights, in particular the principle of family unity, are respected.

**Article 15**

UNHCR shall co-ordinate the mobilisation of funds for this project from the international community. It will also facilitate the sharing of information in the field of migration and asylum and will organize training sessions for the staff with prerogatives in this area.

## **Chapter IV**

### **RESPONSIBILITIES OF CNRR**

**Article 16**

CNRR shall contribute to the implementation of this Agreement with UNHCR approval and in accordance with the implementation Agreement concluded with UNHCR.

**Article 17**

CNRR shall implement activities stipulated in Chapter II, Articles 5-7 on the basis of a UNHCR partnership authorisation letter, containing a summary of specific activities which UNHCR has agreed for CNRR to implement on its behalf in the context of the present Agreement.

**Article 18**

CNRR shall inform aliens regarding their rights and obligations and the applicable asylum procedure and shall provide, upon request, legal assistance to the persons of concern, including legal representation, if necessary.

**Article 19**

The monitoring staff of CNRR shall clearly identify themselves as such to those persons of concern whom they may wish to interview during the course of implementing this Agreement, and shall inform them of the purpose and voluntary nature of the interview and their right to refuse to be interviewed, as well as that the assistance provided by CNRR is free of charge. A note shall be made on the fact that the person of concern was informed as well as the manner of giving his/her consent. The note shall be signed by the person of

concern, the monitor and the interpreter, if applicable, and included in the individual file of the person concerned.

**Article 20**

CNRR shall monitor the accessibility and use of UNHCR and CNRR information materials and publications; in case of need it shall replenish the supply.

**Article 21**

CNRR shall inform UNHCR and IGPF about the regular monitoring visits, 10 working days before the commencement of the visits, specifying the dates, the locations and the terms of reference of the visits. For ad-hoc visits or urgent interventions on behalf of persons of concern, CNRR will inform UNHCR and IGPF in a shorter timeframe, explaining the emergency.

**Article 22**

If immediate intervention for protection of persons of concern is needed, CNRR shall inform the responsible structure of the Border Police as well as IGPF. CNRR will prepare a detailed written report on each monitoring visit in maximum 10 days since the mission was concluded. These reports shall be shared with all Co-operating Parties within 15 days, any of them being entitled to submit comments and observations within 10 days since receipt of the written report.

**Chapter V**

**TRIPARTITE WORKING GROUP**

**Article 23**

The Co-operating Parties shall establish a Tripartite Working Group (Working Group) which shall supervise the implementation of this Agreement and analyse the monitoring reports.

**Article 24**

The Working Group shall meet at least three times a year, extraordinary sessions may be convened at the express request of one of the Co-operating Parties. It shall adopt its own Internal Rules of Procedure.

**Article 25**

IGPF will appoint the Chairperson of the Working Group; UNHCR Representation in Romania shall act as Secretary and may be assisted by a CNRR staff member other than the representative appointed as a member of the Working Group. The Working Group shall be composed of representatives of the Co-operating Parties, accompanied at any meeting by such number of advisors as the represented party may deem necessary. Having signed the Agreement, the Heads of the Co-operating Parties shall forward within 10 days the

names and contact details of representatives appointed to be members of the Working Group.

**Article 26**

At the meetings of the Working Groups may participate, with the consent of the Co-operating Parties, representatives of other relevant institutions active in the field of migration and asylum. Meetings of the Working Group shall be recorded in written minutes. The Co-operating Parties shall receive the minutes within 10 working days and may submit their comments within 5 working days.

**Article 27**

The Working Group may jointly undertake visits or missions to locations relevant to this Agreement.

## **Chapter VI**

### **SITES COVERED BY THE AGREEMENT, THE RULES OF ENTRANCE AND STAY THERE**

**Article 28**

The geographical scope of the Agreement shall cover all territorial structures subordinated to IGPF, where persons in need of international protection may be located, including the so-called transit zones in the international airports as well as all areas where aliens may entry the Romanian territory.

**Article 29**

When CNRR announces forthcoming monitoring visits, it shall communicate the names and complete details of monitors and interpreters in view of facilitating their entry in the area under the competence of Border Police, based on the authorisation issued by UNHCR and appropriate identity documents, after the necessary information has been shared with IGPF in advance.

**Article 30**

A designated Border Police staff member may accompany the monitor and the interpreter in the area of competence, for well founded reasons, except for the interviews with persons of concern which are confidential.

## **Chapter VII**

### **FINAL PROVISIONS**

#### **Article 31**

The Co-operating Parties undertake to pursue joint training and awareness raising activities within the framework of this Agreement regarding, *inter alia* international principles in the field asylum in order to facilitate access to the Romanian territory as well as to the asylum procedures for persons in need of international protection.

#### **Article 32**

The Co-operating Parties undertake to participate in international, regional and bi-lateral meetings organized by UNHCR in order to share experience with other partners.

#### **Article 33**

The present Agreement is concluded for an indefinite period of time. The review or the amendment of the Agreement as well as the adoptions of addendums may be initiated in writing by any one of the Co-operating Parties at any time.

#### **Article 34**

The termination of this Agreement can be initiated by any of the Co-operating Parties for well justified reasons by submitting a written notice of termination to each of the other parties. The written notice shall be submitted 30 days before the termination date; the term shall start running on the day the notice is received.

#### **Article 35**

Any question or uncertainties arising from the interpretation or implementation of the present Agreement or for which no provision is expressly made herein shall be resolved amicably through consultations between the Co-operating Parties. The date of a proposed working meeting has to be notified in advance, giving each partner time to prepare for the meeting, which shall take place no more than 5 days after such notification.

#### **Article 36**

The present Agreement does not in any way amend previously existing Agreements between the Co-operating Parties without the express and written consent of the parties concerned.

#### **Article 37**

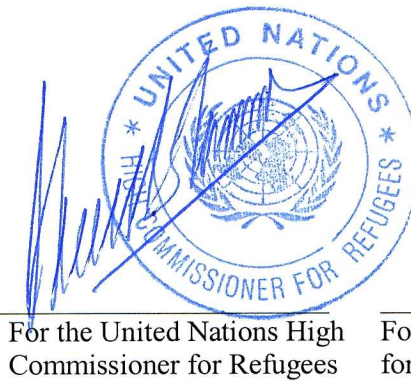
The present Agreement shall enter into force on date of signature by the Co-operating Parties.

The authorized representatives of the Co-operating Parties are hereby signing the present Agreement.

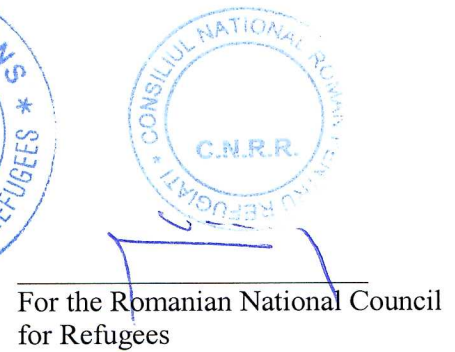
Concluded in Bucharest, on 22 July 2008 in sets of three originals in English and Romanian language, each set being equally authentic.



For the General Inspectorate  
of Border Police



For the United Nations High  
Commissioner for Refugees



For the Romanian National Council  
for Refugees