

LEGAL PROVISIONS ON THE PROTECTION OF REFUGEE CHILDREN

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Abstract

The refugee issue is current and of great interest, as it sets up the debate over respecting the principle by which human beings, with no differentiation, must benefit from the fundamental human rights and liberties. In this context, we believe that the situation of child refugees is that much more complex, as it demands the specialized intervention of the competent authorities on a national and international level.

The present text aims, among others, to present and analyze the legal provisions referring to the status and regime of refugees, especially the regulations, both national and international, directed at the protection of child refugees.

Key Words: *refugee, child, unaccompanied minors, asylum seekers, rights.*

JEL Classification: [K33]

1. Introduction

Any human being has the right to life, freedom and the safety of their person; every individual can benefit from all of their rights and liberties with no discrimination, whether it is based on race, skin color, sex, language, religion, opinion (political or otherwise), national or social origin, wealth, birth or any other circumstances, as stated in articles 2 and 3 of the Universal Declaration of Human Rights.¹

At the same time, international cooperation in order to solve international economic, social, cultural or humanitarian problems, the promotion of fundamental human rights and liberties in all cases, irrespective of race, sex, language or religion, are stated by the United Nations in article 1(3) of the Charter of the United Nations.²

In this context, the problem of refugees is a complex, long-term one, as the images of waves of refugees flooding other states' frontiers, of refugees whose lives are in danger, of deceased children have made their way around the world, prompting the most diverse of reactions.³ Probably anticipating these reactions,

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¹ Adopted by the General Assembly of the United Nations on September 10, 1948.

² The Charter of the United Nations was signed in San Francisco on June 24, 1945, after the United Nations Conference on International Organization.

³ See the Slovakian prime-minister's reaction, available at: <http://www.b1.ro/stiri/externe/pr-emierul-slovaciei-va-ataca-decizia-consiliului-jai-privind-cotele-obligatorii-de-refugiati-125582.html>;

the desire for all states that recognize the social and humanitarian character of the refugee problem to do everything in their power to avoid making the issue into a source of tension between states is stated right in the 1951⁴ Convention's preamble concerning the status of refugees.

The refugee crisis took shape rapidly, according to the information contained within the Report concerning Romanians' perception of the refugee crisis⁵, at the end of 2014, surprising European states and institutions, with the end of the lives of a significant number of refugees searching for freedom in the European perimeter of the Mediterranean Sea representing its starting point.

Because of the multiple implications stemming from the refugee's status, child refugees are an extremely vulnerable category that needs increased attention, both on an international and on a national level.

From the multiple studies carried out (Supaat, 2014), we can see that child refugees are more vulnerable than adult refugees and regular children. The author we have cited shows that their being both children and refugees makes them more exposed to various risks and dangers, such as abuse and being treated as illegal immigrants or criminals, and, because they are naïve, dependent and incapable of taking care of themselves, they need continuous support from adults, even if it is to exercise their rights.

Judging by the data provided by the Office of the United Nations High Commissioner for Refugees, half of the world's refugees are children, many of them spending their entire childhood "in displacement, uncertain about the future."⁶ The data in the report suggests that, compared to adults, child refugees have a higher risk of being subjected to violence, abuse, negligence and

Hungary's position, who have constantly rejected the refugee quotas and have also taken concrete measures to stop them at their borders, <http://evz.ro/refugiatiu-au-dormit-in-fata-garii-keleti-ungaria-se-afla-intr-o-situatie-grava-si-urgenta.html> [accessed on July 20th, 2017]; the position of the Romanian Chamber of Deputies, Decision no. 59/2015 concerning the approval of the opinion referring to the Commission's Communication towards the European Parliament, the Council, the European Economic and Social Committee, and the European Committee of the Regions – A European agenda concerning migration COM (2015) 240, published in the Official Gazette, no. 485/2015; M. Sebe, *Romania's Stance in the Issue of the Refugees Crisis. Preliminary Observations*, March 2016, Bucharest, Romania, pp. 9-13, available at: <https://www.edonline.eu/download/2016/IED-Mihai-Sebe-Working-Paper-2016-update.pdf> [accessed on: July 21st, 2017]; Documentary: The refugee crisis on the Justice and Home Affairs Council's agenda: the EU and the member states' position, available at: <https://www.agerpres.ro/flux-documentare/2015/09/14/documentar-criza-refugiator-pe-agenda-consiliului-jai-pozitia-ue-si-a-statelor-membre-10-56-56> [accessed on: May 30th, 2017].

⁴ Geneva, July 28th, 1951, the United Nations. Romania adhered to the Convention through Law no. 46/1991, published in the Official Gazette no. 148/17.07.1991.

⁵ See: The Report concerning Romanians' perception of the refugee crisis, organized by the Pro Democrația Association, available at: <http://www.apd.ro/wp-content/uploads/2016/04/Raport-de-cercetare-privind-criza-refugiator.pdf> [accessed on: May 27th, 2017].

⁶ See the *Protection of Refugee Children in the Middle East and North Africa* report, formulated by the Office of the United Nations High Commissioner for Refugees (UNHCR), October 2014, p. 6, available at: www.unhcr.org/ [accessed on May 29th, 2017].

exploitation. During their migration, they may become the victims or witnesses of disturbing events, they can be separated from their families, their education can be interrupted, all of these factors influencing the current and future development of the child. One recent document from the European Commission⁷ shows that these children have a higher risk of being marginalized, coopted into criminal activities or radicalized. Girls are especially exposed to the risk of forced marriage, as their families are battling cruel conditions and wish to protect them from sexual violence. The risk is even higher for children who travel unaccompanied and children who are made to share overcrowded spaces with adult strangers.

According to the Council of Europe Strategy for the Rights of the Child (2016-2021)⁸, children who are on the move are one of the most vulnerable groups in today's Europe. In some states, they are confronted with limited access to justice, education, social and health services. Even when they are attended by parents, they often suffer persistent violations of their human rights, while unaccompanied children are faced with an especially precarious situation. Migrant children have a high risk of being trafficked or exploited. The strategy states that the principle of the child's best interests is often ignored in asylum and immigration procedures.

At the same time, according to data from UNICEF⁹, in 2015, 31% of the refugees who arrived by sea were children. The percentage of children (accompanied or not) among the arrivals by sea in Greece at the end of 2016 was up to 40%. The same source indicates that one in four asylum seekers in the EU in 2015 was a child. In May 2016, more than 99,000 asylum seekers were registered in the EU states, of which 2,633 or 2.7% claimed to be unaccompanied minors when submitting an application.¹⁰

Referring to 2017, international institutions expect a growing number of arrivals, as the first two months of the year have seen almost 2,000 foreign children migrate to Europe over the Mediterranean Sea.¹¹

⁷ The information is available in the *Communication from the Commission to the European Parliament and the Council, The Protection of Children in Migration*, European Commission, Brussels, 12.4.2017, COM (2017) 2011 final, p. 2, available at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170412_communication_on_the_protection_of_children_in_migration_en.pdf [accessed on May 30th, 2017].

⁸ Council of Europe Strategy for the Rights of the Child (2016-2021) Children's Human Rights, March 2016, p. 9, available at: <https://rm.coe.int/168066cff8> [accessed on June 4th, 2017].

⁹ See *Children in Migration*, available at: http://ec.europa.eu/justice/fundamental-rights/rights-child/protection-systems/index_en.htm [accessed on June 2nd, 2017].

¹⁰ See *Latest Asylum Trends and Main Countries of Origin*, 2 – EASO Newsletter, June 2016, available at: [https://www.easo.europa.eu/sites/default/files/public/EASO %20Newsletter%20June %202016-2.pdf](https://www.easo.europa.eu/sites/default/files/public/EASO%20Newsletter%20June%202016-2.pdf) [accessed on June 3rd, 2017]. The data also shows that 42% of all unaccompanied minor applicants were Afghan, followed by Somalian (8 %), Syrian (7 %) and Pakistani (6 %) nationals.

¹¹ See: *News note, UNICEF hails new Italian law to protect unaccompanied refugee and migrant children as model for Europe*, available at: https://www.unicef.org/media/media_95485.html [accessed on June 2nd, 2017].

According to the International Organization for Migration, although the data on child deaths is incomplete, as the majority of the bodies have not been recovered, 5 children lost their lives in the Mediterranean Sea in March 2017, and 11 died since the beginning of the year until March 31, 2017.¹²

In the Council Conclusions on the Action Plan on Human Rights and Democracy 2015-2019¹³, in the section dedicated to Migration / trafficking in human beings / smuggling of migrants / asylum policies, it is proposed for special attention to be given to vulnerable migrants, which includes unaccompanied minors¹⁴.

In order to understand the aspects that have to do with refugees, we must consider the meaning of the term “refugee.”

The refugee is, according to art. 1, par. A, section 2 of the Geneva Convention concerning the status of refugees, a person who, as a result of events that took place before January 1, 1951 and because of a justified fear of being persecuted based on their race, religion, nationality, belonging to a certain social group or their political opinion, was now outside the borders of the country that fits their nationality and cannot or, because of their fear, does not wish to ask for protection from this country; or a person who, not having any citizenship and finding themselves outside of the country where they usually reside due to such events, cannot or, because of their fear, does not wish to return there¹⁵.

¹² See: International Organization for Migration (IOM), *Mixed migration flows in the mediterranean compilation of available data and information reporting period 1 march-31 March 2017*, p. 29, available at: http://migration.io.int/docs/Monthly_Flows_Compilation_No4_11_April_2017.pdf [accessed on June 3rd, 2017].

¹³ Adopted by the Council on July 20th, 2015, available at: <http://data.consilium.europa.eu/doc/document/ST-10897-2015-INIT/ro/pdf> [accessed on May 30th, 2017].

¹⁴ There are other propositions within the same section, such as: “[supporting] partner countries to promote and protect the rights of refugees and internally displaced persons (IDPs), including through capacity building and the promotion of the ratification of the 1951 Refugee Convention and 1967 Protocol,” “[supporting] improved access to justice and health for migrants in countries of origin and transit; promote improved conditions of detention for detained migrants and alternatives to the use of detention for irregular migrants in third countries; pay particular attention in this regard to vulnerable migrants including unaccompanied minors” and “[engaging] with the diaspora communities both inside the EU and in non-EU destination countries to promote awareness in their countries of origin of human rights abuses faced by migrants and refugees in countries of transit, and support efforts by diaspora groups to address human rights issues in their countries of origin.”

¹⁵ The term “refugee” will apply, according to art. 1, par. A, section 1 of the Convention, to any person who is considered a refugee based on the arrangements made on May 12, 1926 and June 30, 1928, or based on the conventions from October 28, 1933 and February 10, 1938 and the September 14, 1939 protocol, or as a result of the enforcement of the Constitution of the International Refugee Organization.

The refugee non-admission decisions made by the International Refugee Organization during its mandate are not an obstacle in awarding the status of refugee to people who fulfill the conditions stated in paragraph 2 of the Convention.

At the same time, art. 1, par. A, section 2 of the Geneva Convention regarding the status of refugees shows that “in the case of a person who has more than one nationality, the term “the

The definition that Directive 2011/95/EU of the European Parliament and Council¹⁶ gives to the refugee is “a third-country national who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group, is outside the country of nationality and is unable or, owing to such fear, is unwilling to avail himself or herself of the protection of that country, or a stateless person, who, being outside of the country of former habitual residence for the same reasons as mentioned above, is unable or, owing to such fear, unwilling to return to it, and to whom

country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.”

The dispositions of the Convention concerning refugees will not be applicable, according to art. 1, par. F, to persons who do not fit the category if there is serious reason to believe that:

- “he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- he has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- he has been guilty of acts contrary to the purposes and principles of the United Nations.”

At the same time, as art. 1, par. D and E point out, the Convention “shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance. When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

The Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.”

The provisions within the Convention regarding the status of refugee will cease to be applicable to any person in the cases pointed out in art. 1 par. C of the Convention if:

- “- He has voluntarily re-availed himself of the protection of the country of his nationality;
- Having lost his nationality, he has voluntarily re-acquired it;
- He has acquired a new nationality, and enjoys the protection of the country of his new nationality;
- He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution;
- He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;
- Being a person who has no nationality he is, because of the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence.”

¹⁶ Directive 2011/95/EU of the European Parliament and 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 granted, from December 13, 2011, available at: <http://eur-lex.europa.eu/legal-content/RO/TXT/PDF/?uri=OJ:L:2011:337:FULL&from=RO> [accessed on July 20th, 2017].

Article 12 does not apply.”¹⁷

The definition of the refugee has been criticized throughout time, as some authors consider it not to cover all situations that can determine a person to become a refugee. For example, it has been shown that the provisions in the Convention do not address persons considered to be “economic refugees” or the persons who are in this situation because of armed international or internal conflicts (Paraschiv, 2005) (Lentini, 1985). There are also authors who have a contrary opinion, stating that “economic migrants are persons who leave their countries of origin purely for economic reasons, to seek material improvements in their lives. The key difference between economic migrants and refugees is that economic migrants enjoy the protection of their home countries; refugees do not. Economic migrants do not fall within the criteria for refugee status and are therefore not entitled to benefit from international protection as refugees.”¹⁸

Some authors show that refugees are foreign citizens who, for well-founded reasons (persecution based on their race, nationality, political opinion, affiliation to a social group) are outside their country of origin, in another country which has offered them protection (Radu, 2006). The cited author also demonstrates that refugees are a special category of foreign citizens and that, in contrast to the latter, who have willingly chosen their destination according to their personal interests (tourism, education, business, etc.), refugees flee their country of origin because of the persecution they are subjected to and cut ties with the embassy of their country of origin, as that state may actually be the persecutor.

We must underline that the term “migrants and their descendants” is also used in the report by the European Union Agency for Fundamental Rights, *Together in the EU – Promoting the Participation of Migrants and Their Descendants* as a generic umbrella term for all of the groups who benefit from integration policies, with the exception of when a distinction needs to be made between the various groups.¹⁹

The refugee child²⁰ was defined by combining the provisions of art. 1, par. A, section 2 of the Geneva Convention concerning the status of refugees in 1951

¹⁷ We must emphasize that this definition is also the one referred to by Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, the Official Journal of the European Union, June 29th, 2013.

¹⁸ Kate Jastram, Marilyn Achiron, *Refugee protection: A Guide to International Refugee Law*, p. 41, available at: <http://www.unhcr.org/publications/legal/3d4aba564/refugee-protection-guide-international-refugee-law-handbook-parliamentarians.html> [accessed on June 1st, 2017].

¹⁹ See: European Union Agency for Fundamental Rights, *together in the EU – Promoting the Participation of Migrants and Their Descendants*, Luxembourg: Publications Office of the European Union, 2017, pp. 14-15, available at: <http://fra.europa.eu/en/publication/2017/migrant-participation> [accessed on July 20th, 2017].

²⁰ We must state here that, from the perspective of the European Commission, „the terms ‘children in migration’, or ‘children’, in this document covers all third country national children (persons below 18 years old) who are forcibly displaced or migrate to and within the EU territory, be it with their (extended) family, with a non-family member (separated children) or alone, whether or not

with those in art. 1 from the Convention on the Rights of the Child²¹. Thus, refugee children are “persons who are below the age of 18 years and who: ...owing to a well founded fear of being persecuted either because of race, religion, nationality, membership of a particular social group, political opinion, are outside the country of nationality or former habitual residence and are unable to or unwilling to avail themselves to the protection of the country of nationality or unable to or unwilling to return to his country of residence” (Supaat, 2014).

We can see from here that, many times, the data and information presented refers to unaccompanied children (minors). The expression “unaccompanied minor” is defined within Directive 2011/95/EU of the European Parliament and Council, art. 2, letter l thus: “a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States.”²²

2. Regulations concerning the protection of the child refugee in international documents

It is remarkable that international organizations have manifested and continue to manifest a deep solicitude towards refugees, as well as a pronounced preoccupation with ensuring the fullest possible expression of their fundamental human rights and liberties. We mention, for example, the United Nations, as it is by them that, in 1951, the Refugee Convention was created, as we have seen.

Among the rights that refugees benefit from, the most important one refers to the prohibition of expulsion or return. According to art. 33, par. 1 of the 1951 Convention, “no Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

seeking asylum”, includin here, we believe, refugee children as well. The definition is available in note 1 of the *Communication from the Commission to the European Parliament and the Council, The Protection of Children in Migration*, European Commission, Brussels, April 12, 2017, COM (2017) 2011 final, p. 2.

²¹ According to art. 1 from the Convention, “a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

The Convention was adopted by the General Assembly of the United Nations on November 29, 1989. It has been in effect since September 28, 1990. Romania ratified the Convention through Law no. 18/1990, published in the Official Gazette, no. 109, September 28, 1990, and republished in the Official Gazette, no. 314, June 13, 2001.

²² For details, also see: *Communication from the Commission to the European Parliament and the Council Action Plan on Unaccompanied Minors* (2010 – 2014), Brussels, May 6th, 2010, available at: https://ec.europa.eu/anti-trafficking/site/s/antitraffickin_g/files/action_plan_on_unacompanie_d_minors_en_1.pdf [accessed on June 4th, 2017].

General regulations also address child refugees. The provisions of the Convention on non-discrimination are thus applicable, and the contracting states are under the obligation to apply them without racial, religious or national prejudice to refugees.

On public education, art. 22 from the Convention states the following: “the Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education. The Contracting States shall accord to refugees treatment as favorable as possible, and, in any event, not less favorable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.”

Express regulations regarding children can be found in art. 4 of the Convention, according to which “the Contracting States shall accord to refugees within their territories treatment at least as favorable as that accorded to their nationals with respect to freedom to practice their religion and freedom as regards the religious education of their children.”

Furthermore, we can find general provisions concerning refugees in the 1967 Protocol Relating to the Status of Refugees²³ as well.

On the European level, provisions that are also applicable for refugees are available in the EU Charter of Fundamental Rights²⁴, especially art. 18 and 19 regarding the right to asylum and, respectively, protection in the event of removal, expulsion or extradition.²⁵

The Convention on the Rights of the Child is applicable to all children, no matter their status, but art. 22, par. 1 expressly states the state parties’ obligation to take the necessary measures “to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by

²³ Finalized in New York, on January 31st, 1967. The text of the Protocol was published in the Official Gazette, no. 148/1991. Art. 1, point 2 from the Protocol states that “for the purpose of the present Protocol, the term “refugee” shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article 1 of the Convention as if the words “As a result of events occurring before 1 January 1951 and ...” “and the words” ... “a result of such events”, in article 1 A (2) were omitted.”

²⁴ The EU Charter of Fundamental Rights (2010/C 83/02), available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:ro:PDF> [accessed on June 2nd, 2017]

²⁵ Art. 18 of the Charter states the following: “The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty establishing the European Community [afterwards referred to as “the treaties”].

Art. 19 1. Collective expulsions are prohibited.

2. No one may be removed, expelled or extradited to a State where there is a serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.

his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.”

At the same time, according to art. 22, par. 2 from the same convention, state parties must contribute “as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason,” per the principles underlined by the Convention.

No matter their status as refugees, children in this situation also benefit from the protection of the Optional Protocol to the Convention on the Rights of the Child regarding the sale of children, child prostitution and child pornography²⁶. They also benefit from the application of the provisions of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.²⁷

Point 28 from Directive 2011/95/EU of the European Parliament and Council states that, when examining the requests for international protection made by minors, it is necessary for the member states to take the forms of persecution specific to children²⁸ under consideration, while, in art. 20, par. 5, it is strongly expressed that the best interests of the child represent a primordial axis for the member states in enforcing the provisions concerning the international protection for minors.

Art. 27, par. 1 of Directive 2011/95/EU obligates the member states to award all minors who are given international protection full access to their system of education, in the same conditions given to their own citizens.

²⁶ Open for signature in New York, on September 6th, 2000. Romania ratified the Protocol through Law no. 470/2001, published in the Official Gazette no. 601/2001.

²⁷ Adopted and open to signature, ratification and adherence through the Resolution of the General Assembly A/RES/54/263 from May 25th, 2000. Romania ratified the Protocol through Law no. 567/2001, published in the Official Gazette no. 692/2001.

²⁸ Chapter III of the Directive addresses the necessary conditions to be considered a refugee. This, art. 9, par. 1 states the following:

“In order to be regarded as an act of persecution within the meaning of Article 1(A) of the Geneva Convention, an act must: (a) be sufficiently serious by its nature or repetition as to constitute a severe violation of basic human rights, in particular the rights from which derogation cannot be made under Article 15(2) of the European Convention for the Protection of Human Rights and Fundamental Freedoms; or (b) be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual in a similar manner as mentioned in point (a).”

Par. 2 of the same article enumerates the forms that the acts of persecution can take.

Directive 2013/33/EU, setting the standards for the reception of applicants for international protection²⁹, places minors in the vulnerable person category, obligating the member states to always consider the special situation of vulnerable persons, among them being minors, unaccompanied minors and single parents with minor children. At the same time, the principle of the child's best interest is reiterated, and member states are required to "seek to ensure full compliance with the principles of the best interests of the child and of family unity, in accordance with the Charter of Fundamental Rights of the European Union, the 1989 United Nations Convention on the Rights of the Child and the European Convention for the Protection of Human Rights and Fundamental Freedoms respectively."³⁰ Member states must provide an adequate living standard for the physical, mental, spiritual, moral and social development of the minor (the final part of art. 23).

Art. 14 from the Directive sets standards to the states in what concerns the schooling and education of minors who solicit international protection. Thus, "Member States shall grant to minor children of applicants and to applicants who are minors access to the education system under similar conditions as their own nationals for so long as an expulsion measure against them or their parents is not actually enforced. Such education may be provided in accommodation centers."

At the same time, minors must benefit from training courses, including on language, when they are necessary, such that their access to and participation in the educational system is facilitated.

The member states must make sure that minors have the possibility to participate in recreational activities, including playtime and other entertainment activities tailored to their age, within housing locales and accommodation centers, as well as outdoor activities. They must also ensure access to rehabilitation services for children who are the victims of any form of abuse or other situations mentioned in art. 23, par. 4, as well as adequate mental health care and, if necessary, qualified help.

If it is in the best interests of the minor, the member states must ensure housing for the asylum seekers' minors or the minor seekers along with their parents, siblings or any adult member of the family who is responsible for them (art. 23, par. 5).

Art. 24 of the Directive addresses unaccompanied minors and obligates the states to ensure that the unaccompanied minor has a representative or assistant

²⁹ From June 26th, 2013, the Official Journal of the European Union, June 29th, 2013.

³⁰ According to art. 23, par. 2: "In assessing the best interests of the child, Member States shall in particular take due account of the following factors: (a) family reunification possibilities; (b) the minor's well-being and social development, taking into particular consideration the minor's background; (c) safety and security considerations, in particular where there is a risk of the minor being a victim of human trafficking; (d) the views of the minor in accordance with his or her age and maturity."

who can help him or her benefit from their rights and respect the rules formulated in the directive.

By virtue of Directive 2013/32/EU concerning the common procedures for granting and withdrawing international protection³¹, the member states can establish within their internal legislation: the cases in which a minor can submit an application on his or her own behalf; the cases in which the application of an unaccompanied minor has to be submitted by a designated representative; the cases in which the submission of an application for international protection is deemed to also constitute the submission of an application for international protection for any unmarried minor (art. 7, par. 5). The provisions of art. 25, which regulate the guarantees of unaccompanied minors, should be given special attention. We can also mention the provisions of par. 5, according to which member states may resort, when examining an application for international protection, to medical tests to determine the age of the unaccompanied minors, if the member states have doubts about the solicitor's age, as a result of the general statements or any other relevant clues of the asylum seeker.³²

Also remarkable are the provisions of the Dublin II Regulation³³, according to which, in case the asylum seeker is an unaccompanied minor (a refugee, in our case), the member state responsible with examining the application for asylum is the state where a member of his or her family legally resides, on the condition that this is in the best interest of the child.³⁴ If there is no family member, the member state responsible with examining the application will be the one in which the minor submitted his or her request for asylum.

On the subject of migrating children, accompanied or not, the Council of Europe Strategy for the Rights of the Child (2016-2021) states that the rights of children on the move or otherwise affected by migration will be protected and promoted by various Council of Europe bodies, including the Council of Europe Commissioner for Human Rights. Member States will be supported in upholding their human rights obligations. At the same time, the Council of Europe will be responsible with guiding member States in taking a coordinated child rights based approach, bearing in mind also the Recommendations on life projects for

³¹ Adopted in Brussels, on June 26th, 2013, the Official Journal of the European Union, June 29th, 2013

³² In case the states have doubts surrounding the seeker's age even after the medical tests, they will presume that the seeker is a minor.

³³ Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, the Official Journal of the European Union, 50 from 25 February 2003, available at: <http://eur-lex.europa.eu/legal-content/RO/TXT/HTML/?uri=LEGISSUM:l33153&from=RO> [accessed on July 11th, 2017].

³⁴ For examples in good practices, see: European Commission, 9th European Forum on the rights of the child Coordination and cooperation in integrated child protection systems; Case study 4: child in a migratory situation, p. 14, available at: http://ec.europa.eu/justice/fundamental-rights/files/2015_forum_roc_background_en.pdf [accessed on July 12th, 2017].

unaccompanied migration minors, on strengthening the integration of children of migrants and of immigrant background and on the nationality of children, with special attention paid to the situation of unaccompanied migrant children and to the link between migration and trafficking of children.³⁵ We believe that this segment of the Strategy, although not referring expressly to child refugees, addresses them, because, as we have seen, the term “migrant” is used generically, as an “umbrella” term to designate the categories of persons under the care of integration policies.

3. The protection of the child refugee in Romanian legislation

Romania, as a member state of the EU, although not directly and effectively pursued by the refugees’ transition to the West, as they choose the neighboring countries more frequently, has not been passive towards their tragedy.³⁶

Within the 2015-2018 National Strategy on Immigration and the 2015 Action Plan for the Implementation of the 2015-2018 National Strategy on Immigration³⁷, we find the following: “Romania adopts a solidary attitude towards the situation in the Mediterranean area by participating in the common efforts of the Member States to diminish the pressure of illegal migration.” “Such vulnerable persons cannot be left in the situation of resorting to criminal human trafficking networks that illegally smuggle migrants into the European territory. They must have safe and legal methods to enter the EU at their disposal.” As far as specific activities are concerned, within the Action Plan, we can find popularizing, on a European level, the Romanian legislation concerning child protection and, especially, concerning the obligation of maintaining parent-child ties, in the cases covered by the law, as well as the promotion of the 2014-2020 national strategy in terms of protection and child rights endorsement.³⁸

Children who solicit or benefit from a form of protection covered by the legal regulations concerning the status and regime of refugees in Romania also benefit from the provision of Law no. 272/2004 concerning the protection and promotion of children’s rights³⁹, as chapter IV regulates the Protection of child refugees and the protection of children in case of armed conflict.

³⁵ See point 32 from Council of Europe Strategy for the Rights of the Child (2016-2021) Children’s Human Rights.

³⁶ In July 2015, the Romanian government approved the Memorandum on the application of the Conclusions of the European Council from 25-26 June 2015 on migration. Through Decision (EU) 2015/1601 of the EU Council, the quota of refugees was established for each country, ours among them, with 1890 going to Greece and 585 to Italy.

³⁷ Government Decision no. 780/2015 from September 23, 2015, published in the Official Gazette, no. 789, second edition / 2015.

³⁸ The annex to G.D. no. 780/2015 for the 2015-2018 National Strategy on Immigration and the 2015 Action Plan for the Implementation of the 2015-2018 National Strategy on Immigration, point 1.4.6. and 1.4.7, p. 36

³⁹ Republished in the Official Gazette no. 159, March 5th, 2014.

Thus, according to the provisions of the law in discussion (art. 76, par. 1 and 2), children who solicit refugee status, as well as those who have obtained it, benefit from humanitarian protection and assistance that is adequate for the fulfillment of their rights, and from one of the forms of protection stated in Law no. 122/2006 concerning asylum in Romania⁴⁰, that is international protection or temporary protection.⁴¹

Because of the vulnerable situation that they are in, children's applications for refugee status are, according to art. 77 of Law no. 272/2004, a priority.

When the child who solicits refugee status is not accompanied by his or her parents or another legal representative, those who will act in their interest during the procedure of awarding refugee status are the General Directorate for Social Assistance and Child Protection, who are within the administrative and territorial jurisdiction of the Ministry of Internal Affairs where the application will be submitted. In order to adequately pursue the best interests of the child, the Directorate designates a person who is qualified in legal or social assistance matters from their personnel or an authorized private institution to fulfill the child's rights and participate, along with them, in the entire procedure of awarding refugee status. In case this person does not appropriately fulfill their obligations or demonstrates mala fide while doing so, the General Inspectorate for Immigrations can solicit their replacement from the General Directorate of Social Assistance and Child Protection (art. 77 par. 3 and 4 from Law no. 272/2004).

Per the provisions in art. 78, Law no. 272/2004, until the definitive and irrevocable solution of the application for refugee status, unaccompanied children are accommodated within a residential service under the ownership of the Directorate or an authorized private institution. Children over 16 may also be provided lodging within the accommodation centers of the General Inspectorate for Immigrations. The opinion of the asylum seeker who is an unaccompanied minor on their choice of accommodation is, according to par. 4, art. 58 of the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania⁴², taken under consideration and given proper attention, in relation to their age and degree of maturity.

⁴⁰ Law no. 122/2006 on asylum in Romania, published in the Official Gazette no. 428/2006.

⁴¹ According to art. 2, par. 1: "In the sense of the present law, the terms and expressions below have the following meaning: a) form of protection – international or temporary protection, awarded by the Romanian state; a1) international protection – the status of refugee or the status awarded through subsidiary protection; a2) beneficiary of international protection – the foreign citizen or stateless person whose status as a refugee has been acknowledged or who has been awarded subsidiary protection, per the present law".

⁴² Methodological norms from September 13th, 2006 for the application of Law no. 122/2006 concerning asylum in Romania, approved by Decision no. 1251/2006, initially published in the Official Gazette, no. 805/2006, edited and extended through Decision no. 14/2016 on the editing and extension of the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, published in the Official Gazette, no. 51/2016.

Unaccompanied children who have been given refugee status benefit from the special protection given to children who lack, temporarily or permanently, the protection of their parents, as stated in the law.

If the child's application for refugee status is denied definitively and irrevocably, the General Directorate of Social Assistance and Child Protection alerts the General Inspectorate of Immigrations and solicits the child's placement in a special protection service to a court of justice, a measure that will be in effect until the child's return to the country of residence of their parents or the country where other members of the family, willing to take the child in, are identified (art. 79, Law no. 272/2004).

Law no. 122/2006 concerning asylum in Romania and the Methodological Norms for its application contain ample references to minor refugees.

Minors, accompanied or not, are placed in the category of vulnerable persons or persons with special needs, a specific category that must be taken under consideration for the application of the provisions within the law on asylum in Romania.⁴³

According to the provisions of this law, the minor is a foreign citizen or stateless person who has not reached the age of 18, while the unaccompanied minor is the minor, foreign citizen or stateless person, who enters Romanian territory unaccompanied by their parents or an adult person who is responsible for him or her, according to Romanian law, and is not effectively in the care of such a person, as well as the minor who is left unaccompanied after they have reached Romanian soil (art. let. k and k1).

Access to the asylum procedure is ensured by the Romanian authorities, respecting the principles and guarantees in Chapter II, which address minors as well. Here we have, in what concerns minors who solicit asylum in Romania, the principle of non-discrimination, as the provisions of the law are not affected by age, the principle of non-refoulement, the principles concerning the unity of family⁴⁴ and the best interests of the child, according to which, for the application

⁴³ Art. 5¹ of Law 122/2006 states the following:

“The situation of vulnerable persons or persons with special needs:

(1) The application of the dispositions of the present law is fulfilled by taking under consideration the specific situation of the vulnerable or special-need person.

(2) The category of vulnerable or special-needs persons contains minors, unaccompanied minors, disabled persons, elderly persons, pregnant women, single parents with children, victims of human trafficking, persons with mental disorders, victims of torture, rape or any other severe form of psychological, mental or sexual violence, or persons found in special situations, similar to those aforementioned.

(3) For the purposes of the present law, the status of vulnerable or special-needs person is determined by specialists from the General Inspectorate for Immigrations based on an individual evaluation. The competent authorities will award specialized assistance for this individual evaluation should the General Inspectorate for Immigrations solicit it.

⁴⁴ For the fulfillment of this principle, according to art. 58, par. 1 of the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, the accommodation of minor

of the provisions of the law discussed, all decisions concerning minors are made respecting their best interests (art. 8, Law no. 122/2006).

In what concerns unaccompanied minors, art. 16 of the law specifies that the asylum application submitted by a minor solicitor will be a priority in the examination process. According to art. 21 from the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania in the case of the unaccompanied foreign minor who has expressed his or her desire to obtain asylum, a report underlining this desire will be written in the presence of the competent authorities. These minors are registered in the records of the National Refugee Office within a special register that contains the identity information that they declare (art. 21, par. 2).

At the same time, according to art. 16 of the law, the General Inspectorate for Immigrations must take rapid measures to assign a legal representative to assist the unaccompanied minor who seeks asylum during the process for asylum, including the procedure of the first asylum country, of the safe third country, of the safe European third country or of the determination of the responsible member state, by case.⁴⁵ As we have seen, according to the dispositions in art. 77 of Law no. 272/2004, the General Directorate for Social Assistance and Child Protection is the competent institution who the General Inspectorate for Immigrations resort to for a person with qualifications in matters of law or social assistance, hired from their personnel or an authorized private organization, who is to uphold the child's rights and participate, along with him or her, in the procedure of being awarded refugee status.

The legal representative fulfills their duties according to the best interests of the child and has the expertise necessary for this purpose.

The designation of the legal representative must be disclosed to the unaccompanied minor immediately.

Designating a legal representative for the asylum-seeking unaccompanied minor is not necessary should he or she become an adult within 15 days from the submission of their application for asylum.

In order to make sure that the rights and liberties of the minor are respected, the General Inspectorate for Immigrations has the obligation, per art. 16, par. 4, to

asylum seekers is done along with the accompanying relatives, regardless of their degree of kinship. The dispositions of art. 58, par. 3¹ also address this matter and they state that, in the case of unaccompanied minor siblings who meet the criteria contained in paragraphs (2) and (3), the decision on accommodation must be made after the legal representative consults the General Directorate for Immigration, respecting the principle of familial unity and considering the age and degree of maturity of the elder sibling.

⁴⁵ According to art. 21, par. 3 of the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, the public servant who registers the unaccompanied foreign minor as an asylum seeker must immediately alert the competent authority in child protection whose jurisdiction covers the accommodation center where the application for asylum is to be submitted, in order to start the procedure of naming a legal representative.

be certain that the legal representative is given the possibility to inform the unaccompanied minor about the significance and possible consequences of the personal interview and, by case, the manner in which he or she must prepare for it.

At the same time, the Inspectorate is also obligated to offer both the minor and his or her legal representative procedural legal information, information on the procedures for the withdrawal of international protection, as well as to inform them, in a language that the minor understands or is reasonably presumed to understand, about the possibility of a forensic examination to determine the minor's age, any other specifications about the methods used in said examination, the possible consequences of the result of this examination and the effects of a potential refusal to participate in this procedure.

It must be noted that, according to art. 4¹, this forensic examination is carried out with full respect of the individual dignity of the minor, using the least invasive methods that can lead to an accurate result.

The rights that asylum seekers benefit from are stated within art. 17, par. 1 of Law no. 122/2006. Par. 4 of art. 1 expressly states that minors benefit from the same protection that is offered, by law, to Romanian minors in difficult situations.

Among those rights are the right of minor asylum seekers to mandatory preschool and school education, in the same conditions as Romanian minors, as long as they or their parents are not in the course of being removed from Romanian territory. According to art. 6 of the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, access to education for minor asylum seekers is free, unconditional and carried out in the same conditions as Romanian minors. In case access to the educational system is not possible due to the specific situation of the minor international protection seeker, the Ministry of National Education⁴⁶, at the request of the General Inspectorate for Immigrations, will propose, according to art. 6, par. 5 of the Methodological Norms, other methods of education that respect national legislation and practice.

In order to facilitate access to the Romanian education system⁴⁷, minor asylum seekers benefit from a free intensive preparatory course⁴⁸. The

⁴⁶ The denomination of the ministry used within the Methodological Norms was the Ministry of National Education and Scientific Research.

⁴⁷ According to art. 6, par. 4 from the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, the minors' requests for entry into the preparatory course are submitted by the parents or legal representatives to the office of the county school inspectorates and, respectively, the Municipal School Inspectorate of Bucharest.

⁴⁸ Art. 18, Law 122/2006:

(2) The preparatory course guaranteed by par. (1) is organized by the Ministry of National Education and Scientific Research, in collaboration with the General Inspectorate for Immigrations.

(3) The minor asylum seeker is entered for the preparatory course within 3 months from the date of submission of the application for asylum. At the same time, the minor asylum seeker can be entered to attend the classes corresponding to his or her age.

methodology, professors, manuals and other educational aids necessary for the preparatory course are provided by the Ministry of National Education (art. 6, par. 2 from the Methodological Norms). The National Office for Refugees can provide the spaces necessary for the preparatory course, within the accommodation centers for asylum seekers, as well as provide writing materials.

The acknowledgement of the refugee status or the awarding of subsidiary protection grants the beneficiary the rights underlined in art. 20, par. 1 of the Law. Unaccompanied minors benefit, according to par. 2, art. 20, from the same protection offered, by the law, to Romanian minors in difficulty.

As in the case of minor asylum seekers, in order to facilitate access to the Romanian education system, minors who have been granted international protection in Romania benefit, across a school year, from a free preparatory course for the purpose of being entered into the national education system. An evaluation commission will estimate, at the end of the course, the level of knowledge of the Romanian language, establishing, at the same time, the entry of minor foreigners who have obtained a form of international protection into their corresponding school year (art. 20²).

According to art. 17 of Law no. 122/2006 concerning asylum in Romania, during the asylum procedure, the foreigner soliciting protection also has the following rights:

- the right of the international protection seeker who does not have any means of income to benefit, at their request, during the entire asylum procedure, as well as the 15 days after its finalization, from material accommodation conditions which guarantee subsistence and protect their physical and mental health (art. 17, par. 1, letter j). According to art. 55, par. 1 from the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, these material accommodation conditions entail a maximum of 10 lei/person/day for food, 67 lei/person/summer and 100 lei/person/winter for clothing, as well as other expenses covered by 6 lei/person/day on local transportation, cultural services, press, maintenance and repairs, products for personal hygiene.

The sums necessary for ensuring the material accommodation conditions, stated within the

Methodological Norms, which address minors are: - nutrition quota = 2,400 calories – for the adult or minor asylum seeker older than 1. In this case, the meal allowance is 10 lei/person/day; - nutrition quota = 3,590 calories – for any child between 0-5 months of age, with one or both parents also soliciting asylum. In this

(4) At the end of the preparatory course guaranteed by par. (1), an evaluation commission, whose composition and manner of operation will be established through an order from the Ministry of National Education and Scientific Research, will estimate the minor's knowledge of the Romanian language and establish the minor asylum seekers' entry into their corresponding year of study.

case, the meal allowance stated in par. (1), of 10 lei/day/person, is raised by 5 lei/day, reaching 15 lei/day/person; - nutrition quota = 4,050 calories – for any child between 6 and 12 months old, with one or both parents also soliciting asylum. In this case, the meal allowance stated in par. (1) is raised by 7 lei/day, thus reaching 17 lei/day/person.

- the right to be accommodated within the accommodation centers of the National Office for Refugees, until their right to remain on Romanian territory ceases, for the asylum seeker who has none of the material means to care for themselves (art. 17, letter k)⁴⁹;
- the right of asylum seekers with special needs to benefit from the tailoring of the accommodation conditions and assistance within the accommodation centers (art. 17, letter l);
- the right to receive free primary medical care and appropriate treatment, emergency hospital care, as well as free medical care and assistance in case of acute or chronic disorders that endanger their life through the national system of emergency medical care and qualified first aid (art. 17, letter m);
- the right to be included in the national public health programs for the purpose of preventing, surveilling and controlling transmittable diseases in cases of epidemiologic risk (art. 17, letter m¹);
- the right of the special-needs asylum seeker to receive adequate medical care (art. 17, letter n);
- the right to receive access to the labor force market in the conditions stated by the law for Romanian citizens after the expiry of the three months from the date of submission of the application for asylum, in the case where the application has not been resolved in the administrative phase of the procedure, and the delay cannot be blamed on the asylum seeker, as well as the judicial phase of the procedure (Roş, 2017).

The funds necessary for ensuring these rights are provided by the state budget, from the Ministry of Administration and Internal Affairs.⁵⁰

⁴⁹ At the same time, according to art. 17, par. 5 of Law no. 122/2006, if the seeker does not have material means, the National Office for Refugees can grant them a residence and material assistance for maintenance along the course of the asylum procedure.

According to art. 17, par. 8 of Law no. 122/2006, when the accommodation centers for asylum seekers are up to capacity, the General Inspectorate for Immigrations, within their available resources, can award asylum seekers a certain amount of money for the purpose of renting a house or they can contract specialized services for receiving and accommodating asylum seekers in individual or collective locations.

⁵⁰ According to art. 56, par. 4 and 5 from the Methodological Norms for the application of Law no. 122/2006 concerning asylum in Romania, the allowances for meals and other expenses are given to the asylum seeker, on demand, through bi-monthly, advance, cash payments of the decided sums, and, in case the asylum procedure has been finalized, the sums awarded in advance are not refunded.

Other dispositions on minor refugees can be found in Law no. 291/2008⁵¹, which, in art. 4, underlines the obligation of all persons discussed in the Agreement⁵² who have reached 14 years of age to be fingerprinted. The data obtained is stored in paper form in the card index of the structure designated for the implementation of the Agreement⁵³ and is transmitted electronically to the AFIS national database – the Automated Fingerprint Identification System.

At the same time, we must underline the fact these persons are exempt from the obligatory obtainment of visas in order to enter Romanian territory (art. 2, par. 1).

Conclusions

The issue of refugees is, as we have seen, especially complex and far from being resolved. We consider that, as long as the conditions in their native countries are not, at least, ameliorated, the wave of refugees will remain the same, if not rise.

International documents contain specific regulations for refugees, regulations that take their special situation under consideration.

Faced with the crisis in the past few years, the international organizations have reacted by taking measures to limit the effects on refugees, measures that also address minors.

In this context, minor refugees are considered vulnerable, special-needs persons, exposed to the danger of exploitation, acts of violence, sexual abuse and human trafficking. Many were the cases in which minors have lost their lives.

⁵¹ Law no. 291/2008 for the ratification of the Agreement between the Government of Romania and the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration Regarding Temporary Evacuation to Romania of Persons in Urgent Need of International Protection and their Onward Resettlement, signed in Bucharest, on May 8th, 2008, and for the regulation of a number of procedural aspects for its implementation. Published in the Official Gazette, no. 777/2008.

⁵² According to art. 1 from the May 8th, 2008 Agreement between the Government of Romania and the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration Regarding Temporary Evacuation to Romania of Persons in Urgent Need of International Protection and their Onward Resettlement:

(1) The present agreement aims to establish the terms and conditions for receiving and awarding temporary residence permits on Romanian territory to a selected group of persons in urgent need of international protection, to define the rights and obligations of the parties and to regulate their cooperation in what concerns legal, administrative, financial and practical aspects, in order to ensure rapid processing for the purpose of the subsequent relocation of these persons to third countries.

(2) In the sense of the present agreement, the association of terms “person in urgent need of international protection” refers to the refugees acknowledged by the 1951 Convention and its additional 1967 Protocol concerning the status of refugees and other persons under the UNHCR mandate who are in urgent need of evacuation from their first asylum country and who will be temporarily allowed on Romanian soil for the purpose of their subsequent relocation to third countries.

⁵³ According to art. 3, par. 1 of the Agreement, “the Romanian Government appoints the Ministry of Internal Affairs and Administrative Reform, henceforth referred to as MIAAR, as the competent authority for the implementation of the present agreement, on its behalf.”

In contrast to the child refugees accompanied by their parents, relatives or a legal representative, who have their protection, unaccompanied child refugees are even more vulnerable, and that is why many of the existing international dispositions grant them special attention.

The best interests of the child and the unity of family are two of the principles that apply in the case of child refugees, present both in international documents and internal regulations.

By analyzing the current dispositions of our national legislation, we notice that, across time, the obligations instated by the international Conventions and Directives have been transposed into the laws of Romania. Law no. 122/2006 concerning asylum in Romania and Law no. 272/2004 concerning the protection and promotion of children's rights constitute examples of transposition within Romanian legislation of the European Directives and those from the 1951 Convention on refugees.

The situation of child refugees, accompanied or not, is not regulated in detail, as they benefit, at least declaratively, from the same rights as Romanian children. Clear resolution procedures are regulated, with priority given to applications for international protection submitted by minors, as well as procedures concerning access to education, medical and social assistance, etc. Unaccompanied children who have been granted refugee status benefit, as we have seen, from the special protection of the child temporarily or permanently without the care of his or her parents, as stated by the law.

Although most of the provisions expressly refer to unaccompanied children, we believe that the rights and guarantees stated in our current internal legislation address all child refugees, including those who are unaccompanied.

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