

No. 6(I) of 2000
6(I) of 2002
53(I) of 2003
67(I) of 2003
9(I) of 2004
241(I) of 2004
154(I) of 2005
112(I) of 2007

THE REFUGEE LAW OF 2000

The Refugee Law of 2000
A Law to provide for the recognition of refugees and for the better
Implementation of the Convention relating to the Status of Refugees

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NO. 6(I) OF 2000
A LAW TO PROVIDE FOR THE RECOGNITION
OF REFUGEES AND FOR THE BETTER
IMPLEMENTATION OF THE CONVENTION
RELATING TO THE STATUS OF REFUGEES

PART I – INTRODUCTORY PROVISIONS

The House of Representatives enacts as follows: -

1. This Law will be referred to as the Refugee Law of 2000.

Short title.
6(I) of 2000
6(I) of 2002.
53(I) of 2003
67(I) of 2003
9(I) of 2004
241(I) of 2004
154(I) of 2005
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2. In this Law, unless the context otherwise requires -

Interpretation.

“Agreement” means the Agreement creating the European Economic Area, signed on 2 May 1992 in Oporto (EE L I of 03.01.1994), as this may be amended;

"alien" means a person as defined in the Aliens and Immigration Law;

"applicant" means an alien who has submitted an application and this capacity shall remain in effect for the period starting from the date of submission of the application until a final decision thereon is reached;

“application” means an application for granting international protection submitted by an applicant who does not explicitly request to be granted another form of protection that can be applied for separately;

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112(I) of 2007

"asylum" means the protection and rights accorded by virtue of this Law to an alien who is recognized as a refugee under the provisions thereof;

“Asylum Service” means the Service established by virtue of

Part V of the present Law, at the Ministry of Interior.

“Commission” means the Commission of the European Communities 241(I)/ 2004

“competent officer” means an officer serving at the Asylum Service or the Reviewing Authority, respectively, and who has undergone special training in matters pertaining to international protection, asylum and refugees. 2 of 6(I) of 2002
2 of 67(I) of 2003
2 of 9(I) of 2004

"Convention" means the Convention relating to the Status of Refugees, done in Geneva on 28th July 1951, which binds the Republic of Cyprus, and includes the Protocol ratified by the Protocol relating to the Status of Refugees (Ratification) Law of 1968; 73 of 1968.

“Council” means the Council of the European Union;

"country of origin" means the country of citizenship of the applicant and includes the country of habitual residence where the applicant is a stateless person;

"country where there is generally no serious risk of persecution" has the meaning given to it by section 12A of this Law;

“Department” means the Civil Registry and Migration Department, the establishment of which is provided for by the Civil Registry Law. 2(b) of 67(I) / 2003
141(I) / 2002
65 (I) / 2003

“Director” means the Director of the Department 2(b) of 67 (I) / 2003

“ Dublin provisions” means the provisions contained in the 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, and the Commission Regulation (EC) No. 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No. 343/2003 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

and, in particular as regards the Kingdom of Denmark, the provisions contained in the Dublin Convention (Ratifying) Law of 2004 regarding the Convention determining the state responsible for examining applications for asylum lodged in one of the Member States of the European Communities and, as regards the Republic of Iceland and the Kingdom of Norway, the provisions contained in the Council Decision of 15 March 2001 for an Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining an application for asylum lodged in a Member State or in Iceland or Norway;

“Head” means the competent officer who is heading the Asylum Service and includes any other competent officer of the said Service who is authorized by the Minister, to execute all or any of the powers or execute all or any of the duties of the Head; 9(I) / 2004

"international protection" means the recognition of a person as a refugee or as a person who is entitled to subsidiary protection;

"manifestly unfounded application" has the meaning attributed thereto by section 12;

“Member State” means a state member to the European Union and includes states which are party to the Agreement creating the European Economic Area and Switzerland; 9(I)/ 2004
241(I)/2004

“Minister” means the Minister of Interior;

"minor" means a person who has not yet attained the age of eighteen;

"Person who is entitled to subsidiary protection" means a person who is not a refugee but satisfies the conditions of section 19 for the granting of international protection.

“Reception Conditions” means the full set of measures that the Republic grants to the benefit of asylum-seekers by virtue of the present Law and its implementing Regulations;

"Republic" means the Republic of Cyprus;

"Refugee" means a person who has been recognized as a refugee as this term is defined in section 3;

"Refugee status" means the recognition by virtue of this Law of a third country national or a stateless person as a refugee 112(I) of 2007

"Reviewing Authority" means the independent Refugee Reviewing Authority which is established by virtue of Part V of the present Law; 9(I) / 2004

"Safe third country" has the meaning given to it by section 12B of this Law;

"Subsidiary protection status" means the status which is granted under this law to a person who is entitled to subsidiary protection and who is accepted as such in the Republic and is allowed to remain in it;

"Temporary protection" has the meaning given to it by section 20;

"Unaccompanied minor" means a person below the age of eighteen who arrives in the Republic unaccompanied by an adult responsible for him whether by law or custom and for as long as he is not effectively taken into the care of such an adult person and includes a minor left unaccompanied after his entry unto the territory of the Republic.

3.-(1) Refugee means a person recognized as such, who as a result of well-founded fear of persecution by reasons of race, religion, nationality, or membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it and to whom Section 5 does not apply. Refugee. 112(I) of 2007

(2) In the case of a person who has more than one nationality, the term "country of nationality" referred to in subsection (1) means 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 well-founded fear of being persecuted, he has not availed himself of the protection of one of the countries of which he is a national.

3A. Agents of persecution or serious harm include:

- (a) the State;
- (b) parties or organisations controlling the State or a substantial part of the territory of the State;
- (c) non-State actors, if it can be demonstrated that the actors mentioned in (a) and (b), including international organisations, are unable or unwilling to provide protection against persecution or serious harm as defined in Article 3B.

112(I) of 2007
Agents of
persecution or
serious harm

3B. (1) Protection can be provided by:

- (a) the State; or
- (b) parties or organisations, including international organisations, controlling the State or a substantial part of the territory of the State.

112(I) of 2007
Agents of
Protection

(2) Protection is generally provided when the actors mentioned in paragraph 1 take reasonable steps to prevent the persecution or suffering of serious harm, inter alia, by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and the applicant has access to such protection.

(3) When the Head and the Reviewing Authority assess whether an international organization controls a State or a substantial part of its territory and provides protection as described in paragraph 2, they shall take into account any guidance which may be provided in relevant Council acts.

3C. (1) Acts of persecution within the meaning of Article 1 A of the Convention must:

112(I) of 2007
Acts of persecution

(a) be sufficiently serious by their 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 (a).

(2) The following acts constitute a non-exhaustive list of acts of persecution as qualified in paragraph 1:

- (a) acts of physical or mental violence, including acts of sexual violence;
- (b) legal, administrative, police, and/or judicial measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
- (c) prosecution or punishment, which is disproportionate or discriminatory;
- (d) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- (e) prosecution or punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts referred to in subparagraph (c) of paragraph (1) of Section 5;
- (f) acts of a gender-specific or child-specific nature.

(3) In accordance with paragraph (1) of Section 3, there must be a connection between the reasons mentioned in Section 3D and the acts of persecution as qualified in paragraph (1).

3D. (1) When assessing the reasons for persecution, the competent officer and the Head shall take the following elements into account:

112(I) of 2007
Reasons of
persecution

(a) the concept of race shall in particular include considerations of color, descent, or membership of a particular ethnic group;

(b) the concept of religion shall in particular include the holding of theistic, agnostic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

(c) the concept of nationality shall not be confined to citizenship or lack thereof but shall in particular include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another State;

(d) a group shall be considered to form a particular social group where in particular:

(i) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to identity or conscience that a person should not be forced to renounce it, and

(ii) that group has a distinct identity in the relevant country, because it is perceived as being different by the surrounding society;

Depending on the circumstances in the country of origin, a particular social group might include a group based on the common characteristic of sexual orientation. Sexual orientation cannot be understood to include acts considered to be criminal in accordance with Cypriot law. Gender related aspects might be considered, without by themselves alone creating a presumption for the applicability of this Section;

(e) the concept of political opinion shall in particular include the holding of an opinion, thought or belief on a matter related to the potential actors of persecution mentioned in Section 3A and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.

(2) When assessing if an applicant has a well-founded fear of being persecuted it is immaterial whether the applicant actually possesses the racial, religious, national, social or political characteristic which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.

4. In the application of this Law due regard shall be had to the following principles:

Basic principles for the treatment of refugees.

(a) a refugee or an applicant shall neither be deported nor returned to the borders of any country where his life or freedom will be endangered or where he will be subjected to torture or inhuman or degrading treatment or persecution for reasons of race, religion, sex, nationality, membership of a particular social group or political opinion;

- (b) a refugee shall not be discriminated against for reasons of sex, race, religion, nationality, membership of a particular social group or political opinion;
- (c) a refugee shall have the right to fair treatment by the officers of the Government of the Republic of Cyprus who are responsible for the provision of assistance to refugees;
- (d) the principle of family unity shall be safeguarded in accordance with section 25;
- (e) The Asylum Service provides as soon as possible persons recognized as being in need of international protection access to information in a language likely to be understood by them or in the official language of the their country of origin on the rights and obligations relating to that status

112(I) of 2007

5. (1) An applicant shall be excluded from refugee status or subsidiary protection status in case where:

Exclusion of applicant
9(I) of 2004
112(I) of 2007

- (a) A person who applies to be recognized as a refugee is already receiving international protection from organs or organizations or agencies of the United Nations other than the United Nations High Commissioner for Refugees; when such protection has ceased for any reason, without the position of such persons being definitely 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 Law;

(b) A person who applies to be recognized as a refugee, is recognized by the competent authorities of the country where he has taken up residence as having the rights and obligations which are attached to the possession of the nationality of that country or rights and obligations equivalent to those; or

112(l) of 2007

112(l) of 2007

(c) there are serious indications that the applicant-

(i) has committed a crime against peace, a war crime, or a crime against humanity as those are defined in international legal instruments drawn up to make provision in respect of such crimes;

Comment: IRINI: There is no or at the Greek law.

(ii) has committed a serious non-political crime in another country prior to his entry in the Republic; for the purposes of this subparagraph, the meaning of a serious non-political crime includes particularly cruel actions, even if committed with an allegedly political objective ,

112(l) of 2007

Comment: IRINI: There is no or at the Greek law

(iii) has been guilty of acts contrary to the purposes and principles of the United Nations, as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations;

112(l) of 2007

(iv) is an instigator or otherwise participates in the commission of the crimes or acts mentioned in this paragraph.

112(l) of 2007

(2) In case of submission of an application by a person for whom the Head, following an examination of his application, establishes that any of the conditions of sub-section (1) apply, the Head, by a decision, rejects the application.

(3) In case where the Head establishes *a posteriori*, based on facts revealed subsequent to the recognition of refugee status or the granting of subsidiary protection or residence on humanitarian grounds, respectively, that a person fell at the date of recognition or granting of the said status, under any of the categories of sub-section (1), the Head, by a reasoned decision, cancels the decision based on which the person was recognized or granted the said status. 112(I) of 2007

(4) Applications falling under the provisions of subsection (2), shall be examined under the regular procedures for examination of applications of Section 13 and, any decisions issued by virtue of sub-section (3) for cancellation of status recognized or granted shall be, *mutatis mutandis*, taken following the regular procedures for the examination of applications of Section 13.

6.-(1) A refugee shall lose his status if-

112(I) of 2007
Cessation of
refugee status

- (a) he has voluntarily re-availed himself of the protection of the country of his nationality, or
- (b) having lost his nationality, he has voluntarily re-acquired it, or
- (c) he has acquired a new nationality and enjoys the protection of the country of his new nationality, or
- (d) he has voluntarily re-established himself in the country which he left owing to a fear of persecution as provided in subsection (1) of section 3, or

(e) 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:

Provided that this paragraph shall not apply to a person who is able to satisfy the Head that there are compelling reasons arising out of previous persecution for refusing to avail himself of the protection of his country of nationality or to return to this country, or

112(I) of 2007

(f) being a stateless person, if he or she is able to return to the country of former habitual residence because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist,

112(I) of 2007

1A) In applying subparagraphs (e) and (f) of paragraph 1, it is examined whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.

112(I) of 2007

(2) Where the Head, following the, *mutatis mutandis*, examination of the case in accordance with the regular procedures for examination of applications of Section 13 ascertains that any of the conditions of subsection (1) are satisfied, decides by a reasoned decision the cessation of refugee status of such a person.

9(I) of 2004

112(I) of 2007

(3) By virtue of the cessation, any residence permit granted to the said person as a result of his recognition as a refugee shall be canceled and he shall be obliged to hand over the refugee identity card and the refugee travel documents issued under Section 22.

112(I) of 2007

6A. (1) The refugee status is revoked when:

- (a) the Head establishes that the misrepresentation or omission of facts by the applicant, including the use of forged documents, was decisive in the granting of refugee status, or
- (b) the Head establishes that the applicant should have been excluded from refugee status, in accordance with subparagraphs (i) and (iii) of subparagraph (c) of paragraph (1) of Section 5.

(2) In case the Head, following a, *mutatis mutandis*, examination of the claim in accordance with the regular procedures of Section 13, establishes that one of the conditions referred to in paragraph (1) apply, decides by a reasoned decision the revocation of the refugee status of such a person.

PART II. ENTRY OF APPLICANTS IN THE REPUBLIC AND PERMIT FOR TEMPORARY RESIDENCE

7.-(1) An applicant who enters or has entered the Republic illegally shall not be subjected to punishment by reason only of his illegal entry or residence, provided that he appears without any undue delay before the authorities and gives reasons for his illegal entry or residence.

Entry of
applicants in
the Republic.

(2) *Deleted by virtue of Law 53(I)/2003*

(3) An applicant may, if he wishes, contact the Representative of the United Nations High Commissioner for Refugees in the Republic, who shall be given access to such an applicant and to any information regarding the said person.

(4) (a) The detention of an applicant for the sole reason of being an asylum seeker is prohibited;

- (b) The detention of an applicant is only allowed by a Court Order and only in the forthcoming cases:
- (i) For establishing his identity or nationality, and in case he has no nationality the country of his previous habitual residence, in case he destroyed or disposed of his travel or identity documents or used forged documents on his arrival in the Republic in order to mislead the competent authorities, provided that he did not reveal these actions and his real identity at the time of submission of the application;
 - (ii) For the examination of new elements which the applicant wishes to submit in order to prove his claim relating to his asylum application, in case his application has been rejected on first as well as on second instance and a deportation order has been issued against him
- (c) The detention of a minor applicant is forbidden.

(5) An applicant who is detained by virtue of subsection (4) shall be informed, in language he understands, of the reasons of his detention as well as his rights under sub-section (2) of section 11 of this Law and of his right to retain the services of a lawyer.

(6) An applicant's detention under subsection (4) may not exceed eight days. The detention may be extended for further eight-day terms upon Order of the Court, but the total detention period under subsection (4) shall in no case exceed thirty-two days.

8.-(1) A permit for temporary residence shall be granted by the Director to an applicant who has entered the Republic in the manner referred to in section 7 which shall be valid for the period commencing from the date of entry in the Republic until the date on which a final decision is reached on his application for recognition as a refugee.

Temporary residence permit

(2) The place of residence of the applicant, to whom a temporary residence permit is granted under subsection (1), shall be specified in the permit and the applicant shall be obliged to reside at such place until his application is examined

(3) (a) The applicant, in case of a change of place of residence, is obliged to inform within three days the competent local Aliens and Immigration Police Department, which should immediately inform the Asylum Service and the Director of such a change.

(b) In case of the applicant's non-compliance with this obligation, the provisions of Section 16A shall be applied.

9.-(1) Subject to the provisions of subsection (2), during the period of validity of the temporary residence permit, the applicant shall have-

Rights of applicants to whom a permit for temporary residence is granted.

- (a) the right to move freely within the Republic;
- (b) the right to have access to free medical care if he does not have sufficient means of support;
- (c) the right to apply for a work permit or public allowance under the relevant laws;
- (d) access to public educational institutions.

(2) The rights referred to in subsection (1) shall be subject to such restrictions or conditions as the competent authorities think reasonable to impose in the public interest.

(3) The Council of Ministers shall issue Regulations which shall determine the reception conditions for applicants in the Republic.

10. (1) In case where the applicant is an unaccompanied minor, the authorities before which the application is submitted and/or the competent officer, shall immediately notify the Head of this case and the Head shall immediately notify the Director of the Department of Social Welfare Services, who shall act as the guardian of the said minor and shall take all the necessary under this Law and its implementing Regulations measures on his behalf and in his interest.

Unaccompanied
Minor applicants
241(I) of 2004

(1A) The best interests of the child shall be a primary consideration when implementing the provisions of this Law that involve international protection and minors.

112(I) of 2007

(2) The Council of Ministers shall issue Regulations which shall determine the reception conditions for unaccompanied minors.

PART III. RECOGNITION OF REFUGEE STATUS

11.-(1) The application shall be addressed to the Asylum Service.

Submission of
application.

(2) The application is submitted at all entry points of the Republic upon arrival of the applicant or within the Republic at any Police Station, and in case of the applicant's detention or imprisonment, at the detention centers or the prisons where he is held and the officer in charge at the place of submission of the application shall immediately send the application to the Asylum Service for examination. Persons who entered the Republic illegally submit an application the soonest possible and without undue delay after their arrival.

(3) In case an applicant is unable to submit his application in writing, he may submit it orally, and in such a case the officer in charge of the place of submission of the application at the time of submission shall ensure that it be recorded in the prescribed manner.

(4) *Deleted by virtue of Law 9(I) of 2004.*

(5) At the time of the submission of the application the applicant is informed, in a language understood by him, of his rights and obligations as an applicant as those are provided for in the present Law, of the asylum examination procedure which he should follow, as well as of his rights and obligations related to this procedure, and specifically, for this purpose, is informed of :

- (i) His right to free- of -charge assistance by an interpreter, in his language or in a language understood by him in case there is no interpreter to translate into his mother tongue;
- (ii) His right to call a lawyer or a legal adviser to assist him during the whole procedure;
- (iii) His right, at all the stages of the asylum examination procedure, to communicate with the representative of the UN High Commissioner for Refugees or with other organizations dealing with refugees which may operate on behalf of the UN High Commissioner for the Refugees.
- (iv) His right to communicate with other organizations dealing with refugees.

11A. (1) At the time of submission of an application, the fingerprints of every applicant over 14 years of age shall be collected, as well as the fingerprints of those of his dependents of over 14 years of age, in case the applicant has any dependents.

Collecting
fingerprints from
applicants

(2) The applicant, as regards the collection of his fingerprints, shall have all the rights emanating from the Processing of Personal Data (Protection of Person) Laws of 2001 and 2003.

138(I) of 2001
37(I) of 2003

11B. (1) By a decision of the Head, an application shall be considered as not to have been submitted, when, following an investigation by the Asylum Service, it is verified that another Member State is responsible for the examination of the application, according to the Dublin provisions and criteria.

Procedures
relating to the
Dublin provisions

(2) Until the time when, in accordance with the Dublin provisions, the Member State responsible for the examination of the application is established, the person who submitted the application shall be considered, for the purposes of this Law, to be an applicant.

(3) The lodging of an administrative recourse before the Reviewing Authority, in accordance with the provisions of Section 28E, shall not have a suspensive effect as regards the execution of the transfer of the applicant to the Member State responsible to examine the application, by virtue of the Dublin provisions, unless the Reviewing Authority decides otherwise.

12.-(1) An application is regarded as manifestly unfounded when it clearly does not reveal any substantial grounds for recognition of the applicant as a refugee under this Law, for one of the following reasons:

(a) Clear absence of any claim of the applicant that he fears persecution in the country of origin, absence which is defined as such in the following cases:

- (i) The reason for which the applicant left or does not return to his country of origin, is not linked to the fear defined in sub-section (1) of section 3.
- (ii) The application is entirely lacking in substance; and the applicant does not provide any indications that he has a well-founded fear of persecution or his story does not contain any circumstantial or personal details.
- (iii) The application manifestly lacks any credibility due to inconsistent, contradictory or fundamentally improbable claims of the applicant.

(b) The application is based on false or misleading representations which were intentionally made or is submitted with the profound aim of abusing the procedures of granting asylum under this Law, which is defined as such in the following cases, in which the applicant without any reasonable explanation:

- (i) did not reveal that his application is based on a false identity or false travel documents which he assured were genuine when he was asked about them;
- (ii) deliberately made false representations regarding his claims, either orally or in writing, following the submission of his application for asylum;

- (iii) in bad faith destroyed or disposed of any passport or other travel document or ticket relating to his application, either in order to establish a false identity for the purposes of his application or in order to make the examination of his application more difficult;
- (iv) Deliberately omitted to reveal that he had previously made an application in one or more countries, particularly when he used a false identity;
- (v) While he had ample earlier opportunities to submit an application, he submitted an application for the sole purpose of forestalling his deportation from the Republic:

Provided that in the assessment of the aforementioned case, the competent officer takes into account whether the reasons due to which the applicant makes an application arose during his stay in the Republic;

- (vi) Flagrantly failed to comply with the obligations which emanate from Section 16 of this Law relating to the procedures for granting asylum;
- (vii) Submitted an application in the Republic, while he had previously submitted an application for his recognition as a refugee in a country party to the Convention and the competent officer is satisfied that his previous application was examined and rejected in accordance with the provisions of the Convention, following adequate and satisfactory process which afforded all the necessary guarantees, and the applicant failed to show a substantial change of the circumstances.

- (2) (a) The cases referred to in sub-section (1)(a) are examined at the discretion of the competent officer in accordance with the accelerated procedures of Section 12D, unless there are other elements in the application, which justify its examination in accordance with the regular procedures of Section 13.
- (b) The cases referred to in sub-section (1)(b):
- (i) Constitute clear indications of bad faith and justify the examination of the application, at the discretion of the competent officer, in accordance with the accelerated procedures of Section 12D, only in the case where no satisfactory explanation is provided by the applicant for his behavior.
 - (ii) Cannot in themselves exclude the existence of the fear of persecution defined in sub-section (1) of section 3.
 - (iii) None of them carries greater weight than the other.

12A.(1) Countries in which there is generally no serious risk of persecution means countries which can be clearly shown, in an objective and verifiable way that they do not generate refugees or that the circumstances which might in the past have justified the application of this Law and the Convention have ceased to exist.

"Countries in which there is generally no serious risk of persecution"

- (2) The elements below should be cumulatively taken into consideration for the determination of any country as a country in which there is no generally no serious risk of persecution:
- (a) The number of asylum-seekers and recognized refugees who possess the citizenship of the country;
 - (b) The official obligations of the country which arise from its accession to international conventions on human rights and the practical observance of these obligations;
 - (c) The existence and operation of institutionalized democratic organs, the carrying out of elections for the appointment of officials, the respect for the freedom of expression and thought and the possibility to make use of judicial means for the protection and effective exercise of fundamental rights and liberties;
 - (d) The stability in the social and political life of the country, taking into account any significant changes that may be expected in the immediate future.

- (3) Applications by persons who possess the nationality of a country which is regarded as a country in which there is generally no serious risk of persecution may be examined, at the discretion of the competent officer, according to the accelerated procedures of Section 12D, unless the elements submitted by the applicant in accordance with the provisions of the following sub-section negate the general assessment about this country, in which case the application is examined in accordance with the regular procedures of Section 13.
- (4) Notwithstanding the determination of a country as a country in which there is generally no serious risk of persecution, every application for recognition of a person as a refugee submitted from a person who possesses the citizenship of such country will be examined individually on the basis of the evidence which has been submitted by the applicant.

12B. (1) For the purposes of this Law "safe third country" Safe third country means a country which fulfills cumulatively all the following conditions:

- (a) It is a country in which the freedom or the life of the applicant are not in danger in the sense of paragraph (a) of Section 4 of this Law.
- (b) It is a country in which the applicant does not run the risk of torture or inhuman and degrading treatment.
- (c) It is a country which has already granted protection to the applicant or in which the applicant had the opportunity to ask for protection from the competent authorities and for which there are assurances that it will give its consent to admit the applicant.
- (d) It is a country in which the applicant shall enjoy effective protection in accordance with the principle of non-refoulement of Section 4(a) of this Law.

(2) An application to which the meaning of the safe third country may be applied, may be examined, at the discretion of the competent officer, in accordance with the accelerated procedures of section 12D.

12C. (1) Notwithstanding the provisions of paragraph (a) of Section 4, in case the competent officer establishes that the fear of persecution or the fear that the applicant has been subjected or may be subjected to serious and unjustified harm is well-founded, the competent officer may investigate whether this fear is clearly limited to a specific geographical area of the country of which the applicant is a national, and in such a case, the competent officer investigates whether the applicant could reasonably relocate in another geographical area of his country of nationality, where there is no well-founded fear of persecution or within which he would not be subjected to serious and unjustified harm, as this is provided for by Section 19. At the time of taking a decision on an application, the Head may decide that the applicant is not in need of international protection if in a part of the country of origin there is no well-founded fear of being persecuted or no real risk of suffering serious harm and the applicant can reasonably be expected to stay in that part of the country.

Internal Relocation
53(I) of 2003

9(I) of 2004

112(I) of 2007

(2) During the above provided investigation, it is considered as a serious presumption against the internal relocation as an alternative solution to international protection, when the agent of persecution is or is linked to the government of the applicant's country of nationality.

(3) During the investigation of whether the applicant may reasonably be relocated in another geographical area of his country of nationality, in accordance with sub-section (1), the competent officer takes into consideration and, at the time of taking a decision, the Head takes into account the security, political and social conditions of this particular geographical area, including the respect of human rights, as well as the personal circumstances of the applicant, including his age, gender, state of health, family situation and his ethnic, cultural and social links.

112(I) of 2007

(4) Paragraph (1) is applied notwithstanding technical obstacles to return. 112(l) of 2007

12D. (1) As a matter of priority and no later than thirty days from the date of submission of an application, applications which, in the view of the competent officer, fall within the provisions of sections 12, 12A and 12B are examined by the Asylum Service in accordance with the accelerated procedures of the present Section. Accelerated procedure of examination of applications 9(l) of 2004

(2) During the examination of the application, the competent officer proceeds with a personal interview of the applicant, following which the competent officer submits to the Head a report with the facts of the case and his findings regarding the application of the provisions of Sections 12, 12A and 12B.

(3) The Head, following the examination of the report of the competent officer, may, by a decision:

- (a) Recognize the applicant as a refugee;
- (b) Refer the application back to the competent officer, in order to follow the regular asylum examination procedures of Section 13; or
- (c) Reject the application by virtue of Sections 12, 12A and/or 12B.

13. (1) Under the regular procedure for examination of applications, the competent officer examines the application and proceeds with a personal interview of the applicant, unless in cases where such an interview may have already taken place by virtue of subsection (2) of Section 12D. Regular procedure for the examination of applications

(2) The Head, following the examination of the report of the competent officer, may, by a decision:

(a) Recognize the applicant as a refugee;

(b) Grant to the applicant subsidiary protection status;

(c) Reject the application and grant the applicant temporary stay status on humanitarian grounds, by virtue of Section 19A; or

(d) Reject the application.

(3) The Head may, in case he deems the competent officer's interview to be inadequate, request that the interview be repeated.

(4) The Head, upon taking a decision under subsection (3), gives to the applicant the benefit of the doubt, provided that the applicant has submitted all available to him evidence in relation to his application, which has been checked and, the competent officer and/or the Head have been satisfied as to the applicant's general credibility.

14. (1) During the assessment of the application, the competent officer and the Head examine, for the purposes of granting international protection, to what extent:

International protection needs arising sur place 112(I) of 2007

(a) A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on events which have taken place since the applicant left the country of origin.

(b) A well-founded fear of being persecuted or a real risk of suffering serious harm may be based on activities which have been engaged in by the applicant since he left the country of origin, in particular where it is established that the activities relied upon constitute the expression and continuation of convictions or orientations held in the country of origin.

(2) Without prejudice to the Convention, the Head may in principle not grant refugee status to an applicant who files a subsequent application, if the risk of persecution is based on circumstances which the applicant has created by his own decision since leaving the country of origin.

15.-(1) Any applicant who, at the time of submission of an application for asylum or during his interview by the competent officer, alleges that he has been subjected to torture in his country of nationality, shall be referred to a doctor for examination. In case he refuses to be subjected to a medical examination, his claim shall be ignored unless satisfactory explanations for his refusal are given.

Examination
by doctor.

(2) Where the competent officer to whom the asylum application is submitted suspects that the applicant has been subjected to torture in his country of nationality, he shall refer the applicant to a doctor for examination.

(3) Where there are signs of severe torture, the competent officer shall conduct the interview of the applicant after consultation and in cooperation with a doctor.

16.-(1) During the examination of the applicant by the Asylum Service, the applicant shall

Obligations of
applicant during
examination of
application.
53(I) of 2003
9(I) of 2004
112(I) of 2007

- (a) Support his application by all the documents and information at his disposal, and such elements consist of the applicant's statements and all documentation at the applicant's disposal regarding the applicant's age, background, including that of relevant relatives, identity, nationality, country and place of previous residence, previous asylum applications, travel routes, identity and travel documents and the reasons for applying for international protection.

Comment: In the Directive, these elements are in the plural (nationalities, countries, etc)

- (b) To hand over his passport or travel document either to the Asylum Service or the Police; the Police is obliged to immediately hand over the passport or travel document to the Asylum Service, along with the application for international protection; the applicant receives a document certifying that his passport has been retained at the time of submission of his application by the Asylum Service or the Police, and when possible, a copy of the passport is provided to the applicant,
- (c) In case he has no elements and documents at his disposal, explain the reasons for the non-existence of such documents or elements, state the efforts he made in order to secure them, and present any other additional element which the Asylum Service may require or which is useful, and make reasonable efforts to supply the Asylum Service with the necessary elements;
- (d) Generally assist the Asylum Service in the best possible way in establishing the facts of his case.

112(I) of 2007

112(I) of 2007

- 16A.** (1) The Head, by a decision recorded in the file, closes the file and discontinues the procedure of examination of the application, in case where:
- (a) The applicant does not comply with the obligations emanating from Section 8 of the present Law;
- (b) The applicant, subsequent to the submission of the application, leaves the Republic without a permission by the Director;
- (c) The applicant has not responded to letters addressed to him by the competent officer and, following adequate investigation, it is established that the applicant had received the said letters.

Closure of file

(2) The provisions of subsection (1) do not apply, in case when, in the view of the Head, following a recommendation of the competent officer, the actions or omissions of the applicant referred to in paragraphs (a) – (c) of the said subsection are justified. In such a case the procedure of examination of the application is continued.

17. (1) For the determination of Refugee Status, the Head:

Criteria for the determination of Refugee Status

(a) Shall take into consideration:

(i) the Guidelines contained in the Joint Position of the European Council, dated 4 March 1996, on the harmonized application of the term “Refugee”; and

(ii) the Joint Reports in connection to third countries, which are drawn up in accordance with the procedure for the preparation of reports regarding joint evaluations of the situation in third countries, which were adopted by the Council of the European Union on 20.6.1994.

(b) Shall be guided by the Handbook on Procedures and Criteria for Determining Refugee Status, issued by the Office of the United Nations High Commissioner for Refugees.

(2) The Head informs any interested person of the means of accessing the aforementioned in subsection (1) acts of the European Union and the Handbook of the Office of the United Nations High Commissioner for Refugees.

18. (1) During any personal interview conducted with the applicant, in the framework of either the accelerated or the normal procedures of examination of applications, no person other than the applicant, his lawyer or legal advisor, the competent officer, the guardian of an unaccompanied minor and the necessary interpreter may be present, unless otherwise requested by the applicant.

Principles governing the procedures before the Asylum Service

(2) At the time of submission of an application, the applicant shall be provided with the free-of-charge services of an interpreter, where this is necessary, and for the purposes of the present Section this shall always be deemed necessary in cases where the Asylum Service calls the applicant for a personal interview and appropriate communication cannot be ensured without such services.

(3) The assessment of an application for international protection is to be carried out on an individual basis and includes taking into account: 112(l) of 2007

(a) all relevant facts as they relate to the country of origin at the time of taking a decision on the application; including laws and regulations of the country of origin and the manner in which they are applied;

(b) the relevant statements and documentation presented by the applicant including information on whether the applicant has been or may be subject to persecution or serious harm;

(c) the individual position and personal circumstances of the applicant, including factors such as background, gender and age, so as to assess whether, on the basis of the applicant's personal circumstances, the acts to which the applicant has been or could be exposed would amount to persecution or serious harm;

(d) whether the applicant's activities since leaving the country of origin were engaged in for the sole or primary purpose of creating the necessary conditions for applying for international protection, so as to assess whether these activities will expose the applicant to persecution or serious harm if returned to that country;

(e) whether the applicant could reasonably be expected to avail himself of the protection of another country where he could assert citizenship.

(4) The fact that an applicant has already been subject to persecution or serious harm or to direct threats of such persecution or such harm, is a serious indication of the applicant's well-founded fear of persecution or real risk of suffering serious harm, unless there are good reasons to consider that such persecution or serious harm will not be repeated. Compelling reasons which arise from previous persecution or serious harm can be considered adequate reasons for the granting of protection.

(5) It is the duty of the applicant to substantiate the application for international protection. Where aspects of the applicant's statements are not supported by documentary or other evidence, those aspects shall not need confirmation, when the following conditions are met:

(a) the applicant has made a genuine effort to substantiate his application;

(b) all relevant elements, at the applicant's disposal, have been submitted, and a satisfactory explanation regarding any lack of other relevant elements has been given;

(c) the applicant's statements are found to be coherent and plausible and do not run counter to available specific and general information relevant to the applicant's case;

(d) the applicant has applied for international protection within a reasonable time period, unless the applicant can demonstrate good reason for not having done so,

(e) the general credibility of the applicant has been established.

(6) The Asylum Service and all other competent authorities of the Republic involved in the implementation of this Law shall take into account the specific situation of vulnerable persons, such as minors, unaccompanied minors, disabled persons, elderly persons, pregnant women, single parents with minor children and persons who have been subjected to torture, rape, or other serious forms of psychological, physical, or sexual violence. The provisions of this paragraph shall be applied only to persons for whom it is determined that they have these special needs after an individual evaluation of their case.

(7) All decisions of the Head shall be duly reasoned and shall be notified in writing to the applicants, and, in case where the application is rejected, the applicant shall be informed in writing by the Head of the possibility to file an administrative recourse to the Reviewing Authority as well as of the time limits within which he may submit such a recourse by virtue of the present Law. 112(I) of 2007

(8) The applicant, at all stages of the examination of the application by the Asylum Service, has the right to be represented by a lawyer or a legal advisor. 112(I) of 2007

(9) Both the fact of the submission of an application, as well as any information related to the application, remain confidential and are in no case revealed to the authorities of the applicant's country of nationality nor shall these authorities be requested to provide any information about the applicant. 112(I) of 2007

(10) Notwithstanding the provisions of Section 11B (3) of the present Law, the decisions of the Asylum Service shall not be executed before the lapse of the deadline for the submission of an administrative recourse elapses and, where such recourse is submitted, before the issuance of the decision by the Reviewing Authority, in which case the applicant has the right to remain in the Republic until the decision of the Reviewing Authority is rendered. 112(I) of 2007

18A. (1) The Head, by a decision, shall recognize an applicant as a refugee if he, during the relevant examination of his application, proves that he falls within the meaning of "refugee" as defined in Section 3.

Recognition of
refugee status
9(I) of 2004

(2) A three-year residence permit shall be issued to an applicant who has been recognized as a refugee the soonest possible, which shall be renewed for further three-year periods, unless the refugee has in the meantime lost his refugee status by virtue of Section 6 or he has been deported by virtue of Section 29 of the present Law.

112(I) of 2007

(3) Without prejudice to the the provisions of paragraph (d) of Section 4, the residence permit issued to members of the family of the refugee who do not individually qualify for such status may be valid for a period of less than three years and be renewable.

112(I) of 2007

19. (1) The Head, by a decision, grants subsidiary protection status to any applicant who is not recognized as a refugee or to any applicant whose application is clearly not based on any of the grounds of sub-section (1) of Section 3, but in respect of whom substantial grounds have been shown for believing that the person concerned, if returned to his or her country of origin would face a real risk of suffering serious harm, and is unable, or, owing to such risk, unwilling to avail himself of the protection of that country.

Recognition of
subsidiary
protection status
9(I) of 2004

112(I) of 2007

(2) For the purposes of this Law, serious harm or serious and unjustified harm means:

112(I) of 2007

112(I) of 2007

(a) Death penalty or execution;

(b) Torture, inhuman and degrading treatment or punishment,
or

(c) Violation of a human right to the extent that it invokes international treaty obligations of the Republic, or

(d) Threat to life, security or freedom of a person due to indiscriminate violence as a result of armed conflicts or as a result of systematic and general violations of human rights.

(3) A person granted subsidiary protection status shall not be deported to his country of origin and his status shall be maintained until it is established, following the ascertainment by the Head that the circumstances which led to the granting of subsidiary protection status have ceased to exist or have changed to such a degree that protection is no longer required. In such a case the provisions of sub-sections (2) and (3) of Section 6 are applied, provided that it is examined whether the change of circumstances is of such a significant and non-temporary nature, so that the person eligible for subsidiary protection no longer faces a real risk of serious harm.

112(I) of 2007

112(I) of 2007

(3A) In the event that the Head ascertains a posteriori, on the basis of facts revealed after the granting to a person subsidiary protection status, that such a person has misrepresented or omitted facts, including the use of forged documents, and the misrepresentation or omission was decisive for the granting to this person subsidiary protection status, he shall by a reasoned decision revoke the decision on the basis of which the said status was granted and paragraph (3) of Section 6 shall be applied, mutatis mutandis.

112(I) of 2007

(4) A person granted subsidiary protection status is afforded the soonest a residence permit for initially one year, which is renewed for as long as this status is maintained:

112(I) of 2007

Provided that the said residence permit may be renewed for periods exceeding the one year.

(5) Person, to whom subsidiary protection status is granted, shall enjoy:

(a) The right to residence and freedom of movement within the Republic;

(b) Access to the public education facilities; in the case of a minor, full access to the education system under the same conditions as nationals. 112(I) of 2007

(c) Notwithstanding the provisions of paragraph (6), the right to engage in employed or self-employed activities subject to rules and conditions generally applicable to the profession and to the public service, and to the recognition of degrees and remuneration immediately after subsidiary protection status has been granted; the situation of the labour market may be taken into account, including for possible prioritization of access to employment for a time period which does not exceed the period set by a Decree, which is issued by the Minister of Interior after consultation with the Minister of Labour and Social Insurance and social partners, and which is published in the Official Gazette of the Republic; the beneficiary of subsidiary protection shall have access to a post for which he has received an offer and for a time period which is set in accordance with the relevant laws and regulations on prioritization in the labour market. 112(I) of 2007

Comment: This can also mean TRADE and INDUSTRIAL UNIONS

(d) Notwithstanding the provisions of paragraph (6), the right to access social integration programs, where this is considered appropriate. 112(I) of 2007

(6) Upon the granting of subsidiary protection status, a person entitled to this status has the same rights as recognized refugees by virtue of Sections 21, 21A and 21C. 112(I) of 2007

(7) The provisions of Sections 4, 23, 25 and 25A of the present Law are applied mutatis mutandis and to cases of persons with subsidiary protection status. 112(I) of 2007

(8) Without prejudice to the limits set out by the international obligations of the Republic, the Head may, by a reasoned decision, reduce the benefits granted to a person entitled to subsidiary protection status, whose status has been granted on the basis of activities engaged in with the sole or main goal of creating the necessary conditions in order to be recognized as a person eligible for subsidiary protection.” 112(I) of 2007

(9) A travel document is issued and delivered upon a relevant receipt to a beneficiary of subsidiary protection status which shall allow him to travel, at least when serious humanitarian reasons arise that require his presence in another State, given that he is unable to obtain a national passport and given that this does contravene compelling reasons of national security or public order.

(10) The Council of Ministers issues Regulations for the better implementation of this Section. 112(I) of 2007

19A. (1) The Head, by a decision, shall grant status of residence on humanitarian grounds to any applicant who is not recognized as a refugee or who is not granted subsidiary protection status.

Status of residence on humanitarian grounds.

(2) Status of residence on humanitarian grounds may be granted -

(a) For any humanitarian reason, provided that this reason does not constitute a reason upon which subsidiary protection may be granted;

(b) When the deportation of the applicant is impossible in law or in fact;

(c) When the applicant stands a fair chance of obtaining a visa from another safe country which may be willing to consider his asylum request;

(3) The applicant granted status of residence on humanitarian grounds shall be afforded a temporary residence permit, which shall be renewed for as long as the reasons based on which the status was granted continue to exist.

(4) The status of residence on humanitarian grounds shall be revoked by a decision of the Head, in case where, following a relevant investigation, the reasons on which this status was granted have ceased.

(5) In relation to the applicant to whom status of residence on humanitarian grounds was granted, the provisions of Section 4, 9, 23, and 24 are applied mutatis mutandis.

20.-(1) For the purpose of this Section:

"temporary protection" means a procedure of an exceptional character, which provides, in the event of a mass influx or an imminent mass influx of displaced aliens, who are unable to return to their country of origin, immediate and temporary protection to such persons, in particular if there is also a risk that the procedure of granting asylum, will be unable to process this influx without adverse effects for its efficient operation in the interests of the persons concerned but also of other asylum seekers;

Temporary
protection

“Directive 2001/55/EC” means the Council Directive 2001/55/EC of 20 July 2001, on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

"displaced aliens" means third country nationals or stateless persons, who have had to leave their country of origin or have been evacuated, particularly following an appeal by international organizations, and whose repatriation under safe and stable conditions is impossible on account of the situation prevailing in this country and who may fall within the scope of implementation of sections 3(1), 19 and 19A, and particularly:

- (a) Persons who fled areas of armed conflicts or endemic violence, or
- (b) Persons at serious risk of, or who have been victims of systematic or generalised violations of their human rights.

"mass influx" means arrival in the Republic of a significant number of displaced aliens who come from a specific country or geographical area regardless of whether their arrival has been spontaneous or assisted, particularly through evacuation programmes.

“sponsor” means a person enjoying temporary protection in accordance with a decision by virtue of the Directive or the present Law and who wants to be joined by members of his family.

(2) The Republic shall apply temporary protection with due respect for human rights and fundamental freedoms and its obligations regarding non-refoulement which emanate from the provisions of Section 4 of the present Law.

(3) (a) Persons enjoying temporary protection shall be able to lodge an application at any time. In order to determine which Member State shall be responsible for considering the application the Dublin Provisions shall be applied. In particular, the Member State responsible for examining the asylum application submitted by a person enjoying temporary protection shall be the Member State which has accepted his transfer onto its territory.

(b) In case of rejection of the individual application for recognition of refugee status and of not granting any other form of protection to a person who is in the Republic under temporary protection status, along with the reservation of the provisions of subsection (5) of the present Section, this person shall continue to be under temporary protection status for the rest of the time period for which this protection is provided, by virtue of the provisions of the present Section.

(c) In case of submission of an application the examination of which has been processed before the end of the period of temporary protection, the applicant shall continue to enjoy the rights deriving from the present Law as regards persons enjoying temporary protection until the end of the period of temporary protection by virtue of the provisions of the Directive 2001/55/EC or of Section 20 of the present Law, depending on the case.

(d) In case of submission of an application, the examination of which has not been processed before the end of the period of temporary protection, the examination shall be completed after the end of the period of temporary protection, and during that period the applicant shall have the rights of an asylum-seeker.

(e) Temporary protection shall not prejudice recognition of refugee status.

(4) The Head, by a decision, shall grant the status of temporary protection to all persons falling under the category of persons provided for in the Council Decision, which is taken in accordance with the Directive 2001/55/EC, or in the decision of the Council of Ministers, which shall be taken in accordance with the provisions of Section 20B, who have been accepted to enter the Republic or who are already in the Republic for temporary protection purposes.

(5) The Head may exclude from temporary protection any person falling under the aforementioned categories if, following due investigation –

(a) There are serious reasons for considering that:

(i) 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;

(ii) he has committed a serious non-political crime outside the Republic prior to his admission unto the Republic as a person enjoying temporary protection. The severity of the expected persecution is to be weighed against the nature of the criminal offense of which the person concerned is suspected. Particularly cruel action, even if committed with an allegedly political objective, may be classified as serious non-political crimes:

Provided that this applies both to the participants in the crime and to its instigators;

(iii) he has been guilty of acts contrary to the purposes and principles of the United Nations.

(b) there are reasonable grounds for regarding him as a danger to the security of the Republic or, having been convicted by a final judgment of a particularly serious crime, he is a danger to the community:

Provided that as regards exclusion from refugee status or subsidiary protection status or leave to remain on humanitarian grounds, the provisions of Section 5 shall be applied and the provisions of the present Section shall not exclude any person from the examination of his application.

(6) The grounds for exclusion referred to in subsection (5) shall be based solely on the personal conduct of the person concerned and the exclusion decisions or measures shall be based on the principle of proportionality.

(7) A person who has been excluded from temporary protection by virtue of subsection (5) shall have the right to submit an administrative recourse before the Reviewing Authority by virtue of Section 28E.

20A. (1) The existence of a mass influx as well as the duration and end of the temporary protection shall be decided by the Council in accordance with the procedures prescribed in the Directive 2001/55/EC.

Existence, duration and end of temporary protection.

(2) The Council of Ministers may submit a request to the Commission to submit a proposal to the Council, in order to establish the existence of a mass influx as well as to extend the duration of already temporary protection which has been already decided by the Council.

(3) The request of the Council of Ministers submitted by virtue of subsection (2) shall include at least the following elements:

(a) A description of the specific groups of persons to whom the temporary protection will apply;

(b) The date on which the temporary protection will take effect

(c) An estimation of the scale of the movements of displaced persons.

20B. The Council of Ministers may, by a decision which shall be published in the Official Gazette of the Republic, extend the temporary protection provided for in the Council Decision to additional categories of displaced persons over and above those to whom the Council Decision provides for, where they are displaced for the same reasons and from the same country or region of origin and in such a case it shall notify the Council and the Commission immediately.

Extend of temporary protection to additional categories of persons.

20C. (1) Temporary protection granted by virtue of Section 20B, shall come to an end by a decision of the Council of Ministers, which may coincide with the end of temporary protection decided by the Council, provided that it shall be based on the establishment of the fact that the situation in the country of origin is such as to permit the safe and durable return of those granted temporary protection with due respect to human rights and fundamental freedoms and the Republic's obligations regarding non-refoulement.

End of temporary protection granted by virtue of Section 20B.

(2) Notwithstanding the provisions of Sections 20D and 20E, in case temporary protection comes to an end pursuant to a decision of the Council or of the Council of Ministers, depending on the case, the general rules of the Aliens and Immigration Law (Cap. 105), as this has been amended, shall apply.

20D. (1) The Asylum Service shall take all necessary measures, as those are defined by Regulations, to make possible the voluntary return of persons enjoying temporary protection or whose temporary protection has ended, which shall facilitate their return with respect for human dignity.

(2) The Asylum Service shall furnish the persons wishing to return voluntarily with all the necessary information regarding the situation in their country or origin, in order to have full knowledge of the consequences of their voluntary return and for this purpose it may propose to the Director to grant the opportunity of exploratory visits to the country of origin.

(3) For such time as the temporary protection has not ended, the Director, taking into consideration the opinion of the Asylum Service, shall, on the basis of the circumstances prevailing in the country of origin, give favourable consideration to requests for return to the Republic from persons who have enjoyed temporary protection and exercised the right to a voluntary return.

(4) At the end of the temporary protection, the rights provided for in Sections 20F until 20J shall be extended to persons who have been covered by temporary protection and are benefiting from a voluntary return programme and the extension shall have effect until the date of return.

20E. (1) Persons, whose temporary protection has ended and who do not have a right to stay under any other provision of the present or any other law, shall be subject to enforced return, with due respect for human dignity. Enforced return

(2) In case of enforced return, the Director, taking into account the opinion of the Asylum Service, shall consider any compelling humanitarian reasons which may make return impossible or unreasonable in specific cases, and in particular a deportation order shall not be issued against the following persons, who have enjoyed temporary protection-

(a) persons who due to their medical condition cannot reasonably travel or shall suffer serious negative consequences should their medical treatment be interrupted and for as long as this situation continues; and

(b) families with minor children, which enrol in any school in the Republic, until the current academic year shall be completed.

20F. (1) Persons enjoying temporary protection shall have the right to stay in the Republic and for this purpose they shall be granted by the Director a residence permit issued by virtue of the Aliens and Immigration Law (Cap. 105), as this has been amended or replaced, which shall be renewed for the period determined by the decision of the Council or the Council of Ministers, depending on the case. Right to stay and to information

(2) In case the Council or the Council of Ministers, depending on the case, declares the end of the temporary protection by virtue of Sections 20A and 20C, respectively, the Head shall, by a decision, revoke the temporary protection status and the Director shall revoke the residence permit, unless if the said person has a right to stay by virtue of any other provision of the present or any other Law.

(3) The Director shall provide persons to be admitted into the Republic for the purposes of temporary protection with every facility for obtaining the necessary visas, including transit visas, which shall be provided free of charge.

(4) The Asylum Service shall provide the persons enjoying temporary protection with a document, in a language understood by them, in which the provisions relating to temporary protection of the present Law or any other Law and which are relevant to them are clearly set out.

20G. (1) To enable the effective application of the Council Decision taken by virtue of the Directive 2001/55/EC, the Asylum Service shall register the personal data referred to in Schedule I, point (a), with respect to persons enjoying temporary protection in the Republic.

Personal data of persons enjoying temporary protection and obligation to re-admit. Schedule I.

(2) The Republic shall take back a person enjoying temporary protection on its territory, if the said person remains on, or, seeks to enter without authorization onto the territory of another Member State during the period covered by the decision of the Council or the Council of Ministers, depending on the case, unless a bilateral agreement has been signed with another Member State to the contrary.

20H. (1) Persons enjoying temporary protection shall have the right, for a period not exceeding that of temporary protection, to-

(a) Engage in employed or self- employed activities, subject to any legislation of the Republic applicable to the profession and subject to the provisions of the Aliens and Immigration Law (Cap. 105), as this may be amended or replaced:

Provided that citizens of a Member State and applicants receiving unemployment benefits shall have priority;

Provided further that the corresponding legislation of the Republic shall apply in relation to remuneration, and access to the social security systems relating to employed or self-employed activities.

(b) attend educational programmes for adults and vocational training programmes.

(c) Have access to suitable accommodation or receive the necessary public allowance by virtue of the relevant laws of the Republic in order to obtain housing.

(d) a public allowance, when they do not have sufficient resources, and social welfare, by virtue of the relevant laws of the Republic;

(e) free medical care, in case they do not have sufficient means, which, notwithstanding the provisions of paragraph (f), includes at least emergency care and essential treatment of illness;

(f) necessary medical or other assistance, provided that they have special needs and in particular to unaccompanied minors or other persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence.

(2) Persons under 18 years of age enjoying temporary protection shall have access to the public education system, under the same conditions as citizens of the Republic.

(3) Adults enjoying temporary protection shall have access to the general educational system available to adults in the Republic.

20 I . (1) For the purposes of the present Section, in cases where the families already existed in the country of origin and were separated due to circumstances surrounding the mass influx, the following persons shall be considered to be part of a family:

Family
reunification

(a) the spouse of the sponsor, the minor children of the sponsor or of his/her spouse, without distinction as to whether they were born in or out of wedlock or adopted;

(b) other close relatives who lived together as part of the family unit at the time of the events leading to the mass influx, and who were wholly or mainly dependent on the sponsor at the time.

(2) In cases where the separate family members enjoy temporary protection in different Member States amongst which the Republic, the Head, in co-operation with the competent authorities of the other Member States involved and taking into account the provisions of Sections 25 and 26 of the Directive 2001/55/EC, shall reunite family members where he is satisfied that the family members fall under the description of paragraph 1(a), taking into account the wish of the said family members and may reunite family members, where he is satisfied that the family members fall under the description of paragraph 1(b), taking into account on a case by case basis the extreme hardship they would face if the reunification did not take place.

(3) Where the sponsor enjoys temporary protection in the Republic and one or some family members are not yet in any other Member State, the Head shall reunite family members, who are in need of protection, with the sponsor in the case of family members where it is satisfied that they fall under the description of paragraph 1(a), and may reunite family members, who are in need of protection, with the sponsor in the case of family members where it is satisfied that they fall under the description of paragraph 1 (b), taking into account on a case by case basis the extreme hardship which they would face if the reunification did not take place.

(4) When applying this Section, the Head shall take into consideration the best interests of the children.

(5) In case the Head decides the reunification of the family of the sponsor in the Republic, he shall inform the Director in order to provide the family members with every facility for obtaining the necessary visas, including transit visas.

(6) (a) Reunited family members shall be granted residence permits by virtue of Section 20F of the present Law.

(b) In case where the Head consents to the transfer of family members to another Member State for family reunification purposes, upon the transfer of the persons onto the territory of another Member State the residence permit shall be withdrawn by the Director and any obligations of the Republic, emanating from the present Law, towards the persons concerned, shall be terminated.

(7) The Asylum Service, at the request of the competent authorities of another Member State, shall provide information, as set out in Schedule I, on a person receiving temporary protection which is needed to process a matter under the present Section. First Schedule

(8) The decision of the Head not to allow the family reunification of a person enjoying temporary protection shall be subject to an administrative recourse before the Reviewing Authority by virtue of Section 28E.

20J. Notwithstanding the provisions of Section 10 and irrespective of any other provision of any other law, during the period of temporary protection, the Director of Social Welfare Services may, by establishing where necessary the agreement of an adult person and taking into account the views of the child in accordance with his age, shall provide for the care of the unaccompanied minor to be placed:

Unaccompanied minors,

- (a) with adult relatives;
- (b) with a foster family;
- (c) in reception centers with special provisions for minors or in other accommodation suitable for minors;
- (d) with the person who looked after the child when fleeing.

20 K. (1) The Republic shall receive persons who are eligible for temporary protection in a spirit of Community solidarity and for that purpose the Council of Ministers shall indicate in figures the capacity of the Republic to receive such persons, information which shall be communicated through the Asylum Service to the Council and the Commission in order to be included in the Council Decision issued by virtue of Directive 2001/55/C.

Solidarity with other Member States

(2) The Asylum Service, in co-operation with the competent international organizations, shall ensure that the eligible persons defined in the Council Decision who have not yet arrived in the Community have expressed their will to be received onto the territory of the Republic.

(3) For the duration of the temporary protection, the Asylum Service shall cooperate with the competent authorities of other Member States with regard to the transferal of the residence of persons enjoying temporary protection from one Member State to another, subject to the written consent of the persons concerned to such transferal.

(4) The Asylum Service shall communicate requests for transfers to the competent authorities of the other Member States and shall simultaneously notify the Commission and the UNHCR.

(5) In case a transfer request is submitted to the Republic by the competent authorities of another Member State , the Asylum Service shall inform the requesting Member State of the its capacity for receiving transferees.

(6) Where a transfer of a person enjoying temporary protection is made from the Republic to another Member State, the residence permit shall be withdrawn by the Director and any obligations emanating from the present Law towards that person shall come to an end.

(7) The Asylum Service shall use the model pass set out in Second Schedule
Schedule II for transfers of persons enjoying temporary protection.

20 L. The Asylum Service shall be the competent authority for Administrative
Cooperation
the administrative cooperation with the Commission and the competent authorities of other Member States and the competent international organizations in relation to the implementation of the provisions of the present Law and the Directive 2001/55/EC regarding temporary protection, and for this purpose it shall regularly and as quickly as possible communicate data concerning the number of persons enjoying temporary protection and full information on the national laws, regulations and administrative provisions relating to the implementation of the present Law and the Directive 2001/55/EC.

PART IV
RIGHTS AND OBLIGATIONS OF REFUGEES

21.-(1) Any person recognized as a refugee by virtue of this Law, shall: Rights of Refugees

(a) Have the right-

- (i) to fair treatment, without discrimination on the grounds of sex, race, religion, membership of a particular social group, political opinion, or country of nationality;
- (ii) to transfer assets into the Republic, subject to the applicable laws and regulations of the Republic;
- (iii) to manifest and practice his religion freely;
- (iv) access to social integration programs

112(I) of 2007

(b) receive the same treatment as that received by the citizens of the Republic under the relevant laws and regulations relating to-

(i) Elementary education

(iA) the right to engage in employed or self-employed professional activities, subject to rules generally applicable to the profession and to the public service and with respect to the recognition of degrees and remuneration.

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(iB) the full access of all minors to all levels of the education system.

(iC) the right to education, other than elementary education, especially as regards access to education, the recognition of foreign school certificates, diplomas, and degrees, the remission of tuition fees, and the award of scholarships.

(ii) Free access to the courts of law of the Republic and exemption from the requirement to provide guarantee for judicial costs ("cautio judicatum solvi"),

(iii) Rationing system in case of emergency,

(iv) Public allowance, in addition to any other necessary assistance in terms of social welfare, as well as adequate health care to those with special needs such as pregnant women, persons who have undergone torture, rape or other serious forms of psychological, physical or sexual violence or minors who have been victims of any form of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict. 112(I) of 2007

Comment: Disabled persons has been omitted from the directive's language

(v) Social security

(vi) Protection of intellectual property rights

(vii) the participation of adults in employment-related education opportunities, vocational training, and practical workplace experience. 112(I) of 2007
112(I) of 2007

(c) receive the most favorable treatment possible, which in any case may not be less favorable than that accorded to aliens, under the same circumstances, under the relevant laws and regulations of the Republic relating to:

(i) the access to accommodation 112(I) of 2007

(ii) the right to associate.

(d) receive the same treatment as that granted to aliens which are under the same circumstances, by virtue of the relevant laws and regulations relating to-

(i) the right to choose their place of residence and to move freely within the territory of the Republic,

(ii) the right to acquire or possess property and other similar rights pertaining thereto, and also the right to act as a lessor or lessee of immovable party and to enter into contracts relating to immovable property. 112(I) of 2007

“(2) In order to facilitate the integration of refugees into society, the competent authority shall make provision for integration programmes which they consider to be appropriate or create pre-conditions which guarantee access to such programmes. The Council of Ministers shall determine the competent authority.” 112(I) of 2007

(3) For the purposes of this Section the term “under the same conditions” means that any conditions the recognized refugee would have to fulfill in order to enjoy a relevant right, in case he was not a refugee, they have to be fulfilled by him with the exception of the conditions which by their nature the refugee cannot fulfill.

21A.- After the completion of a three-years lawful residence in the Republic, persons who are recognized as refugees are accorded the same treatment with that accorded to the citizens of the Republic, regarding the rights referred to in Section 21, sub-section (1) paragraphs (c) and (d).

Exemption from reciprocity

21B.- A recognized refugee in accordance with this Law, is accorded the same treatment as the citizens of the Republic in accordance with the relevant legislation, with regard to the right to wage-earning employment.

Right to engage in wage-earning employment

21C. - (1) When the exercise of any right by a recognised refugee would normally require the assistance of authorities of a foreign country to which he cannot have recourse, the respective competent authorities of the Republic arrange that such assistance be afforded to him by themselves or by an international authority.

Administrative assistance

(2) The authorities referred to in sub-section (1) deliver or cause to be delivered under their supervision to recognised refugees documents or certificates as would normally be delivered to aliens by or through their national authorities.

(3) Documents or certificates so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.

(4) Subject to such exceptional treatment which applies as may be granted to indigent persons, fees may be charged for the services referred to in this Section which should be proportionate to the fees imposed on citizens of the Republic in similar cases in accordance to Section 23.

(5) The provisions set in this Section do not affect the provisions of Section 22.

21D - Without prejudice to the provisions of the Convention, the Head may, by a reasoned decision, reduce the benefits that granted to a refugee, whose status has been obtained on the basis of activities engaged in with the sole or main purpose of creating the necessary conditions for being recognized as a refugee.

112(I) of 2007
Reduction of
refugee benefits

22.-(1) A refugee identity card shall be issued and delivered on receipt to a refugee.

Identity card
and travel
Documents.

(2) Refugee travel documents shall be issued and delivered on receipt to a refugee, unless considerations or public safety or public order exist.

23. No taxes, charges, duties or fees of any nature imposed on refugees shall be higher than those imposed on the citizens of the Republic in similar cases.

Fiscal
changes.

24.-(1) A refugee shall abide by the Constitution, the Laws and Regulations of the Republic.

Obligations
of refugees.

(2) No refugee may engage in activities, which may endanger the security of the Republic or disrupt public order or harm the public interest.

(3) A refugee shall not engage in activities, which are contrary to the principles of the United Nations and international law.

25.-(1) Subject to the provisions of this section, asylum shall be granted to members of the family of a refugee who enter the Republic either at the same time as the refugee or thereafter.

112(I) of 2007
Maintaining Family
Unity

(2) Any members of a refugee's family who do not accompany him upon his entry in the Republic and are not with him because of the circumstances which led to the submission of his asylum application, shall be entitled to be reunited with him in the Republic, provided that the refugee so requests. To this end, and provided that their relation to the refugee is proved, they shall be provided with permission to enter or any other document necessary for them to travel and enter the Republic.

(3) Any member of the family of the refugee shall be considered to be a refugee and, subject to the provisions of sections 6, shall preserve this status, regardless of whether or not he ceased to be a member of such family because of marriage, divorce, death or for any other reason.

(3A) The Head may decide to apply the provisions of paragraphs (1), (2), and (3) to other relatives who lived together as part of the family at the time of leaving the country of origin and who were wholly or mainly dependent on the refugee at that time. 112(l) of 2007

(3B) The competent authorities of the Republic involved in asylum matters shall ensure that family members of the refugee status or subsidiary protection status beneficiary who do not individually qualify for such status, are entitled to apply for the benefits of this Law granted to those with refugee status or subsidiary protection status, respectively, with the exception of Section 4 (a) and (e). The competent authorities shall ensure that any benefits provided guarantee an adequate standard of living. The provisions of this paragraph are not applicable when the family member is excluded or would be excluded from refugee status or subsidiary protection status in accordance with Sections 3C, 3D, 6 or 19.

(3C) Without prejudice to the international obligations of the Republic, when family reunification is possible in a third country with which the sponsor and the family member who does not individually qualify for refugee or subsidiary protection status has particular ties, the Head may require the submission of the following evidence:

- (a) accommodation regarded as normal for a comparable family in the same region and which meets the general health and safety standards,
- (b) Sickness insurance for himself and the members of his family, in respect of all risks normally covered for nationals, and
- (c) Stable and regular resources, which are sufficient to maintain himself and the members of the family without recourse to the social welfare system.

(4) For the purposes of this section, "member of the family of a refugee" means-

- (a) the spouse of the refugee,
- (b) the minor children of the couple or the refugee, on the condition that they are unmarried and dependent, regardless of whether they were born in or out of wedlock or are adopted as defined by the Adoption Law,
- (c) the father and mother of the refugee if they are his dependents,
- (d) in the case of a minor refugee, his father and mother.

112(I) of 2007

25A. (1) In case an unaccompanied minor is recognized as a refugee or is granted subsidiary protection status, the Head shall immediately inform the Director of Social Welfare Services, who will act as the guardian of the unaccompanied minor, covering his needs. The Director of Social Welfare Services, ensuring when necessary the consent of an adult person and taking into account the views of the unaccompanied minor, in accordance with his or her age and degree of maturity, places the minor either –

112(I) of 2007
Unaccompanied
minors with
refugee or
subsidiary
protection status

- (a) with adult relatives; or
 - (b) with a foster family; or
 - (c) in centers specialized in accommodation for minors; or
 - (d) in other accommodation suitable for minors.
- (2) As far as possible, siblings shall be kept together, taking into account the best interests of the minor concerned and, in particular, his or her age and degree of maturity. Changes of residence of unaccompanied minors shall be limited to a minimum.

(3) The competent authorities, in the framework of the protection of the best interests of the unaccompanied minor, shall endeavour to trace the members of the minor's family as soon as possible. In cases where there may be a threat to the life or integrity of the minor or his or her close relatives, particularly if they have remained in the country of origin, care must be taken to ensure that the collection, processing and circulation of information concerning those persons is undertaken on a confidential basis.

(4) Those working with unaccompanied minors shall have had or receive appropriate training concerning their needs.

PART V.

ASYLUM SERVICE AND REVIEWING AUTHORITY

9(l) of 2004

26. (1) An Asylum Service is hereby established, at the Ministry of Interior, which shall examine and decide upon applications in accordance with the provisions of the present Law and exercise any other function granted to it by virtue of this Law. Asylum Service.

(2) The Asylum Service proceeds in the establishment of an Office, for the purposes of keeping a relevant registry and collecting information relating to refugee matters.

27. (1) In addition to the power vested in the Asylum Service by virtue of Section 26, the Asylum Service has the following competencies: Other competencies of the Asylum Service

(a) Co-ordinates the actions of all the authorities of the Republic which are involved in the better implementation of the present Law;

(b) Organizes seminars and training programs on matters relating to international protection, asylum and refugees to the benefit of officers dealing with such matter in all authorities of the Republic involved in such matters;

- (c) Issues directives, circulars and guidelines for the matters referred to in this Law or in the Convention or the conclusions of the Executive Committee (Executive Committee of the High Commissioner Programme) or related resolutions of the United Nations or of other international organizations;
- (d) Co-ordinates and supervises the administration and functioning of the refugee reception centers;
- (e) Follows the developments in the European Union Asylum Acquis and submits proposals and suggestions to the Minister as regards the position taken by the Ministry at the European Union organs;
- (f) Is responsible, in relation to the taking of fingerprints, for the implementation of the Council Regulation (EC) no. 2725/2000 of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention and of the Council Regulation (EC) 407/2002 of 28 February 2002 establishing rules for the implementation of Regulation (EC) 2725/2000 for the comparison of fingerprints for the effective application of the Dublin Convention;
- (g) Is responsible for the implementation of the Dublin provisions;

(h) Is responsible for the implementation of the Council Decision 2000/596/EC of 28 September 2000 establishing a European Refugee Fund and of the Commission Decisions 2001/275/EC of 18 December 2001 laying down detailed rules for the implementation of the Decision for establishing a European Refugee Fund as regards management and control systems and procedures for making financial corrections in the context of actions co-financed by the European Refugee Fund, and 2002/307/EC of 20 April 2001 laying down detailed rules for the implementation of the Decision for establishing a European Refugee Fund as regards the eligibility of expenditure and reports on implementation in the context of actions co-financed by the European Refugee Fund.

(i) Submits to the Minister recommendations and proposals relating to policy matters in the areas of its competency.

(2) The Head shall inform any interested party of the means of accessing the aforementioned in subsection (h) acts of the European Union.

28. (1) A Refugee Reviewing Authority is established with the power and competency to examine administrative recourses, which are lodged by applicants, against decisions of the Head of the Asylum Service and decisions of the Director in relation to deportation of persons under international protection or of persons with a status of temporary residence on humanitarian grounds.

Establishment and appointment of the Reviewing Authority

(2) The Reviewing Authority consists of the President and two Members who are appointed by the Council of Ministers. The appointment of the President and of the Members of the Reviewing Authority shall be published in the Official Gazette of the Republic.

(3) The Reviewing Authority shall be an independent authority and shall not be subject to any Ministry, Department or Independent Service of the Government of the Republic.

28A. (1) As President and Members of the Reviewing Authority shall be appointed persons of the highest moral and professional level, with experience in matters pertaining to international protection, refugees and asylum.

Conditions for the appointment, remuneration and pension of the President and Members of the Reviewing Authority

(2) The President and at least one of the Members shall be jurists.

(3) The President and the Members of the Reviewing Authority shall be appointed for a five-year period of service, which may be renewed for further five-year periods, provided that the President and the Members of the Reviewing Authority shall not serve beyond the age of 68 years.

(4) During their service, the President and the Members of the Reviewing Authority shall be prohibited from -

(a) Accepting or maintaining-

(i) employment in a job, office or position, of which the remuneration is subject to the control of the Republic,

(ii) either a public post or a post or position in a municipality or a public legal entity or organisation.

(b) Accepting or maintaining employment in a job, office or position in the private sector either against remuneration of any nature or under circumstances in which the payment or remuneration of any nature is reasonably expected, irrespective of whether remuneration are indeed paid or not.

(5) The President and each Member of the Reviewing Authority receives such remuneration and allowances as those are determined by the Council of Ministers in their appointment documents.

(6) The Council of Ministers may determine by a decision the payment of allowances, bonuses or pension to or in relation to a person who served as a President or a Member of the Reviewing Authority.

28 B. (1) The position of the President or the Member of the Reviewing Authority shall be declared vacant-

Vacancy of a post

- (a) In case of death;
- (b) In case of resignation, which shall be submitted in writing to the Council of Ministers;
- (c) In case of dismissal by the Council of Ministers in accordance with the provisions of subsection (2).

(2) The Council of Ministers may, by a decision, dismiss the President or any Member of the Reviewing Authority for any of the following reasons:

- (a) Due to the conviction of the holder of the post for a criminal offence, which involves dishonesty and moral indecency;
- (b) Due to the imposition of an imprisonment term to the holder of the post due to having committed a criminal offence;
- (c) Due to illness, disability or mental or physical incapacity, which renders the holder of the post incapable of fulfilling adequately the competencies, powers or duties for the remaining period of his service;
- (d) Due to a violation or omission on the part of the holder of the post to comply with any of the duties foreseen in Section 28A (4).

(3) In case where the post of the President or of a Member of the Reviewing Authority becomes vacant before the completion of the period of service of the Reviewing Authority, the Council of Ministers, following a recommendation by the Minister, proceeds to the appointment of a new President or Member for the remaining of the period of service of the former holder of the post, in accordance with the provisions of Section 28A (1) and (2).

28C. In case where the President or a Member of the Reviewing Authority is temporarily impeded from exercising his duties, for any reason, the Council of Ministers, following a recommendation by the Minister, shall appoint a temporary replacement of the President or of this Member to exercise his duties, and such an appointment shall end immediately upon the return of the temporarily replaced President or Member:

Temporary
Replacement

Provided that a Member of the Reviewing Authority may be appointed temporarily as the President by virtue of the present Section.

28D. The President shall-

Powers of the
President

- (a) Preside the Reviewing Authority;
- (b) By virtue of Section 28E (3) and (4), assign the examination of administrative recourses to a Member of the Reviewing Authority or refer them to the full board of the said Authority.
- (c) Assign, in co-operation with the Secretary, the investigation of the administrative recourses to competent officers;
- (d) Convene meetings of the full board of the Reviewing Authority when this is necessary by virtue of the provisions of the present Law;
- (e) Take all necessary action for the implementation of the, provided by this law, competencies of the Reviewing Authority;
- (f) Represent the Reviewing Authority before the Courts of Justice or any other authority.

28E. (1) Any negative decision of the Head taken by virtue of Sections 5,6,11B, 12D, 13, 16A, 19, 19A, 20 and 20 I of the present law and any decision of the Director, taken by virtue of Section 29, shall be subject to an administrative recourse of before the Reviewing Authority

Competencies and
Powers of the
Reviewing
Authority

(2) The Reviewing Authority, following the examination of the administrative recourse of an applicant, shall issue a reasoned decision by which it shall uphold or annul and amend the decision of the Head or the Director.

(3) Notwithstanding the provisions of subsection (4), any member of the Reviewing Authority may exercise the vested, by virtue of the present Law, competencies of the Reviewing Authority on its own.

(4) The Reviewing Authority examines and decides in full board on administrative recourses against decisions of—

- (a) The Head, for exclusion of an applicant from refugee status or subsidiary protection or stay on humanitarian grounds, by virtue of Section 5;
- (b) The Head, for revocation of refugee status or subsidiary protection status by virtue of the provisions of Section 6 or of status of residence on humanitarian grounds by virtue of the provisions of Section 19A.
- (c) The Director, to deport a refugee or a persons with subsidiary protection status or a person granted status of residence on humanitarian grounds, by virtue of Section 29.

(5) In cases where the Reviewing Authority examines an administrative recourse in full board, the decision shall be taken by majority voting.

28F. (1) The administrative recourse shall be submitted within ten working days from the date the applicant is notified of the decision of the Head, in cases where the application was examined under the accelerated procedures of Section 12D.

Time-limit for the submission of an administrative recourse

(2) The administrative recourse shall be submitted within twenty working days from the date the applicant is notified of the decision of the Head or of the Director, in all other cases save for those provided for in subsection (1).

28G. (1) The procedures before the Reviewing Authority may be both in the form of written representations as well as hearings.

Procedures before
the Reviewing
Authority

(2) The Reviewing Authority examines each administrative recourse after an investigation of the case by a competent officer, who submits to the Reviewing Authority a relevant recommendation.

(3) Both the Reviewing Authority as well as the competent officer may invite the applicant to a personal interview.

(4) The Reviewing Authority, during the examination of the administrative recourse may, in case where this is deemed appropriate, decide on calling a hearing, to which it has the power to summon:

(a) The applicant;

(b) Any expert it may decide;

(c) The competent officer of the Reviewing Authority;

(d) A representative of the Asylum Service.

(5) The hearings before the Reviewing Authority shall be conducted with closed doors.

(6) In cases where the applicant submits new elements, the Reviewing Authority may either call the applicant to a personal interview or call the applicant to a hearing, as deemed appropriate:

Provided that whether any elements submitted by the applicant constitute new elements shall be decided upon by the Reviewing Authority.

(7) The Reviewing Authority may regulate further matters pertaining to its procedures by internal regulations, which shall be published in the Official Gazette of the Republic.

28H. (1) The Reviewing Authority shall render its decision within fifteen days from the date of submission of a recourse in the cases provided for by Section 28F (1).

Decision rendered
by the Reviewing
Authority

(2) The Reviewing Authority shall render its decision at the earliest possible time from the submission of the administrative recourse, in the cases provided for by Section 28F (2).

28 I. (1) Upon the submission of the administrative recourse, the applicant shall be informed in writing of his rights and obligations in relation to the procedures before the Reviewing Authority.

Basic principles governing the operations and procedures of the Reviewing Authority.

(2) In the course of the procedures before the Reviewing Authority, the applicant shall be provided with the free-of-charge services of an interpreter, where this is necessary, and for the purposes of the present Section this shall always be deemed necessary in cases where the Reviewing Authority calls the applicant to a personal interview or to a hearing.

(3) During the personal interview, no person other than the Reviewing Authority or the competent officer, depending on the case, the applicant, his lawyer or legal advisor, the competent officer, the guardian of an unaccompanied minor and the necessary interpreter may be present, unless otherwise requested by the applicant.

(4) The applicant, throughout the procedures before the Reviewing Authority, has the right to be represented by a lawyer or a legal advisor.

(5) Both the fact of the submission of an administrative recourse, as well as any evidence related to the administrative recourse which come to the possession of the Reviewing Authority, remain confidential and are in no case revealed to the authorities of the applicant's country of nationality nor shall these authorities be requested to provide any information about the applicant.

(6) The applicant and his lawyer or legal adviser shall have free access to the full file of the applicant relating to his application and his administrative recourse.

(7) All decisions of the Reviewing Authority shall be in a written form and shall be duly reasoned and shall be sent to the applicant and copied to the Asylum Service and the Director in order to take all appropriate measures for the execution of the decision, depending on the case.

(8) The representative of the United Nations High Commissioner for Refugees shall have access to the decisions of the Reviewing Authority following the submission of a relevant request to the Reviewing Authority.

28J. (1) The Reviewing Authority shall have a Bureau, the personnel of which shall include the Secretary and competent officers. Bureau of the Reviewing Authority

(2) The members of the personnel of the Bureau shall act in accordance with the directives and instructions of the Reviewing Authority.

(3) The members of the personnel of the Reviewing Authority shall be members of the public service and shall be appointed as provided for by the Public Service Laws of 1990 until (No. 3) of 2003

1 of 1990
71 of 1991
211 of 1991
27(l) of 1994
83(l) of 1995
60 (l) of 1996
109 (l) of 1996
69(l) of 2000
156(l) of 2000
4(l) of 2001
94(l) of 2003
128(l) of 2003
183(l) of 2003

(4) The competent officers shall investigate administrative recourses which shall be assigned to them by the Secretary in co-operation with the President and shall submit a report to the Reviewing Authority.

(5) The Secretary of the Authority shall be responsible for the co-ordination and correct functioning of the Bureau of the Reviewing Authority and shall act in accordance with the directives provided to him by the President of the Reviewing Authority.

(6) The Secretary and the competent officer may be present at the meetings of the Reviewing Authority and inform or express their opinions as regards to matters assigned to them by the Reviewing Authority.

PART VI. FINAL PROVISIONS

29.-(1) The Director may decide for the deportation of a refugee or of a person with subsidiary protection status or of a person with status of residence on humanitarian grounds, in case where he deems that necessary in the interest of the security of the Republic or for reasons of public order, when the person concerned has been convicted by a final judgement of a particularly serious crime.

Deportation of persons under international protection.

112(I) of 2007

(2) Before proceeding with the issuance of a deportation order against any person by virtue of subsection (1), the Director shall-

(a) Provide the affected person with the opportunity to submit written and oral representations, and

(b) Inform the Head of the Asylum Service:

Provided that the Representative of the United Nations High Commissioner for Refugees shall be informed of the decisions of the Director following the submission of a relevant request to him.

(2A) The Director shall inform the refugee or the person with subsidiary protection status or the person with status of residence on humanitarian grounds for his decision to issue a deportation order, as well as of his right to submit an administrative recourse before the Reviewing Authority and of the time limits within which this right may be exercised.

(2B) The execution of the decision of the Director issued by virtue of subsection (1) shall be suspended until the lapse of the time-limit for the submission of an administrative recourse and, in case of such a submission of an administrative recourse, until the issuance of a decision by the Reviewing Authority.

(3) A refugee or a person with a subsidiary protection status against whom a deportation order has been issued by the competent authorities may be allowed to remain in the Republic for a reasonable period of time in order to seek asylum in another country.

(4) No refugee or a person with a subsidiary protection status shall be deported to any country where his life or freedom will be endangered or he will be in danger of being subjected to torture or inhuman or degrading treatment or punishment or persecution for reasons of sex, race, religion, nationality, membership of a particular social group or political opinion or because of armed conflict or environmental destruction.

(5) The issuance of a deportation order against any person to a country where he would run the risk of being subjected to torture, inhuman or degrading treatment or punishment is prohibited.

(6) Persons to whom the provisions of paragraph (1) apply are entitled to the rights set out in Articles 3, 4, 16, 22, 31 and 33 of the Convention in so far as they are present in the Republic. 112(I) of 2007

30. Measures, which may be taken against the person, property or interests of alien citizens of another State, may not be taken against a refugee who has the nationality of the said State. Exemption of refugees from measures against aliens.

30A.-(1) Each of the residence permits provided under Sections 8, 18A, 19, 19A and 20F is issued by the Director as a special permit , by virtue of Regulation 15 of the Aliens and Immigration Regulations of 1972 – 2002, in which the person’s status of residence in the Republic is specified, depending on the case, in accordance with the aforementioned Sections.

Issue of Residence Permits. Official Gazette, Third Supplement: 22.12.1972. Official Gazette, Third Supplement (I): 23.11.1984 27.12.1986 30.1.1987 11.11.1988 18.5.1990 17.4.1991 8.11.1991 15.4.1994 6.12.1996 21.7.2000 31.12.2001 26.07.2002

(2) At the time of the issuance of the permits mentioned in sub-section (1), the provisions of this Law shall be applied, which shall supersede any possible conflicting provisions of the Aliens and Immigration Regulations.

6(I) of 2002

31. In time of war or under other serious or exceptional circumstances, the Government of the Republic may take such provisional measures which it considers to be essential for public safety, in relation to any person who has submitted an application for asylum, while his application is pending before the Asylum Service, and these measures may continue to apply even after his recognition as a refugee if reasons of public safety to require:

Provisional Measures.

Provided that the aforementioned measures shall not conflict with provisions of international law.

31 A – (1) The Representative of UNHCR has the right, provided he requests so, to be present:

UNHCR's participation in the asylum procedures.

(a) As an observer, with an advisory role during any interview of an applicant at any stage of the asylum procedure, at first on second instance.

(b) With an advisory role during the decision-making process undertaken by the Authority or the Reviewing Authority.

(2) UNHCR's participation in the aforementioned procedures shall be determined by Regulations.

31B. (1) Any person who receives any kind of information in the course of by virtue of the Law or implementing Regulations is obliged not to reveal such information, unless –

112(l) of 2007

(a) by the written consent of the person by whom the information was received, or

(b) for the purposes of proving or corroborating facts in a case which is pending before the court, or

(c) for the purposes of implementation of this Law or its implementing Regulations or international law or Community law, or

(d) for the purposes of public interest or for other administrative purpose, which falls within the public interest.

(2) A person commits a criminal offense if he acts in contravention or omits to comply with the provisions of paragraph (1) and, in the case of his conviction, he is subject to imprisonment of up to three months or to a fine which does not exceed one thousand pounds or to both.

32.-(1) The Council of Ministers may make regulations for the better implementation of this Law. Regulations.

(2) Without prejudice to the generality of subsection (1), the Council of Ministers may make regulations in order to prescribe- 7 of 6(I) of 2002.

- (a) the refugee status application form and other forms that may facilitate the implementation of the Law;
- (b) the operation and the procedures governing the reception centers for asylum-seekers;
- (c) the implementation rules in relation to Sections 11A and 11B;
- (d) the rules governing the implementation of the provisions of the Council Decision 2000/596/EC of 28 September 2000 for the establishment of a European Refugee Fund and of the Commission Decisions 2001/275/EC of 18 December 2001 laying down detailed rules for the implementation of the Decision for establishing a European Refugee Fund as regards management and control systems and procedures for making financial corrections in the context of actions co-financed by the European Refugee Fund, and 2002/307/EC of 20 April 2001 laying down detailed rules for the implementation of the Decision for establishing a European Refugee Fund as regards the eligibility of expenditure and reports on implementation in the context of actions co-financed by the European Refugee Fund.
- (e) any other matter that may be deemed necessary for the better implementation of the Law.

Temporary Provisions

- (1) Until 31.12.2001, applications for recognition of a person as a refugee shall be submitted to the office of the United Nations High Commissioner for Refugees and any decisions made by UNHCR shall be considered

- as decisions of the Refugee Authority and of the Reviewing Authority respectively.
- (2) Sub-section (1) shall be considered as to have entered into force as from 28 January 2000.

Temporary Provisions

- (1) Until the Asylum Service shall assume its functions and until the Reviewing Authority shall be appointed by the Council of Ministers, the competencies and powers vested in these two organs shall be exercised by the Refugee Authority and the Reviewing Authority, respectively, as those are prescribed by the Principal Law.
- (2) The assumption of functions by the Asylum Service and the appointment of the Reviewing Authority by the Council of Ministers shall take place as soon as possible after the present law shall enter into force.
- (3) Upon the assumption of functions by the Asylum Service and the Reviewing Authority, any applications or administrative recourses pending examination before the Refugee Authority or the Reviewing Authority, as those are prescribed by the Principal Law, shall be considered as to be pending before the Asylum Service and the Reviewing Authority, respectively.
- (1) Notwithstanding the provisions of subsection (2), the present Law shall enter into force upon its publication in the Official Gazette of the Republic.
- (2) Section 8 and Section 22 of the present Law relating to the new Section 27(f) of Part V of the Principal Law shall enter into force upon the Republic's accession to the European Union.

Entry into Force
9(I) of 2004

(Section 10)

SCHEDULE I
(Sections 20G, 20 I)

The information referred to in Sections 20G and 20 I of the present Law includes to the extent necessary one or ore of the following documents or data:

- (a) personal data on the person concerned (name, nationality, date and place of birth, marital status, family relationship);
- (b) identity documents and travel documents of the person concerned;
- (c) documents concerning evidence of family ties (marriage certificate, birth certificate, certificate of adoption);
- (d) other information essential to establish the person's identity or family relationship;
- (e) residence permits, visas or residence permit refusal decisions issued to the person concerned by the Member State and documents forming the basis of decisions;
- (f) residence permit and visa applications lodged by the person concerned and pending the Member State and the stage reached in the processing of these.

SCHEDULE II
(Section 20 K)

Model Pass for the transfer of persons enjoying temporary protection

PASS

Name of Member State delivering the pass

Reference Number (*) :

Issued under Section 26 of Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of effort between Member States in receiving such persons and bearing the consequences thereof.

Valid only for the transfer

from¹ to²

The person in question must present himself

at³ (3) by⁴

Issued at:

SURNAME:

FORENAMES:

PLACE AND DATE:

In case of a minor; name(s) of responsible adult.....

SEX:

NATIONALITY:

DATE ISSUED:

PHOTO

SEAL

Signature of
the beneficiary:.....

For the competent
authorities:.....

The pass holder has been identified by the authorities^{5 6}

The identity of the holder has not been established.....

This document is issued pursuant to Article 26 of the Directive 2001/55/EC and in no way constitutes a document which can be equated to a travel document authorising the crossing of the external border of a document proving the individual's identity.

* The reference number is allocated by the country from which the transfer to another Member State is made

¹ Member State from which the transfer is being made

² Member State to which the transfer is being made

³ Place where the person must present himself on arrival in the second Member State

⁴ Deadline by which the person must present himself on arrival in the second Member State

⁵ On the basis of the following travel or identity documents, presented to the authorities

⁶ On the basis of documents other than a travel or identity document