**UN Committee on Migrant Workers General Comment No. 5 on**

**Migrants’ Human Right to Liberty and their Protection from Arbitrary Detention**

**Questionnaire**

**December 2018**

This questionnaire has been created to collect information from States, civil society organizations, intergovernmental entities, academic institutions, and other interested parties for the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) in its drafting of General Comment No. 5 on Migrants Workers’ Right to Liberty and Protection from Arbitrary Detention. CMW invites these stakeholders to submit responses to this questionnaire in accordance with their expertise and capacity. Parties are asked to provide detailed information including sources, data, statistics, evidence, and documentation as available. Parties need not answer every question, and may submit information in alternate formats.

Input may be sent electronically in Word format to the email: [cmw@ohchr.org](mailto:cmw@ohchr.org) with the subject line, “Submission for General Comment on Migrants’ Right to Liberty.” **Submissions should not exceed ten pages in length and should be received by 1 April 2019.** Written contributions will not be translated and should preferably be submitted in English. Submissions in French and Spanish will also be accepted.

**Organization Information**

Name of Organization Completing Form:

Country: Romania

Contact Information:

Date:

I. The attributions for the implementation of the national policies in the fields of migration, asylum and the integration of aliens, as well as the relevant legislation in these areas, are exercised by the General Inspectorate for Immigration, as a specialized structure of the central public administration, organized under the Ministry of Administration and Interior.

**Part A: General Information**

1. Please describe the process by which migrants are detained in your country. Which authorities are tasked with this responsibility? Who or what body oversees these authorities?

Detention is a temporary measure to restrict freedom of movement in Romania taken against aliens in the following situation:

- to fulfill all the necessary steps to remove the alien under escort when the alien doesn’t voluntarily leave the territory;

- to ensure the transfer to the responsible Member State, for the procedure of determining the Member State responsible;

 - if the alien has been held in detention for removal from the Romanian territory and has submitted an application for international protection to delay or prevent the enforcement of removal or expulsion measure.

 Detention shall be ordered in writing by reasoned ordinance in law and in fact by the prosecutor specially assigned by the Prosecutor of the Bucharest Court of Appeal, for a period of 30 days, after a reasoned request of the General Inspectorate for Immigration, against the stranger that can not be removed under escort within 24 hours, and against the asylum seeker, in one of the following situations:

1. there is a risk of absconding from the removal under escort or the transfer procedure to the responsible Member State;
2. has not complied with the deadline for voluntary departure granted in the return decision;
3. avoids or stops the preparation of return or the removal process under escort;
4. has been undesirable in Romania;
5. is the subject for expulsion.

 Extension of detention for aliens, who can not be removed from the Romanian territory within 30 days, is ordered by the Court of Appeal in whose territorial jurisdiction is the place of accommodation, after a reasoned request of the General Inspectorate for Immigration.

Authorities involved: General Inspectorate for Immigration, Prosecutor's Office attached to the Bucharest Court of Appeal, Bucharest Court of Appeal, Timisoara Court of Appeal.

1. Where do arrests and detentions take place? Is force typically used during arrest or detention? Are there standards for treatment of migrants during an arrest? To what extent are migrants informed of what is going on during an arrest (why they are being detained, possible charges against them, etc.)?

Aliens in detention are placed in accommodation centers for aliens in detention. The centers are closed places, especially designed and intended for temporary accommodation of aliens who have been in detention. The centers are set up, organized, healthcare authorized and equipped so as to provide adequate conditions of accommodation, food, medical care and personal hygiene.

 The rules of procedure that aliens accommodated in centers have to respect as well as the way of organizing access, guarding, monitoring and accompanying aliens in and from centers is foreseen in the regulations approved by the Minister of Internal Affairs. In the event of failure by the aliens of the obligations imposed on them necessary measures can be taken, including the use of force to protect the life or physical integrity of the personnel centers, aliens and other individuals, preventing material damage, the unauthorized leaving of the center or to restore internal order. The measures are applied gradually and in proportion to the danger state that has to be removed.

Aliens staying in accommodation centers for aliens in detention have the right to be informed immediately after their arrival in these places, in the language they speak or in a language understood by them about the main reasons that led to the taking of the measure, and on the rights and obligations they have during their stay in these centers. The reason for the detention and the rights and obligations of the aliens accommodated in centers shall be notified in writing by the persons appointed to run these centers.

1. Who are the personnel that staff facilities that hold people in detention (corrections officers, law enforcement, social workers, etc.)? What are the professional qualifications of staff at these detention facilities? Who oversees staff at detention facilities?

Accommodation centers for aliens taken into detention staff is composed of policemen and contractual personnel.

1. Who owns the facilities used to house migrants who are detained? Who operates the facilities used to house detained migrants? Are facilities that house detained migrants public or private?

The centers are managed by the General Inspectorate for Immigration and they belong to the public domain.

1. Does your country monitor detention facilities? Who monitors detention facilities? What are the standards that detention facilities must adhere to?

According to the Government Emergency Ordinance no. 48/2014 amending and supplementing Law no. 35/1997 on the organization and functioning of the Ombudsman, the Ombudsman institution, an autonomous public authority, independent from any other public authority has been designated as the only national structure which exercises specific duties of National Torture Preventive Mechanism (NPM) in detention centers.

 The field of preventing torture in places of detention involves monitoring regularly the treatment of persons in detention through visits, announced or unannounced of places of detention in order to verify the conditions of detention and treatment of detainees, formulating recommendations to the management of the detention centers, submit proposals for amending and supplementing the legislation.

1. During detention, do detainees have access to communication with their families, legal counsel, and their own consular authorities? Are detainees provided with information on the process they are going through?

Throughout their stay in the centers, aliens have the possibility of communicating with diplomatic and consular representatives of the country of origin, with their family members and their legal representative.

 During accommodation in the center, aliens have the right to be visited by:

a) representatives of foreign diplomatic missions or consular posts representing their interests, daily from 9:00 to 20:00;

 b) representatives of non-governmental organizations and national and international bodies with responsibilities in migration or human rights, authorized and accredited according to the law, daily from 9:00 to 20:00 p.m.;

 c) family members or, motivated, by other people, three times a week between the hours of 10:00 to 12:00 or 14:00 to 17:00, for a maximum duration of 30 minutes / day / visit usually on Tuesdays, Fridays and Sundays;

d) legal representative, daily from 8:00 to 20:00.

1. Are the particular needs of women and other groups of people met? Is consideration given to the status of asylum seekers, victims of torture and trafficking, and other migrants who are particularly vulnerable?

Aliens declared undesirable or subject to expulsion in detention are housed in a detention center for aliens in detention.

Women and families in detention are housed separately from other people staying in the center, making them the appropriate level of privacy.

 Vulnerable persons accommodated in centers are entitled to health care and appropriate treatment.

1. Does the detention process look any different if minors are involved?

Juveniles accommodated in centers, accompanying at least one parent or their legal representative, held in detention, can conduct recreational activities outdoors or in spaces equipped with games and toys age-appropriate, only accompanied by at least one parent or the legal representative of the minor.

 Minors placed in centers accompanying at least one parent or legal representative, held in detention, have free access to compulsory education.

Juveniles that are not accompanied are not taken into detention. For this category of persons, the way the minors entered into Romania, they are provided legal representation by a competent institution under the law, which will ensure the protection and care as is necessary, including accommodation in special centers for minors' care under the same conditions as Romanian minors.

The  measure of taking into detention in an enclosed space specially designed can not be taken against applicants for international protection that are minors, unless the unaccompanied minor can not prove his age and there is a serious doubt about his age, respecting the principle of the best interests of the child.

**Part B: Legal Treatment**

1. What is the legal basis for detaining migrants in your country? What purpose does detention of irregular migrants serve? How has this purpose been articulated through legislation and through the judicial system and public policies? Please identify any relevant cases in your country’s court system.

Legal basis: Government Emergency Ordinance no. 194 from December 12, 2002 on aliens in Romania, as amended and supplemented and Law no. 122 from May 4, 2006 on asylum in Romania.

The purpose for taking illegal migrants in detention: fulfilling all necessary steps for removal under escort / transfer to the Member State responsible for examining an asylum application.

1. Is immigration governed by criminal law or administrative law?

The aliens status in Romania is governed at administrative level.

1. Does the immigration detention proceed *ex officio* or there is an individualized analysis of its pertinence and proportionality?

Where there are reasonable indications that removal under escort can not be achieved within the statutory period (24 hours from the detection of the aliens), the General Inspectorate for Immigration examines the aliens situation and applies the provisions on detention or tolerated status in Romania, after case.

 The measure of detention, during the duration of the asylum procedure is applied after an individual analysis of the case and only after it was previously found that less restrictive measures (obligation to appear at the structure of the General Inspectorate for Immigration or setting residence in a regional center for procedures and accommodation of asylum seekers) are not possible and sufficient to the aim pursued by the measure. At the same time, in accordance with European regulation governing the procedure for determining the Member State responsible (EU Regulation no. 604/2013), detention is based on "an individual examination only if that measure is proportionate and other less coercive alternative measures can not be applied".

Also, please note that the measure of taking in detention can not be ordered as a sanction for the conduct of the asylum seeker or failure of one or more existing obligations in its task. The taking of this measure involves making an individual analysis.

1. Does legislation establish a maximum amount of time for immigration detention? What is the maximum amount of time that someone can be detained? Are there any exceptions or extensions allowed by law?

The period of detention of aliens against whom the measure of return or the applicants for international protection against whom the order of transfer was taken may not exceed six months. The period of detention of six months may be extended exceptionally for a further period not exceeding 12 months, where the General Inspectorate for Immigration was unable to remove the alien under escort / transfer the alien in the responsible Member State, because: its actions that prevent the removal under escort, delays in obtaining necessary documentation. Cumulative period of detention can be up to 18 months.

1. Does legislation provide any mechanism to challenge the legality of the detention?

Aliens against whom the measure of detention was taken, may, within five days, submit a complain to the Court of Appeal in whose territorial jurisdiction the place of accommodation is that is required to solve the complain within three days from receipt. The courts’ decision is final. The complaint does not suspend the removal under escort or the detention measure or the procedure of determining the responsible Member State.

In order to avoid abuse to the asylum procedure, given the period of 3 days provided for examining the applications for asylum lodged by aliens detained (regardless of the reason for this measure was taken), when considering the request for protection international is subject to an accelerated procedure, the application is rejected and the asylum seeker remains in detention in order to achieve the purpose for which this measure has been ordered. When it is considered necessary to grant access to the ordinary procedure a decision will be issued on the matter and the measure of public custody ceases, unless the alien is declared undesirable.

1. Is there any national legislation that guarantees legal representation or interpreters in immigration proceedings? Is there a guarantee of access to free legal representation?

According to the Civil Procedure Code, when one of the parties or of the persons to be heard does not speak Romanian, the court will use a certified translator. If the parties agree, the judge or the clerk can translate.

The right of defense is guaranteed.

The parties are entitled, throughout the trial, to be represented or, where appropriate, assisted, under the law.

If someone is unable to meet the costs involved in triggering and sustaining a civil lawsuit, without jeopardizing his own maintenance or his family, may benefit from legal aid, under the special law on legal aid.

1. Is there any legislation that establishes the right to consular assistance for migrants? Is this right guaranteed in practice?

Throughout their stay in the centers, aliens shall have the possibility of communicating with diplomatic and consular representatives of the country of origin, with their family members and legal representative.

 During accommodation in the center, aliens have the right to be visited by representatives of diplomatic missions or consular posts representing their interests, daily from 9:00 to 20:00.

The right of communicating with diplomatic and consular representatives is provided both in GEO 194/2002 on aliens in Romania and Order no. 121 of July 30, 2014 on approving the Regulation accommodation centers for aliens taken into detention.

In order to the art. 16 of Decision no. 157/2016 of 10 March 2016 or the approval of the Regulation implementing the Law No 254/2013 on the execution of custodial sentences and of measures involving deprivation of liberty ordered by the judicial bodies during the criminal trial:

*“(1) The administration of the penitentiary shall inform the detainees of foreign citizenship about the possibility to contact the diplomatic representatives and shall support them with a view to contacting them, in compliance with the provisions of Article 74 of the Law.*

*(2) The detainees with foreign citizenship, as well as the stateless persons may be visited, after informing the director of the penitentiary, by officers of the diplomatic or consular representatives, who represent their interests”*.

The National Administration of Penitentiaries collaborates, through the Ministry of Justice, with the Ministry of Foreign Affairs, in order to provide data about foreigners imprisoned in Romania and also about Romanian citizens who execute the penalty in another country.

1. Does your country recognize the due process rights of non-citizens to the extent that it recognizes the due process rights of citizens? If not, what are the differences?

Both aliens and stateless persons that do not understand or speak Romanian have the right to inspect all documents and materials, to speak in court and draw conclusions by a certified translator, unless the law provides otherwise.

1. Is information available to detainees regarding the processes of requesting asylum or applying for refugee status?

In the communal areas of the accommodation centers are displayed flyers distributed by UNHCR where aliens are informed of their right to seek asylum in Romania.

1. What do proceedings that determine migration status look like? Who is the decision-maker or decision-makers? What are the qualifications of the decision-makers? Are they appointed or elected?

The General Inspectorate for Immigration, a specialized body of central public administration, with legal personality, organized at central and local level, under the Ministry of Internal Affairs, orders the return against aliens in the case of illegal residence by issuing a return decision and submitting a reasoned request for detention when necessary.

1. Is there a duty to ensure that decisions are duly motivated by legal reasoning? How is that ensured in practice?

Both ordinances, from the Prosecutor of the Court of Appeal, and civil judgments of Bucharest and Timisoara Courts of Appeal are justified in law and in fact.

1. How much time elapses after arrest before a determination of migration status is made? How long does the initial determination of status process take?

The decision of detention is ordered by the prosecutor specially assigned by the Bucharest Court of Appeal on the same day the alien is found and he can not be removed from the territory within 24 hours. According to Order no. 121 of July 30, 2014 approving the Regulation for accommodation centers for aliens taken into detention, at the introduction of aliens in closed centers, among required documents is included the prosecutors’ ordinance through which the alien is detained.

 The removal of aliens under escort possessing documents for crossing the state border and financial resources is made available within 24 hours of their detection, if other formalities are not necessary.

The prosecutor is obliged to set in motion the criminal proceedings when there is evidence that an offense was committed and there is no legal cause preventing this action.

 Preventive measures can be ordered if there is evidence or indications which shows reasonable suspicion that a person has committed a crime and if necessary to ensure the proper conduct of criminal proceedings, of preventing the suspect or the accused to evade from prosecution or trial, or committing another offense.

1. If families are involved, are their cases determined separately or together? Is consideration given to the special circumstances of children?

Aliens members of a family in detention, are accommodated in the same room, making them the appropriate level of privacy. In the room where the family members are accommodated, other aliens who are not members of that family can not be accomodated.

The General Inspectorate for Immigration examines the appropriateness of maintaining the detention measure, at intervals not exceeding three months. For families with minors in detention, the analysis is carried out at intervals not exceeding one month.

1. What are the consequences of a finding of irregular migration? Is an individual who is found to have entered the country in an irregular manner returned to detention or moved to a different facility? Are the conditions different for individuals found to be irregular migrants? Are irregular migrants eligible to be released on bond/bail until a final determination has been made?

The General Inspectorate for Immigration orders return for illegal stay of aliens by issuing a return decision.

The General Inspectorate for Immigration finds illegal stay of foreigners in any of the following situations:

a) the alien has passed or attempted to illegally cross the state border of Romania;

b) the alien has entered Romania during entry ban previously ordered;

 c) the alien no longer meets the entry and / or stay terms;

d) the right of residence of aliens, established by visa under international conventions or laws abolishing visas, or, where appropriate, the residence permit or border traffic ceased;

 e) aliens who completed the asylum procedure or who gave up on it and did not respect the obligation to leave Romania, established under the laws on asylum;

1. the alien has been declared undesirable.

 The return decision is an administrative act by which the General Inspectorate for Immigration finds illegal stay of aliens in Romania and it establishes the obligation of return and the period for voluntary departure.

By exception, if an alien is declared undesirable or at risk of evading the obligation of voluntarily return, the return decision states the illegally stay on the territory of Romania and establishes the obligation to return and removal under escort.

The risk of evading the obligation to return voluntarily is present in the following situations:

a) an alien who has passed or attempted to illegally cross the state border of Romania;

b) an alien who has entered Romania during entry ban previously ordered;

c) alien whose identity could not be established;

 d) aliens who completed the asylum procedure or who gave up on it and did not respect the obligation to leave Romania, established under the laws on asylum;

 e) the alien whose conduct causes reasonable suspicion that he intends to evade the obligation to return voluntarily.

The possibility of release on bail at administrative level is not regulated by national legislation .

1. Is there a right to appeal of finding of irregular migration status? What does the appeal of a finding of irregular migration status look like? How much time elapses from a judgment of irregular migration status to an appeal? What due process guarantees are given during the appeal process of a finding of irregular migration status? Does the appeal process have suspensive effect regarding deportations?

The decision to return with voluntary departure may be appealed within 10 days of notification to the Court of Appeal in whose territorial jurisdiction the structure of the General Inspectorate for Immigration which issued the decision to return is located. The court solves the appeal within 30 days of its receipt. The courts’ decision is final.

The return decision ordering removal under escort, without the possibility of voluntary departure may be appealed within three days of notification, at the court, if the alien is not held in detention, or at the court of appeal in whose territorial jurisdiction the detention center is located, if the alien is held in detention. The court solves the appeal within five days of its receipt. The courts’ decision is final.

Appeals suspend the voluntarily return obligation. If aliens who request the issuance of a return decision before being caught staying illegally or before being declared undesirable, appeals do not suspend the obligation to return.

The alien challenging the return decision has the right to obtain legal advice, representation and linguistic assistance at their own expense.

To the alien challenging the return decision are applicable the provisions of Government Emergency Ordinance no. 51/2008 on legal aid in civil matters, approved with amendments and supplemented by Law no. 193/2008, as amended and supplemented, with the conditions stipulated in art. 2, 2,1 and 8,1 of the emergency ordinance.

**Part C: Impact on Detainees**

1. Please describe the impact that detention has on detainees’ physical and mental health.
2. Please describe the varying impacts on particularly vulnerable groups, including racial and ethnic minorities. What systems or practices are in place to prevent discrimination in both proceedings and detention?

In order to the art. 4 of Law No 254 of 19 July 2013 on the execution of custodial sentences and of measures involving deprivation of liberty ordered by the judicial bodies during criminal trial: “The custodial sentences or the measures involving deprivation of liberty shall be enforced under conditions that ensure the respect for human dignity.”

According to art. 6 of the Law, discrimination, for any reason, of persons deprived of their liberty, constitutes a crime and it is forbidden:

“(1) During the execution of custodial sentences or measures involving deprivation of liberty it shall be prohibited any form of discrimination based on race, nationality, ethnic origin, language, religion, gender, sexual orientation, opinion or political affiliation, wealth, social origin, age, disability, non-contagious chronic disease, HIV/AIDS infection or for other reasons of the same kind.

(2) The violation of the provisions of paragraph (1) shall be punishable under the criminal law”.

Also, according to the Order of the Minister of Justice no 2794/C/2004 for the approval of the Code of Ethics of the personnel in the penitentiary administration system, art. 6 (2) (b) all prison workers have the obligation, in relation to the persons deprived of their liberty, to prevent and refrain from any action involving the discrimination of persons deprived of their liberty, regardless of the grounds. (...).

1. Please describe the way in which detention of migrants in your country particularly affects children who are detained. How does the detention affect education? Are educational resources available in the facilities in which they are held? Please describe any of these programs.

Minors placed in detention centers, accompanying at least one parent or legal representative, held in detention, have free access to compulsory education.

1. Is consideration given to keeping families together?

Families in detention are housed separately, making them the appropriate level of privacy.

1. Are children typically kept in detention? How long?

Minor children stay at the center only if they are together with at least one parent or legal representative. The duration of the detention can not be estimated, it can vary depending on various factors such as: the level of cooperation that the alien shows towards the removal order, whether or not the alien possesses a valid travel documents, the time required to finish the return process.

1. How does the detention of migrants in your country particularly affect women? Are health resources for women made available to women in detention? How can women in detention access health resources? Are resources available for pregnant women in detention? How are pregnant women accommodated with respect to the conditions of detention?

In the procedure of removal under escort, Romanian authorities analyze the aliens situation to ensure that it is not a vulnerable person. Removing vulnerable aliens under escort is made with consideration of their special needs.

 Usually, vulnerable persons are tolerated in Romania as an alternative measure to detention.

 Vulnerable persons accommodated in centers are entitled to medical care and appropriate treatment for their specific situations.

**Part D: Alternatives to Detention**

1. What alternatives to detention exist in your country? Please describe these alternatives to detention and how they are generally perceived and implemented in your country.

The General Inspectorate for Immigration grants automatically or on demand, tolerance for aliens that do not have the right to stay in Romania and who, for objective reasons, do not leave Romania.

 Tolerance is granted for a period of up to six months, which may be extended for further periods of up to six months, until such causes disappear.  Tolerance may be successively extended by the prosecutor, by ordinance or by the court until the end of the trial.

During the the aliens are given the tolerated status in Romania, they have access to the labor market, as provided by law for Romanian citizens. The right ceases in all situations where the tolerated status ends.

 The alien is required to appear regularly at intervals of two months or whenever called, to the structure of the General Inspectorate for Immigration that issued the tolerance document and announce any change of his address.

 Toleration has limited territorial validity within the competence of the General Inspectorate for Immigration structure that issued the tolerance document and any movement outside its permitted only with prior approval.

Regarding asylum seekers, in order to limit abuse to the asylum procedure, as well as in the case where there is danger to the national security, the General Inspectorate for Immigration may impose restrictive measures on the basis of an individual examination as follows: the obligation to come at the General Inspectorate for Immigration structure periodically at set dates and times, as well as at request; set residence in a regional center for procedures and accommodation of asylum seekers; accommodation in specially enclosed spaces.

 During the course of the asylum procedure and during the process of determining the Member State responsible for examining an asylum application in order to ensure the transfer, the General Inspectorate for Immigration may decide to establish a place of residence for the applicant for international protection, even if it has the means for maintenance, and to order the alien not to leave the place without informing the centers’ director.

 During the course of the asylum procedure and during the process of determining the Member State responsible for examining an asylum application in order to ensure the transfer and to prevent abuses to the asylum procedure, the applicant for international protection may be placed in enclosed space specially equipped, with temporary restriction of freedom of movement. These spaces are established within the regional centers for procedures and accommodation of asylum seekers.

Placing aliens in closed spaces is ordered in the following situations:

a) to verify the identity declared;

b) to determine the elements on which the application for international protection is based, which could not be obtained without taking this measure, particularly where there is a risk of evading from the applicant;

 c) at the request of one of the institutions with responsibilities in national security, indicating that the applicant for international protection is a threat to the national security.

The risk of evading means the factual situation that justifies the assumption that the applicant for international protection is evading from the necessary activities to establish the elements for the international protection application. The risk of evading of the applicant is present in the following situation:

1. crossed or was caught trying to illegally cross the state border of Romania, after applying for international protection;
2. was caught trying to illegally cross the state border of Romania and the application for international protection was filed after this event;
3. there are reasons to believe that he intends to leave Romania after applying for international protection.
4. Have all detainees access to alternatives to detention? How many persons get an alternative to detention in comparison with the number of detainees?

If the General Inspectorate for Immigration, by default or at the aliens’ request, notes that there is no possibility of removing the alien under escort during the time that the measure of detentions was ordered, ends the measure and grants the tolerance document.

In the case of aliens who do not have financial resources to provide for a living space for the duration of tolerance, the General Inspectorate for Immigration together with national NGOs implements projects financed by FAMI to support tolerated aliens in terms of ensuring choice.

1. Have there been any policies proposed in your country that could achieve the same objectives as detention? How have these proposals for alternatives to detention been received in your country? Are proposals for alternatives to detention generally met with favor or have they been rejected? Please describe the criticisms of the policies for alternatives to detention by the general public. If these proposals have been rejected, what was the rationale for rejecting them?

The General Inspectorate for Immigration grants automatically or on demand, tolerance for aliens that do not have the right to stay in Romania and who, for objective reasons, do not leave Romania.

 Tolerance is granted for a period of up to six months, which may be extended for further periods of up to six months, until such causes disappear.  Tolerance may be successively extended by the prosecutor, by ordinance or by the court until the end of the trial.

During the the aliens are given the tolerated status in Romania, they have access to the labor market, as provided by law for Romanian citizens. The right ceases in all situations where the tolerated status ends.

 The alien is required to appear regularly at intervals of two months or whenever called, to the structure of the General Inspectorate for Immigration that issued the tolerance document and announce any change of his address.

 Toleration has limited territorial validity within the competence of the General Inspectorate for Immigration structure that issued the tolerance document and any movement outside its permitted only with prior approval.

Regarding asylum seekers, in order to limit abuse to the asylum procedure, as well as in the case where there is danger to the national security, the General Inspectorate for Immigration may impose restrictive measures on the basis of an individual examination as follows: the obligation to come at the General Inspectorate for Immigration structure periodically at set dates and times, as well as at request; set residence in a regional center for procedures and accommodation of asylum seekers; accommodation in specially enclosed spaces.

 During the course of the asylum procedure and during the process of determining the Member State responsible for examining an asylum application in order to ensure the transfer, the General Inspectorate for Immigration may decide to establish a place of residence for the applicant for international protection, even if it has the means for maintenance, and to order the alien not to leave the place without informing the centers’ director.

 During the course of the asylum procedure and during the process of determining the Member State responsible for examining an asylum application in order to ensure the transfer and to prevent abuses to the asylum procedure, the applicant for international protection may be placed in enclosed space specially equipped, with temporary restriction of freedom of movement. These spaces are established within the regional centers for procedures and accommodation of asylum seekers.

Placing aliens in closed spaces is ordered in the following situations:

a) to verify the identity declared;

b) to determine the elements on which the application for international protection is based, which could not be obtained without taking this measure, particularly where there is a risk of evading from the applicant;

 c) at the request of one of the institutions with responsibilities in national security, indicating that the applicant for international protection is a threat to the national security.

The risk of evading means the factual situation that justifies the assumption that the applicant for international protection is evading from the necessary activities to establish the elements for the international protection application. The risk of evading of the applicant is present in the following situation:

1. crossed or was caught trying to illegally cross the state border of Romania, after applying for international protection;
2. was caught trying to illegally cross the state border of Romania and the application for international protection was filed after this event;
3. there are reasons to believe that he intends to leave Romania after applying for international protection.

**Part E. Additional information**

Please add any other information that you consider to be relevant for the CMW to take into account in the elaboration of this general comments.