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The Permanent Mission of Romania to the International Organizations in Vienna presents its compliments to the Missions/Delegations of participating States to the Organization for Security and Co-operation in Europe and to the Conflict Prevention Centre and has the honour to convey Romania's response to the Questionnaire on the Code of Conduct on Politico-Military Aspects of Security for 2009.

The Permanent Mission of Romania to the International Organizations avails itself of this opportunity to renew to the Missions/Delegations of the participating States to the OSCE and to the Conflict Prevention Centre the assurances of its highest consideration.



Vienna, 13 July 2009

To The Missions/Delegations of the participating States to the OSCE  
To The Conflict Prevention Centre  
Vienna

**ANSWER TO THE QUESTIONNAIRE**  
**ON**  
**THE CODE OF CONDUCT**  
**ON POLITICO-MILITARY ASPECTS OF**  
**SECURITY**  
(FSC DEC/2/09)

**- 2009 -**

**R O M A N I A**

## **Section I: Inter-state elements**

### **1 ACCOUNT OF MEASURES TO PREVENT AND COMBAT TERRORISM**

#### **1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing terrorism is your State a party?**

Romania is a party to the following international agreements related to prevention and suppression of terrorism:

##### **UN Conventions and Protocols**

Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (New York, 1973)

**Signed:** 27.12.1974                      **Ratified:** Decree no. 254/1978

International Convention against the Taking of Hostages (New York, 1979)

**Ratified:** Decree No. 111/1990

International Convention for the Suppression of Terrorist Bombings (New York 1997)

**Signed:** 30.04.1998                      **Ratified:** Law no. 257 / 2004

International Convention for the Suppression of the Financing of Terrorism (New York, 1999)

**Signed:** 26.09.2000                      **Ratified:** Law no. 623 / 2002

Convention on Offences and Certain Other Acts Committed on Board Aircraft

**Signed:** 15.02.1974                      **Ratified:** 16.05.1974 by the Decree no. 627 / 1973

Convention for the Suppression of Unlawful Seizure of Aircraft (The Hague, 1970)

**Signed:** 13.10.1971                      **Ratified:** Decree no. 143/1972

Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation

**Signed:** 10.07.1972                      **Ratified:** Decree no. 66/1975

Convention on Physical Protection of Nuclear Material (Vienna and New York, 1980)

**Ratified:** Law no. 78/1993

Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal 1988)

**Signed:** 24.02.1988                      **Ratified:** Law no. 133 / 1998

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome, 1988)

**Ratified:** Law no. 123 / 1992

Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 1988)

**Ratified:** Law no. 123 / 1992

Convention on the Marking of Plastic Explosives for the Purpose of Detection (Montreal, 1991)

**Ratified:** Law no. 139/1998

International Convention for the Suppression of Acts of nuclear Terrorism (New York 2005)

**Ratified:** Law no. 369/2006

*Other universal, regional, subregional and bilateral agreements and arrangements*

European Convention on Suppression of Terrorism (Strasbourg, 1977)

**Ratified:** Law no. 19 / 1977

Council of Europe's Convention on the prevention of terrorism, done at Warsaw on 16 May 2005;

Council of Europe's Convention on laundering, search, seizure and confiscation of the proceeds from crime and on the financing of terrorism, done at Warsaw on 16 May 2005;

Council of the European Union's Common Position no. 2004/309/CFSP updating Common Position no. 2001/931/CFSP and repealing Common Position no. 2003/906/CFSP, adopted at Brussels on 2 April 2004;

Council of the European Union's Common Position no. 2004/358/CFSP updating Common Position no. 2001/931/CFSP on the application of specific measures to combat terrorism and repealing Common Position no. 2004/309/CFSP, adopted at Brussels on 13 May 2004.

Protocol Amending the European Convention on the Suppression of Terrorism

**Ratified:** Law no. 366 / 2004

Cooperation agreement between the Government of Romania and the Government of Georgia on combating the terrorism, the organised crime, the illicit trafficking of drugs, psychotropic substances and precursors and other illegal activities

**Signed:** 14.05.2004

**Ratified:** Law no. 586 / 2004

Cooperation agreement between the Government of Romania and the Government of Egypt on the combating of the organized crime

**Signed:** 03.12.2003

**Ratified:** Law no. 262 / 2004

Cooperation agreement between the Government of Romania and the European Police Office

**Signed:** 25.11.2003

**Ratified:** Law no. 197 / 2004

Cooperation agreement between the Government of Romania and the Government of the Republic of Armenia on combating the crime especially in its organized forms

**Signed:** 31.10.2001

**Ratified:** Law no. 320 / 2002

Cooperation agreement between the Government of Romania and the Government of the Republic of Macedonia on combating the terrorism, the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors and other illegal activities

**Signed:** 12.11.2003

**Ratified:** Law no. 258 / 2004

Cooperation agreement between the Government of Romania and the Government of the Republic of Slovakia on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 16.10.2003

**Ratified:** Law no. 202 / 2004

Cooperation Agreement between Government of Romania, Republic of Turkey and Republic of Bulgaria (Antalya – 1998) against terrorism, organized crime, illicit traffic of drugs, traffic of persons and weapons and other severe offences

**Signed:** 16.04.1998

**Ratified:** Law no. 154 / 1999

Cooperation agreement between the Government of Romania and the Government of the Republic of Kazakhstan on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other serious offences

**Signed:** 09.09.2003

**Ratified:** Law no. 61 / 2004

Cooperation agreement between the Government of Romania and the Government of the Republic Lebanon on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 18.03.2002

**Ratified:** Law no. 367 / 2003

Cooperation agreement between the Government of Romania and the Government of the Republic of Bulgaria on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 10.06.2002

**Ratified:** Law no. 70 / 2003

Memorandum of Understanding between the Ministry of National Defense from Romania and Ministry of National Defense from Bulgaria regarding the protection of locations of paramount importance in the vicinity of the common border against terrorist aerial attacks

**Signed:** 12.11.2002

**Approved:** Government Decision no. 13 / 2003

Cooperation agreement between the Government of Romania and the Government of the Republic of Albania on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 07.01.2002

**Ratified:** Law no. 610 / 2002

Cooperation agreement between the Government of Romania and the Government of the Czech Republic on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 13.11.2002

**Ratified:** Law no. 465 / 2002

Cooperation agreement between the Government of Romania and the Government of the Republic of Poland on combating the organized crime, the terrorism and other illegal activities

**Signed:** 11.07.2001

**Ratified:** Law no. 188 / 2002

Cooperation agreement between the Government of Romania and the Government of the Republic of Croatia on combating the terrorism, the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors and other illegal activities

**Signed:** 30.09.2000

**Approved:** Decision no. 703 / 2001

Cooperation agreement between the Government of Romania and the Government of the Republic of Slovenia on combating the terrorism, the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors and other illegal activities

**Signed:** 04.10.2000

**Approved:** Decision no. 597 / 2001

Cooperation agreement between the Government Romania and the Government of the Kingdom of Jordan on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 17.09.1999

**Ratified:** Law no. 67 / 2001

Cooperation agreement between the Government Romania and the Federal Government of the Austria on combating the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors, the terrorism and other illegal activities

**Signed:** 18.03.1999

**Approved:** Decision no. 917 / 1999

Cooperation agreement between the Government Romania and the Government of the Republic of Hungary on combating the organized crime, the international terrorism, the illicit trafficking of drugs and psychotropic substances

**Signed:** 19.02.1997

**Approved:** Decision no. 297 / 1997

Cooperation agreement between the Government of Romania and the Government of the Federal Republic of Germany on combating the terrorism, the organized crime, the illicit trafficking of drugs, psychotropic substances and precursors and other illegal activities

**Signed:** 15.10.1996

**Approved:** Decision no. 80 / 1997

Cooperation agreement between the Government of Romania and the Government of the Republic of India on combating the organized crime, the international terrorism, the illicit trafficking of drugs and psychotropic substances

**Approved:** Decision 550 / 1994

Cooperation agreement between the participants states to the Economic Cooperation at the Black Sea on combating the crime especially its organized forms

**Signed:** 02.10.1998

**Ratified:** Law no. 6 / 2000

Agreement between the Government of Romania and the Kingdom of Sweden on the cooperation in combating the organized crime, the illicit trafficking of drugs psychotropic substances and precursors, the human been trafficking, the terrorism and other serious offences

**Signed:** 10 May 2004

**Ratified:** Law no 168 / 2005

Protocol on the combating of terrorism, additional to the Cooperation Agreement between the governments of the participating states in the Economical Cooperation at the Black Sea in the field of combating criminality, especially it's organized forms, signed at Kerkyra on 2 October 1998.

**Signed:** 3 December 2004

**Ratified:** Law no. 253 /2005

Common positions on the common foreign and security policy of the European Union

**Adopted:** Law no 62 / 2005

Cooperation agreement between Romania and Switzerland on combating the terrorism, the organized crime, the drug trafficking and other transnational crimes (Bucharest, 2005)

**Ratified:** Law no. 60 / 2006

Agreement between the Romanian and the Indonesian Government on the cooperation in the area of preventing and combating trans-border organized crime, of terrorism and other types of crimes, signed in Bucharest on 10 July 2006

**Ratified:** Law no. 68/2007

Agreement between the Romanian Government and the Government of the Serbian Republic on the cooperation in the area of combating organized crime, illicit trafficking in narcotics and international terrorism, signed in Bucharest on 5 July 2007

**Ratified:** Law no. 17/2008

Memorandum of understanding between the Unit for Combating Money Laundering (MOKAS) from the Republic of Cyprus and the Romanian Bureau for Combating and

Preventing Money Laundering on the cooperation in exchanging financial intelligence connected to money laundering and to financing terrorism, signed in Limassol – Republic of Cyprus, on 15 June 2006

**Approved:** Government's Decision no. 1180/2006

Memorandum of understanding between the competent authorities from Romania and the Principality of Liechtenstein on the cooperation in exchanging financial intelligence connected to money laundering and to financing terrorism, signed in Limassol – Republic of Cyprus, on 15 June 2006

**Approved:** Government's Decision no. 1180/2006

Agreement between the Romanian Bureau for Combating and Preventing Money Laundering and the state prosecutor within the District Court of Luxembourg from the Grand Duchy of Luxembourg on the cooperation and in exchanging financial intelligence connected to money laundering and to financing terrorism, signed in Limassol – Republic of Cyprus, on 15 June 2006

**Approved:** Government's Decision no. 1180/2006

Memorandum of understanding between the competent authorities from Romania and Hungary on the cooperation to exchange financial information linked to money laundering and to financial terrorism, signed in Budapest, on 21 September 2007

**Approved:** Government's Decision no.1585/2007

Memorandum of understanding between the Romanian Bureau for Combating and Preventing Money Laundering and Financial Crimes Enforcement Network on the cooperation to exchange financial information linked to money laundering and to financial terrorism, signed in Hamilton, Bermuda on 30 of May 2007

**Approved:** Government's Decision no. 820/2007

Agreement between the Romanian Bureau for Combating and Preventing Money Laundering and Financial Monitoring Federal Service from the Russian Federation on the exchange of information in the area of preventing and combating money laundering and financing terrorist acts, signed in Hamilton, Bermuda on 30 May 2007

**Approved:** Government's Decision no.819/2007

Memorandum of understanding between the Romanian Bureau for Combating and Preventing Money Laundering and Serious Organized Crime Agency/Financial Intelligence Unit (UKFIU-SOCA) from the United Kingdom of Great Britain and Northern Ireland, on the cooperation to exchange financial information linked to money laundering and to financial terrorism, signed in Hamilton, Bermuda on 30 May 2007

**Approved:** Government's Decision no.821/2007;

Memorandum of understanding between the competent authorities from Romania and Israel on the cooperation to exchange financial information linked to money laundering and to financial terrorism, signed in Bermuda, on 30 May 2007

**Approved:** Government's Decision no. 818/2007

Other cooperation agreements were signed at institutional level especially in the field of preventing and combating money laundering and exchange of information.

## **1.2 What national legislation has been adopted in your state to implement the above-mentioned agreements and arrangements**

The main law contributing to the coordination of the implementation of the agreements and arrangements related to preventing and combating terrorism is Law no. 535 / 2004 on preventing and combating the terrorism. According to this Law (Art. 6) “the prevention and suppression of terrorism is organized and conducted in a unitary manner”. The cooperation between the national competent authorities is conducted on the basis of the framework of the National System for Preventing and Countering Terrorism. The Romanian Intelligence Service, the national authority in the field of countering terrorism, technically coordinates the cooperation between 20 public authorities and institutions within the System.

Government Decisions on the approval of the lists containing persons suspect of committing or financing terrorist acts.

Law no. 206 / 2005 on national application of international sanctions Regulates the observance modalities in Romania of:

- specific international sanctions, established by UN Security Council Resolutions;
- European Union international sanctions or restrictive measures, adopted within the Common Foreign and Security Policy;
- OSCE sanctions

Law no. 62/2005 for the recognition by Romania of certain documents representing Common Positions adopted within the European Union’s Common Foreign and Security Policy.

Law no 508 / 2004 on the founding, organizing and functioning within the Public Ministry of the Direction for Investigation of the Organized Crime and Terrorism Offences

Decision of the Romanian Parliament no. 21 / 2001 on the participation of Romania along with NATO member states, to the missions for combating the international terrorism

### **Information on other measures of national and department level**

The Supreme Council of National Defense approved on 05.04.2002 the National Strategy on Preventing and Countering the Terrorism. The Strategy identifies the main aspects of the terrorist phenomenon that represents a menace to Romania, defines the objectives for preventing and countering terrorism and establishes the main directions for the implementation of the National System for the Prevention and Combating of the Terrorism.

According to the provisions of the Strategy and of the Law no. 535 / 2004, an Antiterrorist Operative Coordination Centre under the Romanian Intelligence Service was founded to facilitate the inter-departmental cooperation. Plans containing measures to combat the terrorism were elaborated at the ministerial level. Also, on 15.04.2004, the Supreme Council of National Defense approved the foundation of the National System for Antiterrorist Alert as an adequate mean to prevent discourage and combat the actions for the preparation and unfolding of potential terrorist acts on the territory of Romania.

Romania observes the UN Security Council resolutions on arms export to the states considered supporters of the international terrorism.



### **1.3 What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?**

According to the National Strategy on Preventing and Countering Terrorism, the Law 535 / 2004 on preventing and countering the terrorism and the General Protocol on the organization and functioning of the National System for Preventing and Countering Terrorism (SNPCT), the roles and missions of the Ministry of Defense, Ministry of Administration and Interior and intelligence services in preventing and combating terrorism are as follows:

#### **Romanian Intelligence Service (SRI)**

The Romanian Intelligence Service holds in the field of preventing and countering terrorism, the following competencies:

- conduct the operative-informative and technical activities in order to efficiently protect the Romanian territory against the threats posed by the international terrorism and also to prevent the carrying out terrorist acts or the setting up logistical structures and / or branches of extremist – terrorist groups on the national territory;
- conduct antiterrorist interventions on objectives attacked or occupied by terrorists, in order to capture or annihilate them, set hostages free and restore law order;
- conduct antiterrorist protection of diplomatic / foreign objectives potentially / actually threatened by terrorist acts; antiterrorist protection and guard of dignitaries; antiterrorist protection and antiterrorist protection – anti-hijack control on the Romanian civil airports; pyrotechnical control and intervention; antiterrorist – counterterrorist intervention in order to prevent, neutralize and annihilate terrorist acts on Romanian territory;
- ensure, according to its legal competence, the technical coordination of the National System for Preventing and Countering Terrorism;
- public relations and international cooperation activities.

*Law no 14 / 1992 on the organization and functioning of the Romanian Intelligence Service, Law no. 535 / 2004 on preventing and countering terrorism, Decision of the Supreme Council of National Defense no. 00173 / 2006*

Upon the request of SRI, according to the size and nature of the terrorist acts, there can be involved, in compliance with the law, forces with specific missions from the Ministry of Administration and Interior, Ministry of Defense and Guard and Protection Service, as well as from other structures of the security and national defense system.

The Centre for Antiterrorist Operative Coordination has been set up within SRI – the sole responsible national authority – in order to provide the technical coordination of the National System for Preventing and Countering Terrorism. The Centre is the organizational and functional structure that ensures the continuity and the coherent functioning of the system that regulates the SNPCT

The Centre for Antiterrorist Operative Coordination has the following duties:

- Maintain the permanent link between the institutions participating to the National System for Preventing and Countering Terrorism
- Manage and use the relevant data and information to identify, prevent, and/or counter the terrorist manifestations and all activities providing logistic or operational resources support.
- Coordinate the activities conducted in the framework of the SNPCT, through the liaison persons designated by the authorities and institutions of the SNPCT.

- Supports the operative data and information exchange between the public authorities and institutions which are part to the SNPCT
- Process data and information received to draw and take the necessary response measures
- Monitor the terrorist activities and operatively informs the public authorities and institutions within the SNPCT
- During the crisis situations provides the logistic and operational support for the efficient functioning of the SNPCT, which is integrated in the general mechanism for crisis management and which is organized according to the law
- Transmit to the competent public authorities and institutions within the SNPCT the data and information necessary in order to take the appropriate measures, according to their legal attributions
- Receive, on permanent basis, notifications of interest in the field of countering terrorism from citizens, through a free active of the Centre;
- Support the activities of international cooperation in the field;
- Participates in security training activities for the population in the field of antiterrorism.
- **Ministry of Administration and Interior**
- Conduct operative intelligence activities to collect data and information on the purpose of preventing, discovering and documenting the actions by which are prepared terrorist acts against the own personnel, infrastructure or missions
- Conduct operative intelligence activities to gather data and information to prevent any aggression against the diplomatic objectives and the sites of the international organizations that conduct activities in Romania and which are guarded by the forces of the Ministry of Administration and Interior
- Conduct specific actions to counter the financing, planning, facilitating or perpetration of terrorist acts having as purpose to enter in the national territory or to use the national territory for financing, planning or facilitating terrorist acts against other states or against the citizens of other states
- Conduct specific actions to prevent the displacement of the terrorists and of the terrorist groups by exercising an effective control of the borders and of the ID papers and transportation tickets issuing process and by exercising preventive actions against the faking, or the fraud of the ID papers and documents.
- Participate to the realization of the information exchange according to the national and international legal provisions and supports the cooperation in the field of justice and administration to counter the terrorist acts
- Contribute to the information exchange, by its specialized structures, in case of investigations and penal actions associate to the financing or the support of the terrorist acts, including the assistance to obtain evidences necessary for the penal actions
- Draw the necessary measures, according to the relevant provisions of the International Humanitarian Law, including the international standards in the field of human rights protection, in the process of providing the refugee status, to ensure that the requesting people did not plan facilitate or participated in the perpetration of terrorist acts
- Verify and act to prevent, according to the international law, the abusive use of the refugee status by the authors, organizers or facilitators of terrorist acts and to avoid the political based requests to be considered as reasons to reject the request for extrusion of the supposed terrorists

- Conduct other specific activities, along with the other competent authorities, according to the law and the cooperation protocols agreed to that end

### **Ministry of Defense**

Plan, organize and conduct activities for gathering data and information to prevent, discover the actions for the preparation of terrorist acts against the objectives, the activities or the military personnel

Initiate and conduct specific actions to prevent, discover and annihilate the actions and acts that envisage the theft of weapons, ammunitions and explosives, chemicals and their precursors, biological, toxic industrial materials radioactive substances from objectives under its responsibility

Provide, through its specialized structures, the antiterrorist protection to the military and civilian VIPs of the Ministry of National Defense and to the military VIPs visiting Romania

Provide the protection and conducts the antiterrorist response and the antiterrorist control against hijacking at the military airfields

Provide specialized antiterrorist pyrotechnical protection for the military units and other locations upon request

According to its legal competences, the troops of the Ministry of National Defense participate in missions to combat the terrorism abroad, based on Parliament Decisions.

Prevent and fight terrorism and asymmetric threats, through its specialized structures in cooperation with other national structures responsible for national security

Protect information and communication systems, through its specialized structures, against terrorist threats

Exchange intelligence according to the national and international legal cooperation instruments in the field of military intelligence to counter the terrorist acts.

### **1.4 Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining *inter alia* to:**

#### *Financing of terrorism*

Order no 9 / 2005 of the President of the Romanian National Securities Commission on the approval of the Instructions no 4 / 2005 on preventing financing terrorist acts

Order no 52 / 2005 of the President of the Romanian National Securities Commission on the approval of the Regulation no 11 / 2005 on preventing and combating the money laundering and financing the terrorist acts through the capital market

Law no 306 / 2007 on the modification of the Law no 656 / 2002 on preventing and sanctioning the money laundering and on measures to prevent and combat financing of the terrorist acts

Government Emergency Ordinance no 135 / 2005 on the modification of the Law no 656 / 2002 on preventing and sanctioning the money laundering and on measures to prevent and combat financing of the terrorist acts

Decision no. 91, June 2007, issued by the Chamber of Financial Auditors from Romania on implementing specific legislation referring to combating and preventing money laundering operations and/or financing terrorist acts by financial auditors.

At national level was settled the National Office for the Combating of the Money Laundering institution responsible with the implementation of all legal provisions in this field.

Specific regulations and norms have been adopted in different sectors of the financial system to prevent money laundering and financing of the terrorism.

*Legal co-operation including extradition*

As it is presented in the first part of the answer to the questionnaire Romania signed an important number of bilateral or multilateral agreements and arrangements mainly oriented to prevent and combat the organized crime and terrorism. This framework supports the communication, cooperation and exchange of information between the countries. Also the provisions of the documents enhance the possibility for the horizontal effective cooperation between the competent authorities of the states. Extradition provisions are also included in these agreements and arrangements.

Note:

*Detailed elements on Border controls, Travel document security, Container and supply chain security, Security of radioactive sources, Safe havens and shelter to terrorist organizations and Use of Internet and other information networks for terrorist purposes will be presented in the answer to the questionnaire for 2010.*

## 2 STATIONING OF ARMED FORCES ON FOREIGN TERRITORY

### 2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law

The missions the armed forces are allowed to participate outside the territory of Romania are:

- missions of collective defense
- peacekeeping or peace settlement missions
- humanitarian missions
- coalition type missions
- common or individual exercises
- ceremonials

The armed forces are allowed to participate in the previously mentioned missions in the conditions of the law and according to the obligations assumed by Romania by international treaties, agreement or understandings to which Romania is a state party.

Sending the armed forces abroad in collective defense, support of the peace, humanitarian assistance or coalition type missions is approved by the President of Romania after consulting the Supreme Council of National Defense. In case of sending the armed forces in the previously mentioned missions out of the framework of the international treaties Romania is part of, the President of Romania requests the accept of the Parliament.

The Prime Minister on the proposal of the Minister of Defense approves the sending of the armed forces abroad to participate in common exercises.

*Law no. 42 / 2004 on the participation of the armed forces in missions abroad*

Romania has not military forces abroad except the participation to forces with international mandates.

### **3 IMPLEMENTATION OF OTHER INTERNATIONAL COMMITMENTS RELATED TO THE CODE OF CONDUCT**

#### **3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith**

Romania is fully committed to the implementation of the agreements in the field of arms control, disarmament and confidence and security building measures.

Complex measures have been taken both at national and institutional level to define a solid framework for an effective implementation. This framework bears on the ratification laws or on the agreements signed or accepted by Romania and it is enhanced by legal measures at the governmental level as well as by protocols for the cooperation between the involved ministries and internal regulations.

To implement and to facilitate the implementation of the commitments in the field of arms control, disarmament and confidence- and security-building were created permanent structures within different ministries or special committees or commissions with precise responsibilities.

The Government Decision no. 906 / 1999 modified and updated with the provisions of the Government Decisions 1544 and 1545 / 2003 establishes the main guidelines and norms for the implementation of the conventional arms control and confidence and security building agreements.

The main national institutions mostly involved in the implementation of the agreements in the field of arms control, disarmament and confidence and security building measures are: Ministry of Foreign Affairs, Ministry of Defence, Central Office of State for Special Issues and Ministry of Administration and Interior.

**Ministry of Foreign Affairs** provides the interface for international cooperation and also monitors and coordinates the implementation of the specific agreements and arrangements. The ministry has a specialized structure for this purpose: **The OSCE, Arms Control and Nonproliferation Directorate**.

Ministry of Defence is totally aware of it's obligations in the field of arms control and security building measures. Specific internal regulations were issued by minister of defence order to define the implementation framework both on limitations, transparency and verification obligations.

The Central Office of State for Special Issues by its specialized structure, the Arms Control and Verification Directorate, is responsible for the implementation of all provisions of the agreements in the field of arms control, disarmament and confidence and security building measures. In this framework it responsible for the main activities are the organization and coordination of the verification activities at national level from and independent position (inspections or escort missions) the preparation of all data exchanges and national reports.

The export of armaments is being done in strictly observance of the national and international legislation in the field and under the endorsement of the Inter-ministerial Council for export control, the National Agency for the Control of Strategic Exports (ANCEX) and of the Office for the Control of Imports and Exports of Special Items functioning within the Ministry of Defense (OCIEPS). The national legal framework in this field was constantly

improved and enhanced. According to the Romanian legal provisions ANCEX is also the national responsible institution for the implementation of the Chemical Weapons Convention.

### **3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view of enhancing security and stability in the OSCE area**

Romania is deeply aware of the importance of pursuing the arms control, disarmament and confidence- and security-building measures as a significant constant added value to a the security environment of the OSCE area.

The limitations and regulations imposed in the arms control and disarmament and confidence- and security-building measures are transposed in specific national laws, decisions or regulations and their implementation an observation is constantly monitored.

Romania is also constantly fulfilling its regular obligations drawn by the arms control and disarmament and confidence- and security-building measures as well as the transparency and verification provisions.

As individual responsible nation and also as member of NATO Romania acts a security provider and pays an important attention to active verification of other countries. Constantly Romanian teams or Romanian guest inspectors are involved in verifications in the OSCE area either under the CFE or VD 99 framework.

The bilateral agreements are and have been of importance for Romania as they are considered a possibility of ehancing the framework of the CSBMs.

## Section II: Intra-state elements

### 1 NATIONAL PLANNING AND DECISION-MAKING PROCESS

#### 1.1 What is the national planning and decision making process in determining / approving military posture and defence expenditures in your State?

##### THE DEFENSE PLANNING PROCESS (regulated by the Law no 473 / 2004)

The main documents regulating the Defense Planning process, the responsibilities regarding the issuing and approval, the contents and the coverage periods are presented briefly as follows:

##### **The National Defense Strategy**

<b>Issued by:</b>	The President of Romania
<b>Approved by:</b>	The Parliament of Romania in common session
<b>Based on:</b>	Basic document for the Defense Planning process
<b>Issuing term:</b>	Less than 6 months since the President was invested
<b>Coverage:</b>	5 years
<b>Comprises:</b>	National interests and national security objectives, international security environment evaluation, potential risks, menaces and vulnerabilities, courses of action and the main modalities of ensuring the national security in NATO context.

##### **The Defense White Paper**

<b>Issued by:</b>	The Ministry of Defense
<b>Assumed by:</b>	The Government of Romania
<b>Accepted by:</b>	The Supreme Council of National Defense
<b>Approved by:</b>	The Parliament of Romania
<b>Based on:</b>	The National Defense Strategy, the guidelines of the defense policy enshrined in the Government Program and the NATO and EU strategic defense documents
<b>Issuing term:</b>	Less than 6 months since the Government was invested
<b>Coverage:</b>	4 years + long term provisions for the fulfillment of the national and collective defense and security objectives
<b>Establishes:</b>	the defense policy objectives, measures and courses of action for the fulfillment of these objectives, missions and specific requirements for the Armed Forces, the resources required for the defense policy objectives accomplishment.

##### **The Military Strategy**

<b>Issued by:</b>	The Ministry of Defense
<b>Accepted by:</b>	The Supreme Council of National Defense
<b>Approved by:</b>	The Government of Romania
<b>Based on:</b>	The National Defense Strategy, Defense White Paper and NATO Ministerial Guidance
<b>Issuing term:</b>	Less than 3 months since the approval of the Defense White Paper
<b>Coverage:</b>	4 years + long term provisions for the fulfillment of the national and collective defense and security objectives
<b>Comprises:</b>	The politico-military assessment of the international security environment, the identification of the potential military risks and menaces, the definition of the national military objectives, the establishment of the strategic and operational concepts to fulfill the military objectives and missions

*The Constitution of Romania, Law no 473 / 2004*



## THE DECISION PROCESS, APPROVALS (The Constitution of Romania)

### **The partial or complete mobilization**

The President of Romania with the previous approval of the Parliament declares the partial or complete mobilization. Only in exceptional situations, the President decision could be ulterior subject to the approval of the Parliament in less than five days since it was issued.

### **The State of War**

The State of War is declared by the Parliament in common session.

### **The State of Siege or Emergency**

The State of Siege or Emergency is declared by the president of Romania with the assent of the Parliament less than five days after the settlement settles the State of Siege or Emergency.

### **Military aggression against Romania**

The President takes measures to counter the aggression and informs immediately the Parliament by a message.

## THE ROLE OF THE PARLIAMENT AND THE MINISTRIES

### **Parliament**

- Approves in common session the National Defense Strategy  
*The Constitution of Romania, Law no 473 / 2004*
- Approves the Defense White Paper, after this document, issued by the Ministry of Defense, has been assumed by the Government and accepted by the Supreme Council of National Defense (autonomous administrative authority invested, according to the Constitution, with the gathered management and coordination of the activities on national defense and security).  
*Law no 473 / 2004*
- Approves the declaration of the partial or total mobilization, the declaration of the State of War, the temporary or permanent cancellation of the military hostilities  
*The Constitution of Romania*
- Examines the reports of the Supreme Council of National Defense  
*The Constitution of Romania*

### **Supreme Council of National Defense**

- The Supreme Council of National Defense represents an autonomous administrative authority invested, according to the Constitution, with security and defense organization and coordination role. The Council is responsible for the endorsement of the main defense planning documents, strategies, information and evaluations regarding the national security and defense sector. The Supreme Council of National Defense ensures a coordinated approach of the defense related activities; endorse the Romanian participation in international operations, collective defense, and peacekeeping and peace support missions. The President of Romania is the chairman of the Supreme Council of National Defense. The Prime Minister fulfils the vice-president function. The membership of the Council is assigned to the ministers and officials from the national and governmental structures involved in national defense.

*The Constitution of Romania, Law no 415 / 2002*

- The activity of the Supreme Council of National Defense is subject to the examination and verification of the Parliament

*Law no 415 / 2002*

## **Ministry of Defense**

- Issues the **Defense White Paper**

*Law no 473 / 2004*

- Elaborates the **Military Strategy** based on the Defense White paper and on the NATO Ministerial Guidance and submits it to the approval of the Government

*Law no 473 / 2004*

- Issues the **Defense Planning Guidance**, based on the Defense White Paper and on the relevant NATO defense planning documents, by which establishes the Major Programs and allot the defense resources. The guidance is issued for a six year term and is reviewed annually

*Law no 473 / 2004*

- Elaborates the **Operational Plans for the Use of Forces**, based on the Military Strategy. The plans comprise the missions of the Military and the specific requirements for the components of the categories of forces, the likely scenarios, the forces used, the allotted resources and measures of execution

*Law no 473 / 2004*

## **DEFENSE EXPENDITURES**

### THE PLANNING PROCESS (Law no 473 / 2004)

The **Defense White Paper** provides general guidelines regarding the natural, human, material and financial resources that should be allocated annually for defense needs in order to develop capabilities required for the accomplishment of the Military missions.

The **Defense Planning Guidance** issued by the Ministry of Defense serves as base to allot resources for defense. The resources are allotted to fulfill the actions and measures established by the **Major Programs** which are elaborated for a six years period and which are revised annually for the use of forces according to the **Operational Plans for the Use of Forces**.

In April 2006 was approved the Defense Planning Guidance 07 that covers the 2007 – 2012 planning cycle.

### THE DECISION MAKING PROCESS, APPROVALS

The budgetary and rectification laws do the allotment of the resources for the national defense annually. The government issues the laws.

- The Parliament approves the annual budgetary and rectification laws, elaborated by the government in the context of the macro-economical strategy assumed.
- The budgetary year starts on the 1<sup>st</sup> of January and ends on 31<sup>st</sup> of December

*Law no 500 / 2002 on the public finances*

To meet NATO requirements regarding the provision of operational forces that are deployable and interoperable in terms of command, control, communications, personnel and equipment, the Romanian MoD has launched modernization programmes for the existing armament and equipment, simultaneously with new procurement programmes, which are meant to ensure technical interoperability with NATO armed forces. All these programmes are very complex, are planned to last many years and require continuous allocation of important financing resources from the defence budget.

In this respect, Romania has implemented an *Integrated Defence Acquisition Management System* (IDAMS) aimed at gradually enhancing interoperability with NATO in the field of procurement.

It is an integrated system, adaptable to any changes in policy, doctrine and management which might occur within the MoD which has been implemented within the MoD since 1999. The system is based on joint management through *Integrated Project Teams*, includes regulations, procedures and standards and applies acquisition management through programmes and projects by using acquisition categories. It comprises the *I.1000 Instructions* series, dealing with requirements generation management, acquisition management, integrated defence acquisition systems interaction and R&D management. This system was implemented, designed and elaborated on the basis of similar systems used by NATO (*Phased Armaments Programming System - PAPS*) and NATO member states. Its core is the human resources, materials and financial planning, programming, budgeting and evaluation based on an integrated outlook and on the acquisition programmes.

The three main systems participating in the defence acquisition are the *Planning, Programming, Budgeting and Evaluation System*, the *Requirements Generation System* and the *Defence Acquisition Management System*, which interact and interface with one another in order to make the acquisition process works effectively.

I. The Planning, Programming, Budgeting and Evaluation System (PPBES) provides a formal, systematic structure for making decisions on policy, strategy, forces development and capabilities to accomplish anticipated missions. It is a cyclic process with distinct but interrelated phases whose main purpose is to produce a plan, a programme and, finally, a budget for the MoD.

The budget is forwarded in summary to the minister of defence for approval.

Each phase establishes the basis for the next phase of the system (DPG represents the bases for programming, the program is the starting point for budgeting, the evaluation is made based on DPG provisions and program implementation stage)

In the **planning phase**, national as well as military strategies and MoD interests are described; the main goals, objectives and priorities are established and the resource are settled up. This phase has as an output the issuing of long-term strategies and plans.

Within the **programming phase**, programmes and necessary resources to carry out the goals and objectives are specified. This phase has as an output the issuing of defence programmes.

Each program has a program manager responsible for managing this area of work.

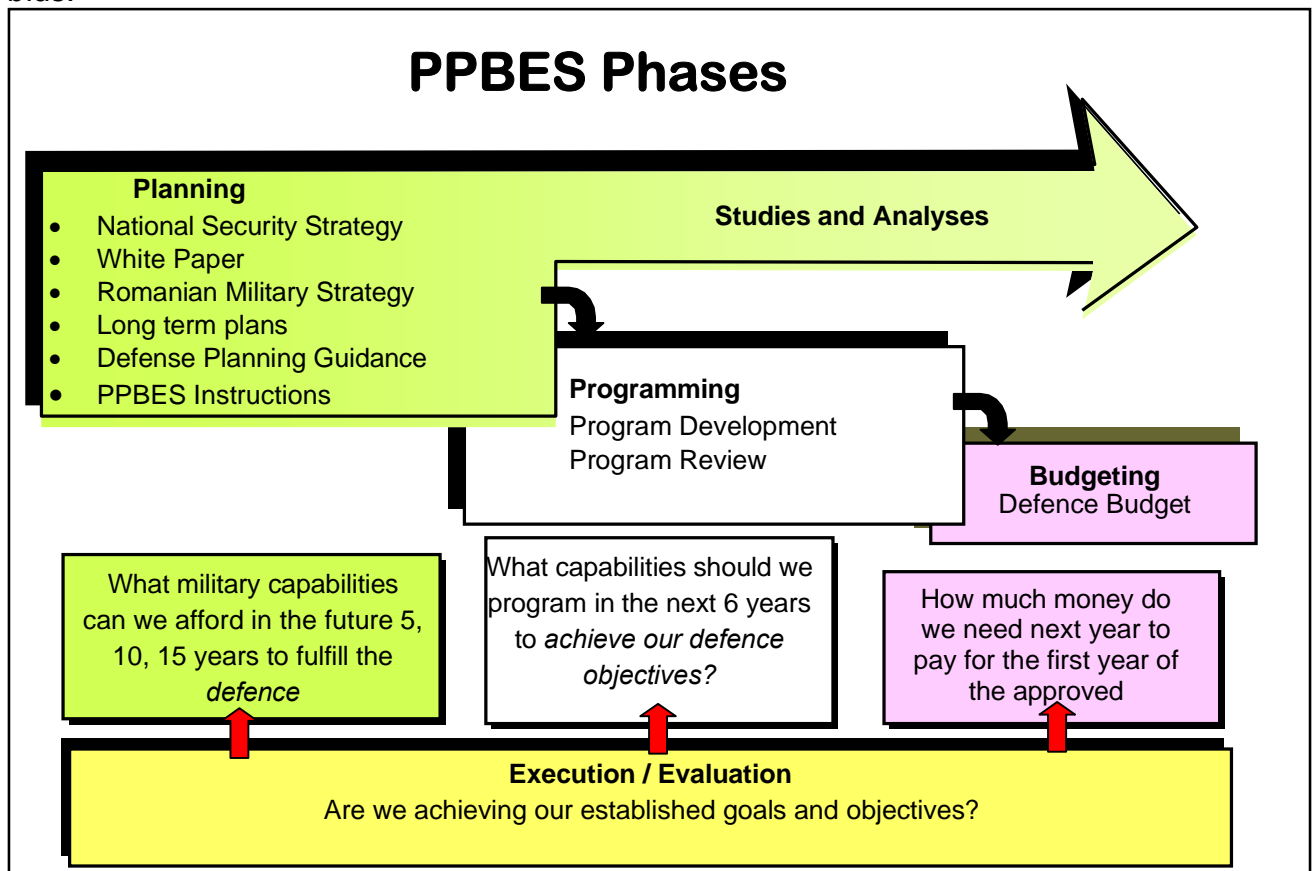
Within the context of the PPBES, a programme represents the integration of tasks and events to be performed if a specific element of a plan is to be achieved, and the employment – according to a detailed schedule – of financial, human and material resources to their execution.

Based on DPG provisions and according to PPBES Instructions, program managers elaborate the defence programme drafts, which are the subjects of analysis, integration and optimisation. After their approval by DPC, these programmes will constitute the inputs for the defence budget bid. Within the **budgeting phase**, the first programmed year is specified into financial details. Each year, in this process certain steps are followed, starting with May 1, when MoD forwards to the Ministry of Economy and Finance the draft proposed budget

**PROGRAM STRUCTURE:**

- Program name
- Code
- Program manager
- Aim (target)
- Objectives
- Indicators
- Costs
- Subprogram
- Subprogram elements
- Expenditure categories

detailing expenditure and income for the next financial year, comparing it to expenditure incurred during the current year with accompanying explanatory notes covering any variations, and ending on October 10, when the Government submits to the Parliament approval the bids of the aforementioned budgets, accompanied by the Budgetary Law bids.



The principles, general framework, and procedures regarding the establishment and approval of the MoD budget are set up by the methodologies underpinning the application of the Minister of Defense's order.

The MoD budgets established on a yearly basis include:

- expenses budget founded by the state budget;
- budget of activities entirely founded by its own income;
- budget of institutions founded by its own income as well as subsidies / transfers.

Every year, the Financial-Accounting Directorate draws up the budgetary drafts of the MoD based on:

- a) the MoD major programs approved by the Defense Planning Council/these major programs are developed in accordance with the Defense Planning Guidance;
- b) documents related to the macro-economic context which determines the budgetary drafts, its methodology as well as the expense constraints approved/revised and submitted by the Ministry of Economy and Finances;
- c) the budgetary drafts and their sustaining documents drawn up by the program managers, in compliance with the approved major programs;
- d) the budgetary drafts developed by the credit accountants, submitted by the major program managers. The **credit accountants** - credit holder are legally empowered or delegated to order and approve operations related to the utilization of the approved funds, according to the legal provisions.

The development stages and submission deadlines of the budgetary drafts are regulated

by the Law no. 500/2002 concerning public finances and the Methodological Norms issued by the Ministry of Economy and Finances.

In order to draw up the MoD budgetary draft, the Financial-Accounting Directorate sets the budget drafts stages, forms, as well as the drawing up and submission deadlines by the credit accountants via the major programs managers.

In compliance with the provisions of the Defense Planning Guidance (up-dated yearly/approved by defence minister, after endorsement of the Defence Planning Council) and the major programs drafts, the MoD submits, every year by March 31, to the Ministry of Economy and Finances the objectives of the specific sector policy for the fiscal year to which the budgetary draft refers as well as for the following 3 years, together with the expense limits estimated for the major programs transposed in the national budgetary classification.

In order to meet the aforementioned deadline, the major programs managers submit to the Financial-Accounting Directorate, every year by March 15, the cost proposals for the major programs, and their sustaining indicators endorsed by the Department of Defense Policy and Planning.

These proposals are further detailed according to the structure of the budgetary classification.

By June 1 every year, the Ministry of Economy and Finance submits to the MoD the framework letter that specifies the macro-economic context determining the budget drafts, their drawing up methodologies, and the expense limits approved by the Government.

The expense limits stipulated in the framework letter are submitted by the Financial-Accounting Directorate to the Department of Defense Policy and Planning in order to establish the expense limits on programs and to coordinate the revision of the major programs.

The major programs managers submit, for the purpose of data centralization by July 1 every year, the budgetary drafts drawn up according to the major programs costs and observing of the expense limits set by the Department of Defense Policy and Planning, together with the underpinning documents.

After collecting and analyzing these drafts, the Financial-Accounting Directorate draws up the MoD budgetary draft for the plan year and the estimations for the following 3 years, which is subsequently submitted for approval to the chief credit accountant (main-principal credit holder), with the endorsement of the state secretary and head of the Department of Defense Policy and Planning.

The budgetary draft approved by the chief credit accountant (minister of defense) accompanied by detailed documents, estimations for the following 3 years, major programs records, files of programs and public investment programs are submitted to the Ministry of Economy and Finances every year by July 15.

The MoD budget is approved by the annual budgetary law on funding sources, programs, parts, chapters, sub-chapters, paragraphs, titles, articles and sections, according to each particular situation.

The Financial-Accounting Directorate examines the MoD budget and, on the grounds of the major programs managers' proposals, within 15 days, draws up the credit accountants' budget drafts along with all the necessary annexes, which are then submitted for approval to the chief credit accountant, with the endorsement of the state secretary and head of the Department of Defense Policy and Planning.

In order to apply the provisions of the annual budgetary law within the MoD, the Financial-Accounting Directorate develops the necessary clarifications regarding the budgetary execution, which are then transmitted to the MoD credit accountants together with the approved budgets and their annexes.

**II. The Requirements Oversight System** is based on a continuing process of assessing

the capabilities of the current force structure (people and materiel) to meet the projected threat while taking into account opportunities for technological advancement, cost-savings and changing in national policy or doctrine.

**III. The Defence Acquisition Management System** is a single system whereby all equipment, facilities and services are planned, developed, acquired, maintained and disposed of by the MoD specialized structures. It includes policies and practices governing the acquisition process, identifying and prioritizing resources requirements, directing and controlling the process, contracting and reporting to the decision makers.

**Procurement decisions are made collectively by 3 entities within the MoD:**

- *The Defence Planning Council* - provides the necessary funds for the acquisition programmes development and prioritises their allocation according to the Defence Planning Guidance and the budget law;
- *The Requirements Oversight Council* - is responsible for the validation and approval of the Mission Needs Statement and the Operational Requirements Document;
- *The Acquisition Council* - makes decision on the acquisition programmes launching and development.

## **1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?**

The present dimensions of the Romanian armed forces along with the national defence policy do not represent any threat to our neighbors or the regional or European security.

Art. 118 of the Romanian Constitution define strictly the limits in which the components of the Romanian National Defence System can act: "to guarantee the state sovereignty, independence and unity, the territorial integrity of the country and the constitutional democracy". To implement this principle in a firm manner, the decisions conducting to important actions of the institutions in the field of national defence can be taken only following a complex procedure and are permanently controlled by the Parliament.

As a responsible security actor in the OSCE area Romania implements in good faith all the provisions of the arms control, disarmament and confidence- and security-building measures. In particular as State Party to the CFE Treaty Romania fully observes the limitations imposed by this important security providing instrument.

As member of NATO Romania align its defence capabilities to NATO defence policy. The security provided within the framework of the alliance allows Romania to decrease the extensive military capabilities and to transform the forces to respond strictly at the requirements to defend the national territory and to offer defensive capacities to NATO.

Romania is constantly making efforts to send troops in peacekeeping, stabilization or other types of multinational missions and pays this way an important attention to the enhancement of the international security and stability.

## **2 EXISTING STRUCTURES AND PROCESSES**

### **2.1 What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces, intelligence service and the police?**

The Military and the other constitutionally established components of the national defense system are subordinated exclusively to the people will to guarantee the state sovereignty, independence and unity, the territorial integrity of the country and the constitutional democracy.

*The Constitution of Romania, art. 118*

The regime of the total or partial mobilization of the armed forces or of the state of war and the organization of the Supreme Council of National Defense is established by organic laws adopted by the Parliament with the vote of the majority of each chamber.

*The Constitution of Romania, art. 73*

The Government and the other public administration organs, within the framework of the parliamentary control of their activity, are obliged to present the information and the documents required by the Chamber of Deputies or the Senate.

*The Constitution of Romania, art. 111*

**The Romanian Intelligence Service (RIS)** is the state autonomous authority specialized on Romania national security intelligence on its territory, is part of the national defense system, its activity being organized and coordinated by the Supreme Council of National Defense.

The Romanian Intelligence Service activity is controlled by the Parliament. Annual or when the Parliament decides, the Romanian Intelligence Service director presents reports on the service activity.

To exercise a permanent and direct control, a common commission of both chambers is constituted.

*Law no. 14 / 1992 on the organization and functioning of the Romanian Intelligence Service*

**The Foreign Intelligence Service** is part of the national defense system. Its activity is organized and coordinated by the Supreme Council of National Defense.

*Law no. 1 / 1998 on the organization and functioning of the Foreign Intelligence Service*

The control over the activity of the Foreign Intelligence Service is exercised by the Romanian Parliament, observing the secret on the on the means and the sources of information. For this purpose is constituted a special commission composed of three deputies and two senators elected within the commissions for defense, public order and national security of the two chambers.

The objective of the control is to verify the concordance of the activity of the Foreign Intelligence Service with the provisions of the Constitution and with the policy of Romania. The organization, functioning and modalities to exercise the control are established by a common decision of the two chambers.

*Law no.1 / 1998 on the organization and functioning of the Foreign Intelligence Service*

**The Police** is part of the public order and safety structures of the Ministry of Administration and Interior.

The Ministry of Administration and Interior is responsible in front of the Parliament, the Supreme Council of National Defense and the Government for the way of applying the provisions of the Constitution, of the national law and of the international treaties to which Romania is state party.

*Law no 604 / 2003*

**2.2 How is the fulfillment of these procedures ensured, and which constitutionally established authorities / institutions are responsible for exercising these procedures?**

**The Parliament** exerts the main civilian control over the military. Pieces of information, documents and reports are put forward to the Parliament.

**The Supreme Council of National Defense** coordinates the activities on defence and national security issues. **The President** is the chief of the Armed Forces and the Supreme Council of National Defence Chairman.

**The Government** has also responsibilities powers in the area of national security and defence policy.

**The Constitutional Court** checks the legality and constitutionality of the defence and security laws.

**The Parliament** is the unique public authority that approves the laws referring to the fields of national defense and security, and also to the budgets for defense. The Parliament has the authority to declare the mobilization and the state of war, the participation in peacekeeping and humanitarian operations.

**The Parliamentary Commissions** for defense, public order and safety and those for the control of the Romanian Intelligence Service and the Foreign Intelligence Service activity examines the projects of law in the field of defense and national security and they have the right control the activity of these institutions.

**The President** is the commander of the armed forces. He is the chairman of the Supreme Council of National Defense.

**The Government of Romania** is the main state institution having attributions on the defense and national security policy. These policies are comprised in the Governing Program. The Government proposes the defense budget, within the framework of the state budget.

Romania has not paramilitary forces.

The organization of military or paramilitary activities out of the framework of a state authority is forbidden.

*The Constitution of Romania, art. 118*

### **2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?**

#### **Roles and missions of the Military**

The Military is exclusively subordinated to the people will in order to guarantee the sovereignty, the independence and the unity of the state, the territorial integrity of the country and the constitutional democracy in the conditions of the law and of the international treaties to which Romania is a state party. The Military contributes to the collective defense within the military alliance systems and participates in actions to maintain or resettle the peace.

*The Constitution of Romania, art. 118*

The fundamental mission of the Romanian Military is to defend the national interests of Romania, in the conditions of the constitutional democracy and of the democratic and civilian control over the armed forces. The armed forces have to be prepared to prevent, to discourage and to counter an eventual aggression against Romania or its allies.

*The White Paper on Security and National Defense 2004*

**The specific missions and requirements of the Romanian Military are as follows:**

- 1. Contribute to the peacetime national security of Romania**
  - defend the airspace of Romania



- contribute to ensure the integrity of the maritime territorial waters, contiguous zone and exclusive economic zone
  - collect, process, analyze and disseminate the military information
  - extract and evacuate the Romanian citizens from other countries
  - protect the military facilities, transportations and communications
  - ceremony, protection and protocol services
- 2. Defend Romania and its allies**
- Reject aggressions against Romania or its allies, within the framework of the collective defense of NATO
  - Provide support to ensure the functioning of the governmental institution and the protection of the population
- 3. Promoting regional and global stability, including the use of the defense diplomacy**
- Participate in crisis response operations
  - Participate in humanitarian assistance operations outside the territory of Romania
  - Participate in military operations under the framework of ad-hoc coalitions
  - Participate in regional cooperation initiatives in the field of national defense and to the implementation of the confidence and security building measures
  - Participate in cooperation initiatives in the field of national defense and to the implementation of the confidence and security building measures
  - Offer military assistance and support for other states
  - Contribute to the national and international efforts in the field of arms control and combating the proliferation of the weapons of mass destruction
- 4. Provide appropriate support to the state and local authorities in case of civil emergencies**
- Participate with forces and logistic support to limit and remove the disasters effects
  - Provide support in case of chemical, biological or nuclear or radiological accident
  - Support the search and rescue operations

*The White Paper on Security and National Defense 2004*

**Roles and missions of the paramilitary forces**

Romania has not paramilitary forces

**Roles and missions of the public order and safety forces**

The public order and safety forces are part of the Ministry of Administration and Interior structures.

The Ministry of Administration and Interior is responsible to ensure the observance of the public order, the fundamental human rights and freedoms, the observance of the public and private property, to prevent and fight against the crime, to consolidate the democratic society, to defend the independence, sovereignty and territorial integrity.

*The White Paper on National Defense and Security 2004*

The structures for public order and safety subordinated to the Ministry of Administration and Interior are: the Romanian Police, the Romanian Gendarmerie, the Border Police, the Authority for Foreigners, the National Office for Refugees, the General Directorate for Intelligence and Internal Protection, the Special Protection and Intervention Group "Acvila" and the Special Aviation Unit.

*Law no. 604 / 2003*

The Romanian Police is the specialized state institution that exercises attributions on defending the fundamental rights and freedoms of the person, the public and private property, on the prevention and discovering of the infractions, on the observance of the public order and safety in the conditions of the law.

*Law no. 218 / 2002*

Romanian Gendarmerie is the specialized state institution, having a military status, component of the Ministry of Administration and Interior, that exercises, in legal conditions, attributions on defending the public order, the fundamental rights and freedom of the citizens, the public and private property and on the protection of the fundamental state institutions and combating the terrorist acts.

*Law no. 550 / 2004*

The Romanian Border Police is part of the Ministry of Administration and Interior and is the specialized state institution that exercises attributions on the state border crossing oversight and control, on preventing and combating the illegal migration and of the border-crossing criminal specific acts in the responsibility area, on the observation of the legal regime of the state border, passports and foreigners, on ensuring the interests of the Romanian state on the in country Danube and Sulina Channel situated out of the border area, in the contiguous and exclusively economical area, on the observation of the order and public safety in it's responsibility area in the conditions of the law.

*Government Emergency Ordinance no. 104 / 2001*

During peacetime, the forces of the Ministry of Administration and Interior have responsibilities on:

- Defending the human rights and freedoms, the private property and the public order
- Ensuring the observance of the legal status of the state border

In case of state of emergency or siege, the forces of the Ministry of Administration and Interior are responsible for the prevention of the social turbulences, the defense of the state institutions, of the constitutional democracy and to ensure this way the internal stability. The specific missions in this case are:

- Take measures to prevent the theft of arms, radioactive materials, explosive and toxic substances
- Strengthen the measures for guarding the special importance objectives, especially those within the crisis area
- Participate in the prevention, neutralization and removal of the effects of violence, subversive or terrorist actions on the national territory
- Take measures to guard and monitor the national borders

In case of external aggression, the missions of the Ministry of Administration and Interior forces are:

- Participation to the measures for the implementation of the response and protection forces
- Defend the objectives of special importance and the special convoys or transportations
- Participate with the available forces in actions to stop or destroy the airmobile or airborne troops of the enemy
- Protect civilians, the sick people, the wounded and prisoners, contributing to their evacuation and to ensure the security of the evacuated staff
- Participate in actions to counter the extremist terrorist groups, the hostile elements and in actions to counter the enemy

- Prevent and identify the sabotage, the diversionist elements and the terrorist acts, focusing the protection of the economic agents involved in the defense production
- Strengthen the guard of the state borders in the areas where are not conducted military actions

*The White Paper on National Security and Defense 2004*

#### **Control**

The Parliament oversight on the Government and other public administration institutions activity is enshrined in the Romanian Constitution.

### **3 PROCEDURES RELATED TO DIFFERENT FORCES PERSONNEL**

#### **3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your state have?**

##### **The military forces**

During *peacetime* the military forces are composed of professional military personnel (active officers, warrant officers, NCOs and contract employed militaries) and civil employees. During the *state of war or siege* the military forces are composed of professional military personnel, military personnel fulfilling the mandatory military service and civil employees.

*Established by the Law no. 446 / 2006 on the preparation of the population for defense and the Law no 395 / 2005 on the suspending of the mandatory military service and passing to the military service on voluntary basis.*

##### **The professional military personnel**

The recruitment of the candidates to serve as professionals in the military is done by identifying, informing, attracting and orienting the graduates of the civil education institutions to military institutions that form the professional military personnel.

To form the professional military personnel there are two ways of access: the direct way (corresponding to the university or post – university studies) and the indirect way (corresponding to formation courses for active officers, warrant officers and NCOs) differentiated by length and curricula of the studies according to the military formation level and the civilian studies graduated by the candidate.

The professional military personnel when entering into the system has to sign a contract with the military institution by which they assume the obligation to serve for the Military for a period of five to nine years, according to the duration of the studies supported by the Ministry of Defense.

##### **The volunteer enlisted soldiers**

The candidate to choose a career as a volunteer enlisted soldier must meet the following requirements:

- to have Romanian citizenship residence
- to be more than 18 and less than 26 years old
- to be graduated from first cycle (10<sup>th</sup> grade) of high school or vocational schools
- to be medically fit for the branch they apply
- to pass a psychological and physical exam
- to have not penal convections or not to be in course of investigation or judged for committing infractions
- to be not politically engaged
- to be not member of organizations banned under Romanian law
- to be not member in commercial organizations.

The employment is done based on individual contract initially signed for a four year period and following this for a 2 to 3 years period to the age of 40 years. The candidates without military background sign the contract after the completion of 2 – 5 months of basic military training.

The selection procedure comprises:

- psychological testing consisting of IQ tests, personality tests, situational tests (to evaluate the leadership capacities)
- physical tests

*Law no. 384 / 2006 on the status of volunteer enlisted soldiers*

**The mandatory military service** (for the state of war or siege)

The citizens have the right and obligation to defend Romania

Organic law establishes the conditions on the fulfillment of the military duties

*The Constitution of Romania, art. 42*

There is not forced labor the activities to fulfill the military duties and those, which are alternatives to these ones due to religious or conscience reasons.

*The Constitution of Romania, art. 42*

During the state of mobilization, war or siege the military service is mandatory for men with ages between 20 and 35 years old

*Law no. 446 / 2006*

**Beginning 01 January 2007 the execution of mandatory military service is suspended. Romanian citizens, male or female, who meet the requirements determined by law, may voluntary execute any form of military service, beyond any discrimination.**

*Law no. 395 / 2005 on suspension of mandatory military service during peacetime and transition to the volunteer-based military service – art. 1, 2*

The procedures for the recruitment and incorporating of the citizens that will serve in the military, and the exemption situations of serving in the military service or alternative services apply the provisions of the *Law no. 446 / 2006 on the preparation of the population for defense*.

The local commissions, constituted on this purpose nearby the military territorial centers, do the recruitment and the incorporation of the citizens.

The Government Decision no. 338 / 2002 establish the manner of providing the necessary labor force for mobilization and war from the citizens having military obligations.

**The civil employees**

The selection of the civilians applying for employment for the military forces is done by contest. The candidates have to fulfill some criteria regarding the citizenship, not to be politically engaged, the behavior in the society and the recommendations from the previous service.

**The paramilitary forces**

Romania has not paramilitary forces.

**The structures for public order and safety**

The forces for public order and safety are part of the Ministry of Administration and Interior. The personnel of the Ministry of Administration and Interior is composed of: civil servants, policemen – civil servants having a special status, active military personnel, contract employed personnel and volunteer enlisted soldiers.

**The policeman** is a civil servant having a special status, armed, usually wearing uniform and exercising the attributions established by law for the Romanian Police, as specialized state institution. He is invested with the exercise the public authority during and linked with the fulfillment of the service duties and attributions, within the limits of his competencies established by law.

The policemen are usually graduates of the Ministry of Administration and Interior education institutions. For some appointments they could be directly employed or transferred from other public institutions from the field of national security and defense, specialists that graduated studies according the requirements of the appointment and who correspond to the legal conditions.

The admittance in the Ministry of Administration and Interior education institutions is done on the base of a contest. The selection for the employment of police specialists is done by case on the base of contest or exam.

*Law no. 360 / 2002 on the Status of the Policemen*

The candidates recruited for direct employment according to the Ministry of Administration and Interior units needs have to fulfill cumulative the conditions established for each appointment for which is organized employment contest.

Once receiving the policeman status start for the subject person the service relations with the Ministry of Administration and Interior for an undetermined period. The candidates admitted in the institutions for the basic formation of the policemen sign an engagement with the Ministry of Administration and Interior on the fulfillment of 10 years of service in the units of the ministry starting at completion of the studies.

**The active professional militaries** from the Ministry of Administration and Interior observe the provisions of *the Law no. 80 / 1995 on the Status of the Professional Militaries*. The service relations of the active professional militaries of the Ministry of Administration and Interior last for an undetermined period, starting when receiving the status and for the recruitment, selection and employment of those are established procedures that are adapted to the attributions and the specific of the institution.

**The volunteer enlisted soldiers** are a professionalized personnel category of the Ministry of Administration and Interior that have the status of an active military, obey to the military laws.

- The selection of the volunteer enlisted soldiers is done according to the same conditions previously presented for the Military.

The regulations on the fulfillment of the **military service** and the employment of the **civilians** are the same as for the Ministry of Defense.

### **3.2 What kind of exemptions or alternatives to military service does your state have?**

Do not fulfill the military service and cannot be conscript the following categories of persons:

- alienated and mental disabled persons
- those classified as unable for the military service, by exclusion from the military databases, for invalidities or permanent illness, other than those mentioned above
- the ordinate personnel belonging to the religions recognized by law
- the convicted persons during the conviction period and those arrested preventive or judged to the date the decision remains definitive
- those who suffered jail convictions of over five years due to infractions committed intentionally

*Law no. 446 / 2006*

The citizens who due to religious reasons refuse to serve in the Military fulfill the alternative military service. The manner to fulfill the alternative military service is established by government decision.

*Law no. 446 / 2006*

### **3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?**

Legal provisions having the fundamentals in the Constitution realize the protection of the rights of the military personnel. To defend the personnel rights, within the Ministry of National Defense are settled two systems:

- the first system refers to the legal possibility of each military or civilian employee to address, by reports or memoirs on requests or claims both hierarchical to the highest leadership level of the Military or to other state organs
- the second system that was settled in the field of managing social problems within the Military, looks to the identification of the dysfunctional states of social nature and the adoption of the manners to soften or remove these states

The main rights of the active military personnel and of the civil servants with special status are:

- The establishment and providing of the financial rights, of the vacations, the supplementary leave for studies, medical, paternity, maternity or baby care
- The establishment and providing of the personnel equipment, food and medical care
- The establishment and providing of the service, invalidity or successor pension
- Providing indemnities for invalidity or death cases produced as a consequence of military actions, by accidents, disasters or other similar events produced during and due to the military service or of some missions within the international forces designed for peacekeeping or humanitarian purposes
- The reduction of the working time in the case of effective and permanent work in working places with difficult conditions

By the law no. 384 / 2006 are established the rights of the voluntary soldiers.

They have the right to:

- receive a monthly payment;
- equipment and food free of charge;
- medical healthcare and medicines free of charge;
- military free transportation documents for the annual vacation or if they are moved from a garrison to another;
- pass every year 32 days of vacation;
- receive leave for different special events;
- receive baby care leave in the conditions of the law;
- receive a monthly extra-payment for providing accommodation or a free of charge service accommodation if is the case;
- follow any form of education from the civil or military education system.

By the Law *no. 164 / 2001 on the military state pensions* are created some conditions on providing of a decent live condition for the retired military personnel, the coverage of the military activity jeopardy and the lose of incomings due to invalidity, oldness or death.

By the Government Decision no. 1580 / 2002 for completion of the Government Decision no. 442 / 1992 on the vacation of the active military personnel was established a supplementary vacation for the military returning from the operation theatres.

The main rights of the civilian employees distinct of the rights of the military personnel and the civil servants with special status are:

- the financial rights, the vacations, the supplementary leave for paternity, maternity, baby care or leave not paid.
- the medical care
- the reduction of the working time for the effective and permanent work in working places with difficult conditions
- the service, invalidity or successor pension
- the modalities of evaluation and promotion

To protect the policemen rights, within the Ministry of Administration and Interior functions the National Corps of the Policemen as judicial person of public right.

The National Corp of Policemen represents the policemen autonomous, non-political, and non-profit organization on professional criteria. This exercises its attributions to promote the professional, social cultural and sportive interests of its members, according to the legislation in the field and to defend the legitimate rights of those.

*Law no. 360 / 2002, Government Decision no. 1305 / 2002*

## **4 IMPLEMENTATION OF OTHER POLITICAL NORMS, PRINCIPLES, DECISIONS AND INTERNATIONAL HUMANITARIAN LAW**

### **4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?**

In order to fulfill the obligations pertaining to Romania, according to the international treaties in the area of humanitarian law, the *Government's Decision no. 420/2006* instituted the National Commission of International Humanitarian Law, as a consultative body of the Government, without legal personality.

The Commission comprises a representative of each of the following Ministries: Ministry of Foreign Affairs, Ministry of Defence, Ministry of Justice, Ministry of Administration and Interior, Ministry of Education and Research and Ministry of Public Health.

By *Decision no. 298 of 17th of December 2007*, the Prime minister approved the National Strategy of Romania for the enactment of international humanitarian law, with the purpose of ensuring that the obligations pertaining to Romania, as a result of ratifying such international treaties, are known, respected and disseminated amongst the civil society.

The principles and the norms of Humanitarian Law (The Right of War, The Armed Conflicts Right) were comprised in the new defense laws and in the military regulations.

Within the General Staff and within the headquarters of the categories of forces functions a Legal and International Humanitarian Law Office that coordinates the integration of the International Humanitarian Law provisions in the military education programs and in the forces training programs.

In 1993 in the town of Ploiesti was founded the Centre for International Humanitarian Law.

At the National Defense College, at the National Defense University and at the Military Academies of the categories of forces is settled a consistent program for education in the field of the Humanitarian Law.

The General Staff in cooperation with the Regional Delegation of ICRC for Central and South Eastern Europe performs a program to integrate the International Humanitarian Law in the

Military Doctrine, in the tactical and technical military regulations and in the educational activities.

The Government Regulations no.420/2006 established the settlement and organization of National Commission on International Humanitarian Law and the Prime Minister Decision no. 298/2007 approved the Romanian National Strategy on applying of International Humanitarian Law .

Beside the dissemination activities (courses, seminars, workshops and manuals) the Centre administrates an INTERNET site with specific themes and quarterly edits an information bulletin "Juridical Actualities – military law and international" ([www.mapn.ro/cdiua](http://www.mapn.ro/cdiua)).

#### **4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?**

The commanding officers, the military and civilian personnel participating in peace support operations or in international military exercises follow a special training on International Humanitarian Law aspects.

The Geneva Conventions and their Additional Protocols, the Hague Convention the Status of the International Penal Court and other international treaties were translated, printed and distributed to the military units and educational institutions and constitute the basic sources in the educational and training process, in planning and conducting the military operations.

In 2005 the Centre of International Humanitarian Law elaborated, for the instruction of military personnel from Ministry of Defense, the Methodology of the Training in the Field of International Humanitarian Law and the Regulation on the Status of Captured Persons in Case of Armed Conflict.

In case that the commanding officer of the Romanian detachment receives an order or a directive issued by the superior hierarchical authorities of the mission that is against the norms of the international law or the law of war he will refuse to execute the order or the directive.

*Law no. 42 / 2004 on the participation of the armed forces in missions abroad*

The National Commission of International Humanitarian Law, which is the consultative body of the Government monitors permanently that provisions of the International Humanitarian Law are fully and correctly implemented in the national system.

#### **4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?**

As stipulated in the art. 118 of the Romanian Constitution the components of the Romanian National Defence System can act only to: "guarantee the state sovereignty, independence and unity, the territorial integrity of the country and the constitutional democracy".

The decisional process for the actions of the armed forces is complex, involving an important number of national authorities or decision persons having in this way a guarantee that the national legal provisions are fully respected.

Also the obligations and duties of the militaries as stipulated in the Law no 80 /1996 or in the Law no 384 / 2006 on the Status of the Officers NCOs and enlisted militaries exclude any



involvement in any action envisaging the limitation of the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups.

According to the provisions of the same laws: *“the militaries should not perform any actions which are against the legal provisions, the law of war or the international conventions to which Romania is a state party; the non-obedience to the orders in this conditions wil not be punished.”*

#### **4.4 What has been done to provide for the individual service member’s exercise of his or her civil rights and how your State ensure that the country’s armed forces are politically neutral?**

As citizens of Romania the militaries have the rights of obligations of all citizens. Except specific restrictions or restraints imposed to perform the military duty the military personel is in the position to exercise its civil rights as all citizens of Romania.

Law no. 80 / 1995 on the Status of officers and NCOs and Law no. 384 / 2006 on the Status of volunteer enlisted soldiers establish the rights, duties of the militaries. According to these laws are also established restrictions or restraints of some rights or freedoms.

The active officers or NCOs are not allowed to:

- be members of political parties, formations or organizations or to advertise by any means or activities in the advantage of any party or independent candidate for a public position;
- candidate for positions in the local public administration nor in the Parliament or for the position of President of Romania;

....

- Political opinions can be expressed only out of the duty period.

*Law no 80 /1995 on the Status of officers and NCOs, Art 28*

#### **4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?**

The defence policy and doctrine are issued fully observing the national and international law. According to Law no 590 / 2003 on the International Treaties, Section 1, Art 31:

- “the obligations in the treaties ratified or otherwise agreed by Romania shall be observed exactly and in good faith;
- the application and observation of the dispositions of the enforce treaties is an obligation for all authorities of Romania as well as for all Romanian persons or the persons on the territory of Romania;

.....

- The internal legal provisions cannot be invoked to motivate the nonobservance of the dispositions of an international treaty enforced.

## **Section III: Public access and contact information**

### **1 PUBLIC ACCESS**

#### **1.1 How is the public informed about the provisions of the Code of Conduct?**

Romania has not taken any special measures to this moment to inform the wide public on the provisions of the Code of Conduct. Information on the Code of Conduct is comprised in the specific formation of the military personnel and in the specific formation courses for the high level decision personnel from the military or political system.

#### **1.2 What additional information related to the Code of Contact, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?**

No information related to the Code of Conduct is made available to the wide public in Romania. This type of information is spread only to the defence system and interested governmental institutions.

#### **1.3 How does your State ensure public access to information related to your State armed forces?**

The person right to have access to any information of public interest cannot be obstructed. The public authorities, according to their competences, are obliged to ensure the correct information of the citizens on the activities of public interest.

*The Constitution of Romania, art. 31*

The main national regulations on the public access to information regarding the armed forces are comprised in:

- *Law no. 544 / 2001 on the free access to the information of public interest and the Government Decision 123 / 2002 on the approval of the Methodological Norms for applying this law*
- *Law no. 52 / 2003 on the decisional transparency in the public administration*

Based on the provisions of these laws at the level of the Ministry of Defense, of the Ministry of Administration and Interior and of the intelligence services are settled public relation structures that have the obligation to communicate voluntary or to follow a request of information of public interest regarding their institutions and were elaborated internal instructions or regulations regarding the functioning of these public relations structures.

According to the provisions of the law on the decisional transparency in the public administration, the Ministry of Defense, the Ministry of Administration and Interior and the intelligence services have the obligation to publish the normative acts regulating their organization and functioning, the financial sources, the budget and the account, the own programs and strategies, the list of the documents of public interest, the contact coordinates, the legislative initiatives etc.

Each institution having in its suborder elements comprised in the armed forces have INTERNET sites by which publish information of public interest.

The previous mentioned laws comprise a clear mechanism to punish the situations of not observing their provisions.

## **2 CONTACT INFORMATION**

- 2.1 Provide information on the national point of contact for the implementation of the Code of Conduct?**