

***Factual analysis of Member States
Investors' Schemes granting
citizenship or residence to third-
country nationals investing in the
said Member State***

***Deliverable B.II Investors' Residence
Schemes in Romania***

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The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

Milieu Ltd (Belgium), Chaussée de Charleroi 112, B-1060 Brussels, tel.: +32 2 506 1000; e-mail: emma.psaila@milieu.be; ana.gomez@milieu.be and vanessa.leigh@milieu.be; web address: www.milieu.be.

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I. GENERAL BACKGROUND

■ *Legal background*

The entry, residence and exit of foreigners to and from the territory of Romania, as well as their rights and obligations,¹ are regulated by **Government Emergency Ordinance 194/2002 on the regime of foreigners in Romania** (OUG 194/2002) – (hereinafter - the Law on Foreigners).²

The Law on Foreigners provides that foreigners who are or will become **associates or shareholders with management and leadership roles** in Romanian companies are eligible to apply for a **long-stay visa for commercial purposes** valid for up to 90 days. Upon their arrival, they must request a **temporary residence permit for commercial purposes** and can later apply for **permanent residence**.³ The current scheme was introduced by OUG 194/2002 and has been in force since 2003.

The Law on Foreigners has been amended several times since its entry into force in 2003. The investment thresholds in place and which will be presented in detail in section 2 have remained largely the same, with three exceptions introduced in 2011 through Law 157/2011:

- The threshold to grant long-stay visas for commercial purposes was increased. The requirement was increased to investing at least **EUR 100,000** in the context of a limited liability company (prior to this the threshold was to invest EUR 70,000); **or** investing a minimum of **EUR 150,000** in a joint-stock company (prior to this the investment required was EUR 100,000)
- Regarding the temporary residence permit, OUG 194/2002 originally contained alternative conditions: EUR 70,000 **or** 15 new jobs for shareholders and EUR 50,000 **or** 10 new jobs for associates, respectively. Law 157/2011 made the requirements concerning capital and new jobs **cumulative**.⁴
- Regarding the minimum investment that allowed applicants for the temporary residence permit to demonstrate that they had the personal financial means using any documents, the capital threshold was **EUR 100,000 in the early version of OUG 194/2002 (in force since 2003)** and was changed to **EUR 150,000** by the 2003 amending law.⁵

Point I.3 of the **National Strategy for Immigration** for the Period of 2015-2018⁶ establishes as a **priority the facilitation of entry and stay for third country investors**, as it is recognised that such measures would have a beneficial effect⁷ for third country investors, third country employees and Romanian employees. The Strategy establishes that the authorities will create the appropriate framework to attract potential investors to Romania and sets the following strategic directions:

- **Waivers** from certain requirements in the visa application and extensions of temporary residence processed;
- **Economic and tax facilities;**

¹ Art. 1 Government Emergency Ordinance 194/2002 on the regime of foreigners in Romania (*Ordonanța de urgență nr. 194/2002 privind regimul străinilor în România*), Official Journal, Part I, no. 421 of 05 June 2008 (latest republication), available at <http://legislatie.just.ro/Public/DetaliiDocument/93712> (**OUG 194/2002**).

² Art. 1(a), OUG 194/2002.

³ Art. 24(c), OUG 194/2002.

⁴ Art. 78, Law 157/2011 on the amendment and supplementation of certain normative acts on the regime of foreigners in Romania (*Lege nr. 157/2011 pentru modificarea și completarea unor acte normative privind regimul străinilor în România*), Official Journal, Part I, no. 533 of 28 July 2011, available at <http://legislatie.just.ro/Public/DetaliiDocument/130383> (**Law 157/2011**)

⁵ Art. 82, Law 157/2011.

⁶ Approved by Government Decision 780 of 2015 on the approval of the National Strategy on Immigration for the Period of 2015-2018 and the Action plan for 2015 on the implementation of the National Strategy on Immigration for the Period of 2015-2018 (*Hotărârea 780/2015 pentru aprobarea Strategiei naționale privind imigrația pentru perioada 2015-2018 și a Planului de acțiune pe anul 2015 pentru implementarea Strategiei naționale privind imigrația pentru perioada 2015-2018*), Official Journal, Part I, no. 789 of 23 October 2015, available at <http://legislatie.just.ro/Public/DetaliiDocument/172296> (**HG 780/2015**).

⁷ No information was retrieved on how this ‘beneficial effect’ is measured. This is not specified in the legislation.

- **Better cooperation** between the authorities involved in the visa application, aimed at swifter processing and issuance of visas;
 - Re-evaluation of applicable legislation concerning **company creation**, to identify elements that could attract potential investors. As of 2018 there are no proposals for amendments or amendments to this effect.
- *Competent authorities:*

Since 2012, the government authority tasked with implementing migration, asylum and integration policies and legislation⁸ has been the **General Inspectorate for Immigration** (*Inspectoratul General pentru Imigrări* - IGI).

The Inspectorate is a structure of the **Ministry of the Interior** and was created to replace the Romanian Office for Immigration (*Oficiul Român pentru Imigrări*)⁹ which had been in place since 2007, as a result of a merger between the Foreigners Authority (*Autoritatea pentru Străini*) and the National Refugees Office (*Oficiul Național pentru Refugiați*).¹⁰ The decision on the merger was reached by acknowledging the need for a unique institution responsible for managing efficiently asylum and migration policies and following the expert recommendations and institutional models of other EU member states.¹¹

The **Ministry of Business Environment, Commerce and Entrepreneurship** is the government structure responsible for applying the strategies and policies relating to small and medium enterprises, business environment, commerce, entrepreneurship and **foreign investments**.¹²

⁸ Art. 1, Government Decision 639/2007 on the structure and the powers of the General Inspectorate for Immigration (*Hotărârea 639/2007 privind structura organizatorică și atribuțiile Inspectoratului General pentru Imigrări*), Official Journal, Part. I, no. 581 of 14 August 2012, available at <http://legislatie.just.ro/Public/DetaliiDocument/83157> (HG 639/2007).

⁹ Law 118/2012 on the approval of Government Emergency Ordinance 12/2012 on the amendment of Government Emergency Ordinance 30/2007 on the organisation and functioning of the Ministry of the Interior (*Legea 118/2012 privind aprobarea Ordonanței de urgență a Guvernului nr. 18/2012 pentru modificarea Ordonanței de urgență a Guvernului nr. 30/2007 privind organizarea și funcționarea Ministerului Administrației și Internelor*), Official Journal, Part. 1, no. 461 of 09 July 2012, available at <http://legislatie.just.ro/Public/DetaliiDocument/139467> (Law 118/2012)

¹⁰ Art. 1, Government Emergency Ordinance 55/2007 on the establishment of the Romanian Immigration Office through the reorganisation of the Foreigners Authority and the National Refugee Office, as well as on the amendment and supplementation of certain normative acts (*Ordonanța de Urgență 55/2007 privind înființarea Oficiului Român pentru Imigrări prin reorganizarea Autorității pentru străini și a Oficiului Național pentru Refugiați, precum și modificarea și completarea unor acte normative*), Official Journal, Part I, no. 424 of 25 June 2007, available at <http://legislatie.just.ro/Public/DetaliiDocument/83150> (OUG 55/2007).

¹¹ Preamble to OUG 55/2007.

¹² Art. 1, Government Decision 23/2017 on the organisation and functioning of the Ministry for Business Environment, Commerce and Entrepreneurship (*Hotărârea nr. 23/2017 privind organizarea și funcționarea Ministerului pentru Mediul de Afaceri, Comerț și Antreprenoriat*), Official Journal, Part I, no. 52 of 18 January 2017, available at <http://www.imm.gov.ro/documents/34234/0/hg+23-2017.pdf/2a52385e-a895-4eef-a6d5-3fa44019faa6> (HG 23/2017).

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

1.1 PROCEDURES

The investment scheme applies to third country nationals who are or will become **associates or shareholders with leadership or management roles in Romanian companies**.¹³

■ *Applicable criteria*

For foreign investors to be permitted to enter in and reside on the territory of Romania, their investment needs to amount to:

- at least **EUR 100,000** and create at least **10 new jobs** if it is in a limited liability company; or
- a minimum of **EUR 150,000** accompanied by no less than **15 new jobs** in a joint-stock company.¹⁴

The Law on Foreigners provides that investments have to be made in a **business**, whereby investors become either **associates in a limited-liability company or shareholders in a joint-stock company**, and the company is incorporated and has its headquarters in Romania.¹⁵

The law does not distinguish between new and existing companies, investors may **establish a new company** or invest in an **existing one**. Investments can be made in the form of **cash, in kind or receivables**.¹⁶ Investments in cash are mandatory with the establishment of a new company, investments in kind are allowed for both new and existing companies, while investments in receivables are not available for joint stock companies created by public offer or limited liability companies.¹⁷

■ *Application procedure*

Foreign investors who wish to enter and reside in Romania need to first to obtain a **long-stay visa** for commercial purposes which will allow them to enter Romanian territory and stay for a period of up to 90 days. This step applies to third country nationals who are not visa exempt.¹⁸ Before the expiry of the 90-days period, the investor can apply for a temporary residence permit valid for up to one year. After five years of continuous temporary residence, the investor is eligible to apply for **permanent residence**, which allows him/her to stay on the Romanian territory for an indefinite period of time.

1. Long-stay visa

Investors from third countries are eligible to apply for a **long-stay visa for commercial purposes** (type D/AC).¹⁹ The long-stay visa is **awarded for a period of 90 days**²⁰ with a **sticker** applied on the passport of the applicant.

The application procedure has two **stages**:

¹³ Art. 45 OUG 194/2002.

¹⁴ Art. 43(2)(c) and (d), OUG 194/2002.

¹⁵ Art. 1(2), Law 31/1990 on companies (*Legea 31/1990 privind societățile*), Official Journal, Part I, no. 1066 of 17 November 2004 (latest republication), available at <http://legislatie.just.ro/Public/DetaliuDocument/800> (**Law 31/1990**).

¹⁶ Receivables are debts owed to a company by its customers for goods or services that have been delivered or used but not yet paid for.

¹⁷ Art. 16, Law 31/1990.

¹⁸ This list of countries is published by the Ministry of Foreign Affairs, available at https://www.mae.ro/sites/default/files/file/anul_2018/2018.02.02_anexa_1ro.pdf (accessed 29 May 2018).

¹⁹ Art. 20(d)(iii) and art. 24(1)(c) OUG 194/2002.

²⁰ Art. 24(1) OUG 194/2002.

- a) **Prior to filing a visa application**, the investor needs to have the business plan approved by the Ministry of Business Environment, Commerce and Entrepreneurship; the purpose of this procedure is to verify the technical conditions pertaining to the utility and economic feasibility of the investment.²¹ The applicant is requested to demonstrate that the investment is necessary, relevant and useful for the business and that the business activity will be efficient from an economic and technological standpoint, profitable, sustainable and viable for at least three years following this investment.²²

In order to obtain the approval, the applicants need to fulfil several conditions:

1. **Presentation of a business plan**
The plan needs to include company identification information, business description, value and type of investment, job creation estimates and stages, investment stages and their corresponding value, investment location, investment duration and return, a financial projection for at least three years.
2. **Proof of possession of the required capital** – over EUR 100,000 EUR for a limited liability company (SRL) and more than EUR 150,000 EUR for a joint-stock company (SA). To this end, the investors need to provide a single bank statement from a Romanian bank for which the investor is the account holder.
3. **Commitment to make the investment** no later than 12 months following the issuance of the residence permit. Contributions to the capital can be made in cash or in kind. This commitment is reflected in the business plan which includes the stages in which the investment will be made (see point 1).
4. **Creation of new jobs** – the company needs to commit to create at least 10 (if the company is a limited liability company) or 15 (if the company is a joint stock company) new jobs no later than 12 months following the issuance of the residence permit. The commitment of the company to create new jobs is also reflected in the business plan which reflects the job creation estimates (see point 1).

Investors who had another business plan approved by the Ministry in the past may apply for a new one only if they can demonstrate that they were successful in implementing the previous business plan or that objective circumstances prevented them from fulfilling the plan.²³

This approval is valid for a period of **six months**.²⁴ Should the investor fail to submit a visa application with the diplomatic missions or consular offices within this timeframe, the approval becomes invalid and the investor needs to apply for a new approval with the Ministry of Business Environment, Commerce and Entrepreneurship if he/she wishes to enter Romania with a long-stay visa.

b) **Visa application**

The visa application is submitted by the third-country national with the diplomatic mission or consular office in person,²⁵ no more than **three months** prior to the intended arrival in Romania.²⁶ The relevant documentation can be submitted either **in person**, or in advance via the **e-visa portal**, or to an **external service provider**, in cases when the Ministry of Foreign Affairs outsourced the collection of visa applications to an **external service provider** (see

²¹ Art. 43 OUG 194/2002.

²² Art, 2(e), Procedure of 31 May 2017 on the issuance of the technical approval for the business plan of foreign investors, for the purposes of obtaining a long-stay visa in Romania for commercial purposes, issued by the Ministry of Business Environment, Commerce and Entrepreneurship (*Procedura din 31 mai 2017 de acordare a Avizului tehnic de specialitate pe planul de afaceri al investitorilor străini, în vederea obținerii vizei de lungă ședere în România pentru desfășurarea de activități comerciale*), Official Journal, Part I, no. 465 of 21 June 2017, available at <http://legislatie.just.ro/Public/DetaliiDocumentAfis/190277> (**Procedure of 31 May 2017**).

²³ Art. 43(4), OUG 194/2002.

²⁴ Art. 43(7), OUG 194/2002.

²⁵ Art. 29(5), OUG 194/2002.

²⁶ Art. 29(4)(d), OUG 194/2002.

section 1.2 below). In the last two situations, the applicant still has to go to the diplomatic mission or consular office to formally lodge the application.²⁷

The Ministry of Foreign Affairs has set up an **e-visa** application portal which is available in Romanian and English. It allows applicants to file the application form and attach the relevant documents. If the application is not submitted immediately, it is **saved on the portal for 30 days**, during which the foreign national may update and amend it. Following the submission of the documents, consular staff verify the documents and either request additional information or validate the application.

The third-country national will then need to make an **appointment** with the diplomatic mission or consular office and bring the documents uploaded on the application portal, in original and one copy. When the applicant arrives for the appointment, he/she will be requested to sign the application form before the consular officers and pay the applicable fees.²⁸

The long-stay visa applications for commercial purposes are analysed by the **Romanian diplomatic missions or consular offices**.²⁹ After submitting the documentation, the applicants are usually invited to sit an **interview**.³⁰ The purpose of the interview is to obtain additional details on the information listed in the application and the applicant's reasons for traveling to and staying in Romania, as well as to ascertain the authenticity of the documents submitted.³¹

Documents required:³²

- Application **form**;
- Travel document;
- Documents which provide details on **travel purpose** and conditions;
- Proof that the applicant has the **financial means** to support himself/herself (e.g. foreign currency, travel cheques, credit cards accompanied by a bank statement issued no more than two days prior to the submission of the visa application);³³
- The **approval** from the **Ministry of Business Environment, Commerce and Entrepreneurship**;
- **Clean criminal record certificate or a document with equal legal force**³⁴, issued by the country in which the applicant resides;³⁵
- **Health insurance for the whole duration of the visa**;
- **Proof of accommodation** (either of the following documents are accepted: Purchase agreement, Rental agreement; Commodatum agreement; Court decision; Notary statement by which the owner of the property declares that he/she allows the investor to live on the property, accompanied by the property deed; In the case of investors residing in rural areas, a certificate issued by the mayor attesting that either the applicant or the landlord is registered to the Agricultural Register)³⁶
- **Two photos size 3x4 cm.**³⁷

Once the documentation is submitted, the diplomatic missions and consular offices need to seek two

²⁷ Ministry of Foreign Affairs website, available at <http://evisa.ro/HowTo> (accessed 05 June 2018).

²⁸ E-Visa portal, "How to Apply", available at <http://evisa.mae.ro/HowTo> (accessed 30 May 2018).

²⁹ Art. 27(1¹), OUG 194/2002.

³⁰ Art. 29(3), OUG 194/2002.

³¹ Art. 2(m), OUG 194/2002.

³² Art. 29, OUG 194/2002.

³³ Art. 29 and 43 OUG 194/2002.

³⁴ The Law on Foreigners allows for the submission not just for criminal record certificates, but of any documents issued by the national authorities which have the legal value, even if they are not titled "criminal record certificate".

³⁵ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

³⁶ IGI website, "Migration. Extension of the stay right. Business activities, Proof of legal possession for the registered residence address", available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/click6comerciale.pdf (accessed 29 May 2018).

³⁷ E-Visa portal, "Supporting Documents", available at <http://evisa.mae.ro/SupportingDocuments> (accessed 03 August 2018).

authorisations.³⁸ First, the **approval of the General Inspectorate for Immigration** – IGI is necessary. IGI performs specific police checks on the Romanian territory in accordance with its mandate, to ensure that the applicant has a valid travel document, is not a threat to national security, public health or public order, was not in any way involved in terrorist activities, transnational organised crime groups or crimes against peace and humankind, war crimes or crimes against humanity and is not banned from entering the Romanian territory or from being issued a visa.³⁹ The Inspectorate has a **30-day** timeframe from the filing of the application to issue its decision. The deadline can be extended by another 15 days under exceptional circumstances, if the application requires a more detailed analysis.⁴⁰

Should the application be incomplete, this will automatically lead to the issuance of a negative decision on the part of IGI and the rejection of the visa application.⁴¹ As such, once submitted, the visa application can no longer be amended or updated. If IGI approves the request, the approval is sent electronically to the National Visa Centre, through the National Visa System.⁴²

Once the application is approved by IGI, it has to also be authorised by the **National Visa Centre**. After having received both authorisations, the diplomatic missions and consular offices check if the rest of the conditions for the issuance of a visa are met, other than those already assessed by IGI, and reach a decision independently. These structures are not bound by the conclusion of the IGI, even though in practice the conclusions are followed.⁴³

The applicants will be informed of the outcome of their request **no later than 60 days** after the submission of their application and accompanying documents. In the event that the application is **rejected**, the diplomatic mission or consular office will inform the applicant of the decision and the **reasons** for the rejection.⁴⁴

Rejection of applications

Article 31(1) indicates that a visa request can be rejected if the applicant does not fulfil the conditions set out in OUG 194/2002, namely:

- The applicant **does not satisfy the entry requirements** – does not have a travel document, cannot demonstrate the purposes of his/her travel to Romania or adequate financial means, was flagged in the National Alert Informatic System (*Sistemul informatic național de semnalări*) for refusal of entry⁴⁵ or in the Schengen Information System, is a threat to national security, public order, health or morality;
- **The applicant cannot be granted access on the territory of Romania** – is flagged on suspicion of being part of, financing, preparing, in any way supporting or committing acts of terrorism, there is proof that he/she is part of transnational organised crime groups or in any way supports the activity of such groups, there are serious grounds to believe that the person committed or took part in crimes against the peace and human kind, crimes against humanity or war crimes, has a condition which can seriously threaten public health;
- The applicant was **flagged in the Integrated Informatic System** on Issues of Migration, Asylum and Visas (*Sistemul informatic integrat pentru managementul migrației și azilului*).⁴⁶ This is the electronic component of the National System for Foreigners Records, which contains the records kept by IGI with the personal data and other information discovered in the course of its activity.

³⁸ Art. 30 OUG 194/2002.

³⁹ Art. 30(8), OUG 194/2002; and Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁴⁰ Art. 30(9), OUG 194/2002.

⁴¹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁴² Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁴³ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁴⁴ Art. 31 OUG 194/2002.

⁴⁵ The national informatic system managed by the Ministry of Interior which is compatible with Schengen Information System II and contains national alerts and Schengen alerts entered by the national authorities.

⁴⁶ Component of the National Information System on Foreigners (*Sistemul național de evidență a străinilor*) managed by the Ministry of Interior.

The System is composed of three sub-systems: the Informatic System for the Management of Foreigners, the On-Line Informatic System, a sub-component of the National Visa System limited to the information entered by the Ministry of the Interior and the Asylum Evidence System⁴⁷

- There are grounds to believe that the visa was requested to facilitate **illegal migration**;
- The applicant was convicted abroad for crimes incompatible with the purpose for which the visa was requested;
- The applicant submitted a **counterfeit, false or falsified travel document**;
- There are substantial **grounds to doubt the authenticity of the documents submitted**, the truth of the facts recorded therein, the statements of the applicant or his/her intention of leaving the Romanian territory when the visa expires;
- The applicant fails to obtain the approval from the Ministry of Business Environment, Commerce and Entrepreneurship.⁴⁸

Remedies

The law does not explicitly provide for any remedies in case the visa application is rejected and there are **no avenues to contest a decision** of the diplomatic missions and consular offices.

The IGI official interviewed confirmed that the **negative decision issued by IGI cannot be appealed or contested separately either**; since it was not issued following a direct request made by the applicant before IGI, but instead was issued following a request for consultations from the diplomatic missions or consular offices. For these reasons, the decision is not considered an “administrative act” and cannot be contested before an administrative court.⁴⁹

2. Temporary residence permit

Foreign investors who entered Romania with a long-stay visa for commercial purposes, as well as those who did not need an entry visa, can apply for a **temporary residence permit**. This is referred to as an ‘extension of the right of residence to conduct business activities’ in Article 55 of OUG 194/2002. The authority responsible for this procedure is the **General Inspectorate for Immigration**.⁵⁰

The procedure to apply for a temporary residence permit is the same regardless of the foreign investor holding or not a visa. If the applicant holds a visa, the application for a temporary residence permit has to be filed within the validity of the entry visa (which is granted for 90 days) and at least **30 days prior to the expiration** of the visa. If the applicant does not need a visa to enter Romania, s/he can apply for a temporary residence permit at least 30 days prior to the expiry of the 90-day right to stay granted by the law by virtue of the visa waiver.⁵¹

In any case, the applicant needs to travel in person to the nearest IGI office and submit the following documents:⁵²

- Application **form** available in electronic format on the IGI website⁵³ and in hard copy at the local IGI offices;
- **A valid travel document** - original and one copy;
- **Medical certificate** which attests that the applicant does not have a disease that could threaten public health, issued by a public or **private medical facility**;
- **Proof of accommodation** in Romania⁵⁴

⁴⁷ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁴⁸ Art. 27 and 43, OUG 194/2002.

⁴⁹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁵⁰ Art. 50(1) OUG 194/2002.

⁵¹ Art. 51(1), OUG 194/2002.

⁵² Art. 55, OUG 194/2002.

⁵³ IGI website, “Migration. Extension of the stay right. Business activities. Application”, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/Cerere_activitati_comercale.pdf (accessed 29 May 2018).

⁵⁴ IGI website, “Migration. Extension of the stay right. Business activities. Proof of legal possession for the registered residence address”, available at _____ at

- **Social health insurance** – by one of the public health insurance institutions in Romania (certificate from the insurance institution or the receipt attesting the payment of healthcare contributions);⁵⁵
- Proof that the applicant has the **financial means to support himself/herself** for the entire duration of the stay – at least EUR 700 monthly in the case of shareholders and EUR 500 monthly for associates:
 - The Law on Foreigners provides a non-exhaustive list of documents which can serve as proof, such as salary or pension certificates, income tax returns, bank statements, as well as other equivalent documents⁵⁶
 - In the case of investments of over EUR 150,000 or if more than 25 new jobs were created, this proof can be made with **any other documents**, not just those listed above and others of an equal legal value
 - For investments of over EUR 200,000 or if more than 50 new jobs were created, the investor is **exempt** from the requirement to provide proof of financial means
- **Proof of payment of application fee and cost of permit;**
- **Business plan**, approved by the Ministry of Business Environment, Commerce and Entrepreneurship;
- **Document** issued by the **Ministry of Business Environment, Commerce and Entrepreneurship** which attests that the **activity is in line with the business plan;**
- **Trade Registry Certificate which attests that the applicant is a shareholder or an associate**, the name, headquarters and activity of the company, duration of the company, main economic and financial indicators (fixed assets, turnover, net income or losses), average number of employees;
- The updated form of the constitutive act of the company, only if there have been amendments (this does not imply that the investment has to be limited to an existing company);⁵⁷
- **Certificate** issued by the **labour authorities** which attests the **number of employees in the company.**

If IGI considers necessary, the applicant can be invited to sit an **interview**; if s/he **does not attend** the interview and cannot demonstrate that the absence was caused by **events outside his/her control**, the application **can be rejected** on this ground.⁵⁸

The application is **assessed in 30 days** from the time of the submission, however the deadline can be extended by a maximum of 15 additional days in case additional checks are necessary.⁵⁹ This depends on the circumstances of each application, for example when IGI has doubts as to the authenticity of a document submitted by the applicant and needs to consult with the institution that issued it, if they have to perform checks on site, if the issuance of one of the documents necessary for the application takes longer than 30 days for reasons outside the control of IGI or the applicant.⁶⁰

In the event that the **request is rejected**, the Inspectorate will **inform the applicant** of the decision and the **reasons** for the rejection⁶¹ and will issue a return decision.⁶²

If the application is **successful**, the **temporary residence permit is issued** automatically by IGI, granting the investor the the right to be a temporary resident in Romania for a period of up to **one year**,

http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/click6comerciale.pdf (accessed 29 May 2018).

⁵⁵ IGI website, “Migration. Extension of the stay right. Commercial activities. Proof of social insurance”, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/click7comerciale.pdf.

⁵⁶ Art. 51(3), OUG 194/2002.

⁵⁷ IGI website, “Migration. Extension of the stay right. Business activities. Registration mentions”, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/click12comerciale.pdf (accessed 29 May 2018).

⁵⁸ Art. 51(6), OUG 194/2002.

⁵⁹ Art. 51(4), OUG 194/2002.

⁶⁰ Information gathered through consultation with national stakeholder (IGI official, competent authority, 7 June 2018).

⁶¹ Art. 52 OUG 194/2002.

⁶² Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

in addition to the additional 90 days for which the visa was originally granted (if the applicant holds a visa). Should the **investment exceed EUR 500.000** or in the event that it has generated over **50 new jobs**, the temporary residence will be for periods of **three years**.⁶³

30 days prior to the expiry of the temporary permit, the investor can apply for **another residence permit with the same duration** (one or three-years); there are **no limits** to the number of extensions that can be granted to a foreign investor.⁶⁴ Every time a new extension is granted, the foreign investor is issued a new temporary residence permit.⁶⁵ **Subsequent extensions** are contingent upon the investment of **EUR 70,000 or the creation of 15 new jobs** for shareholders and **EUR 50,000 or the creation of 10 new jobs** for associates, respectively being maintained (no new investments are required).⁶⁶ This means that the investor may not withdraw his/her money or cancel the jobs once s/he received the residence permit, to avoid sham investments.

Fees

The applicants need to pay two fees:

- A **consular fee of EUR 120** – the fee is set in EUR, but payable in RON in the accounts of the National Treasury,
- The **cost of the residence permit: RON 259 (EUR 55.95)**⁶⁷ – payable in the account of the National Printing Company (*Compania Nationala Imprimeria Română SA*).⁶⁸

Rejections

Article 50(2) of OUG 194/2002 indicates the grounds refusing an application for temporary residence, including grounds of threat to public order and security, risks of illegal immigration and fraud:

- **The applicant does not fulfil the entry requirements** – does not have adequate financial means, is flagged in the National Alert Informatic System (*Sistemul informatic național de semnalări*) or in the Schengen Information System, is a threat to national security, is public order, health or morality;
- In the course of his/her stay in Romania, the foreign investor incurred in one of the following situations: was flagged on suspicion of being part of, financing, preparing, in any way supporting or committing acts of terrorism, there is proof that he/she is part of transnational organised crime groups or in any way supports the activity of such groups, there are serious grounds to believe that the person committed or took part in crimes against the peace and human kind, crimes against humanity or war crimes, committed crimes against the Romanian state or against a Romanian citizen while in Romania or abroad, smuggled foreigners into Romania or attempted to, breached the purpose of the visa, cross or tried to cross the border illegally, has a condition which can seriously threaten public health;
- Does not have a **valid travel document**;
- **The application is sought for different reasons than those for which the long-stay visa** or the previous extension period had been awarded;
- **Cannot provide proof of accommodation in Romania**;
- **Does not have social health insurance**;
- **Has not paid the applicable fees**;
- If this is the first application for a temporary residence permit (not an application for a long-stay visa and not an application for an extension of an already issued temporary residence permit), the applicant **does not have the approval of the Ministry of Business Environment, Commerce and**

⁶³ Art. 55(5), OUG 194/2002.

⁶⁴ Art. 50(1) and (2), OUG 194/2002.

⁶⁵ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁶⁶ Art. 55(2)(e), OUG 194/2002.

⁶⁷ Exchange rate at 24 May 2018.

⁶⁸ IGI website, "Migration. Extension of the stay right. Commercial activities. Fees", available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/Migratie/taxe%20permis%20lista%201.pdf (accessed 24 May 2018).

Entrepreneurship,⁶⁹ cannot demonstrate a legal basis for the corporate headquarters, is not an associate or shareholder with a management or leadership role in a Romanian company or does not have the necessary financial means to support himself/herself (EUR 700 on a monthly basis for shareholders and EUR 500 in the case of associates),⁷⁰

- If the applicant has already been granted an extension – the activity of the company does not follow the business plan, the activity of the company changed and is not a continuation or a result of the declared business activity, the investor cannot demonstrate the legal basis for the headquarters, the applicant is not an associate or shareholder with a leadership or management role in a Romanian company, the investor did not make the promised investment, the applicant does not have the necessary financial means (EUR 700 on a monthly basis for shareholders and EUR 500 in the case of associates).⁷¹

Remedies

Law 554/2004 on administrative litigation provides that any person whose **rights and legitimate interests were harmed** by an administrative act of a public authority or by their failure to reach a decision in the applicable timeframe is entitled to file a case before an administrative court and follow the applicable procedure.⁷²

The case before the administrative court needs to be preceded by a **preliminary proceeding**, a **request for withdrawal filed with IGI** no later than 30 days after the investor was informed of the outcome of the application.⁷³ IGI is under the obligation to decide on the request for withdrawal no later than **30 days** after the request was filed.⁷⁴ If the investor is dissatisfied with the decision, if IGI refuse to reach a conclusion or in the event that the latter did not reach a decision within the 30-day timeframe, the investor may file a case before an **administrative court** and request the **annulment** of the original IGI decision, as well as reparations in the form of monetary restitution.⁷⁵

The timeframe for the court application is **six months**, calculated from the time of notification of the IGI decision on the request for withdrawal to the investor, from the time IGI refused to respond to the preliminary request or since the 30-day deadline expired without IGI having reached a decision on the request for withdrawal.⁷⁶

The judicial proceedings need to be brought before an administrative court, namely the **administrative and tax sections of the court of appeal** in the area of residence of the investor.⁷⁷ The investor can file an extraordinary appeal (*recurs*) against their decision before the High Court of Cassation and Justice.⁷⁸

3. Permanent residence permit

The provisions on permanent residence in the Law on Foreigners were subject only to minor changes over the years and the framework remained largely the same since its entry into force in 2003. It is aligned with the requirements laid out in Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (Long-Term Residence

⁶⁹ Article 55 of OUG 194/2002 establishes separate procedures for the first application for a **temporary residence permit**, and subsequent extensions of such permit. For the application for the first-time issued temporary residence permit, the applicant must attach the authorisation from the Ministry even though it had already been shown to the diplomatic missions/consular offices when applying for the **visa** (this is likely to be because the IGI had never seen the authorisation before, it had only been presented to the diplomatic mission/consular office).

⁷⁰ Art. 55(1)(a), OUG 194/2002.

⁷¹ Art. 55(1)(b), OUG 194/2002.

⁷² Art. 1, Law 554/2004 on administrative litigation (*Legea 554/2004 a contenciosului administrativ*), Official Journal, Part I, 1154 of 07 December 2004, available at <http://legislatie.just.ro/Public/DetaliuDocument/57426> (**Law 554/2004**).

⁷³ Art. 7(1), Law 554/2004.

⁷⁴ Art. 2(1)(g), Law 554/2004.

⁷⁵ Art. 8(1), Law 554/2004.

⁷⁶ Art. 11(1), Law 554/2004.

⁷⁷ Art. 10(1), Law 554/2004.

⁷⁸ Art. 10(2), Law 554/2004.

Directive) and reflects its provisions on the duration of residence, conditions, application process, residence permit, withdrawal of permanent residence status, equal treatment and expulsion.

The right to permanent residence is granted by the **General Inspectorate for Immigration** to third-country nationals who have been temporary residents for a **continuous period of five years**.

Once the investor is awarded permanent residence, he/she will have to apply separately for a **permanent residence permit**, which must be **renewed every five years** (or ten years if the foreigner is married to a Romanian citizen).⁷⁹ The renewal is merely an **administrative procedure** to request a new document; the right to permanent residence once granted is **valid for an indefinite period of time**.

Foreign investors who apply for permanent residence need to fulfil the same set of conditions as for other categories of third country nationals:

- The applicant has been a **temporary resident** in Romania for a **continuous period of five years**; during this time, the applicant should not have spent more than six consecutive months abroad and the cumulated time of absence should not exceed ten months. In the event that an applicant is absent for more than six months, the time before that absence is disregarded and the application will be successful only if, upon return, the applicant spends five continuous years in Romania⁸⁰

To verify this requirement, IGI has access to the Border Police database and can check the entries and exits of the applicant; when necessary, IGI officials can also ask for additional clarifications from the Border Police.⁸¹

- The applicant can demonstrate that they have **financial means** equal to at least the minimum wage.

Foreign nationals who invested at least EUR 1,000,000 **or** created at least 100 new full-time jobs do not have to demonstrate that they fulfilled the conditions pertaining to the duration of residence and personal financial means; they can apply for permanent residence if they fulfil only the remainder of conditions. Proof of investment can be made with certificates issued by the Trade Registry, certificates from the tax authorities and financial evaluation reports prepared by certified accountants, while the creation of new jobs has to be demonstrated with a certificate issued by the labour authorities.

In addition, the third-country national needs to comply with the following requirements:

- The applicant has **public health insurance**;
- The applicant has his/her **place of residence in Romania**;
- Satisfactory **knowledge of the Romanian language** (at the time of the submission of the application the foreigner will also sit a Romanian language test);
- The applicant is not considered a threat to **national security or public order** (has not committed an intentional crime and has not been sentenced to more than five years in prison).⁸²

In order to be granted permanent residence, the foreign investor needs to submit the following **documents in person** to the local IGI office:⁸³

- **Application form** available in electronic format on the IGI website⁸⁴ and in hard copy at the local IGI offices;
- **Travel document**;
- **Documents** attesting the **place of residence** of the investor in Romania (either a purchase

⁷⁹ IGI website, 'Migration. Long-term residence in Romania', available at <http://igi.mai.gov.ro/ro/content/%C8%99ederea-pectermen-lung-%C3%AEn-rom%C3%A2nia> (accessed 24 May 2018).

⁸⁰ Information gathered through consultation with national stakeholder (IGI official, competent authority, 7 June 2018).

⁸¹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 7 June 2018).

⁸² Art. 71(1), OUG 194/2002.

⁸³ Art. 72, OUG 194/2002.

⁸⁴ IGI website, "Migration. Long-term residence in Romania. Application" available at http://igi.mai.gov.ro/igi/sites/all/themes/multipurpose_zymphonies_theme/images/Migratie/5_Cerere%20pentru%20acordarea%20dreptului%20de%20C2%A1edere%20pe%20termen%20lung%20-%20noua.pdf (accessed 29 May 2018)

agreement; rental agreement; Commodatum agreement; Court decision; Notary statement by which the owner of the property declares that he/she allows the investor to live on the property, accompanied by the property deed; or in the case of investors residing in rural areas, a certificate issued by the mayor attesting that either the applicant or the landlord is registered to the Agricultural Register);⁸⁵

- **Documents** attesting that the investor has the **minimum financial means** required by the law:
 - bank statement if the investor is the account holder; or
 - work agreement in the case of those investors who are employees; or
 - the annual balance sheet outlining the profit in the case of those applicants who undertake commercial activities.⁸⁶
- Proof that the investor is **insured** by one of the public social health insurance institutions:
 - Certificate issued by the health insurance institution
 - In the event that the investor is also an employee in Romania – the work agreement accompanied by a print screen in ReviSal (employees register that every employer needs to have)⁸⁷
- Criminal **record certificate** issued by the Romanian authorities.

To assess whether the foreign investor made the minimum investment of EUR 1,000,000, the General Inspectorate for Immigration can take into account certificates issued by the Trade Registry, certificates from the tax authorities and financial evaluation reports prepared by certified accountants. The investor must submit a certificate issued by the labour authorities to attest to the creation of the 100 new jobs.⁸⁸

Decision

The applications for permanent residence permits are analysed by a **special commission** created as part of IGI, by order issued by the head of IGI.⁸⁹ The commission is tasked with issuing **motivated proposals** for each case, the final decision on the applications is however made by the head of IGI.⁹⁰

The General Inspectorate for Immigration will reach a decision no later than six months after the application was registered, but for objective reasons, the head of the Inspectorate can extend the deadline by another three months. Such objective reasons usually refer to situations when IGI has to perform additional checks or when the applicant is requested to submit additional documents to support his/her claims.⁹¹

In case of an approval, the applicant will be informed in writing no later than 15 days after the decision has been taken. The foreign investor must go to the local office of the General Inspectorate for Immigration within 30 days from the notification and file a request for a permanent residence permit.⁹²

After having been granted the right to permanent residence, the foreign investor must nevertheless be physically present on the Romanian territory; the right to permanent residence ceases if the foreigner:

- Was absent from Romania for more than 12 consecutive months, except for the case when he/she benefited from a temporary residence in another EU Member State;

⁸⁵ IGI website, “Migration. Long-term residence in Romania. Proof of the living space”, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/pdf/click6comerciale.pdf (accessed 29 May 2018)

⁸⁶ IGI website, “Migration. Long-term residence in Romania. Proof of financial means of support”, available at http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/Migratie/click%204permanenta.pdf (accessed 29 May 2018).

⁸⁷ IGI website, “Migration. Long-term residence in Romania. Proof of social health insurance”, available at [http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/Migratie/dovada%20asigurare%20sanatate\(1\).pdf](http://igi.mai.gov.ro/sites/all/themes/multipurpose_zymphonies_theme/images/Migratie/dovada%20asigurare%20sanatate(1).pdf) (accessed 29 May 2018).

⁸⁸ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁸⁹ Art. 73(2), OUG 194/2002.

⁹⁰ Art. 73(1) and (2), OUG 194/2002.

⁹¹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁹² Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

- Was absent from Romania for more than six consecutive years, regardless of whether he/she may have been a temporary resident in another EU Member State during this time;
- Was granted permanent residence in another country.⁹³

Fees

When filing the request for a **permanent residence** permit, the applicant needs to pay two fees:

- The **processing of the application** – RON 128 (EUR 27.65),⁹⁴
- The **cost of the permanent residence permit** – RON 259 (EUR 55.95)⁹⁵.

Subsequent requests for the **renewal** of the residence permit will be charged **only with the latter**.

Remedy

The applicant can **appeal** the rejection before the **Bucharest Court of Appeals** no later than **30 days** following the notification.⁹⁶ There is no specific timeframe set for the Court of Appeals in which it has to decide on the appeal. Only the applicant whose request was rejected is entitled to file the appeal.

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

■ *Competent authorities*

The following authorities are involved in the **long-stay visa application** process for investors:

- The **Ministry of Foreign Affairs** (through the diplomatic missions and consular offices) analyse the application only after having received IGI and National Visa Centre approvals; however, the Ministry is free to perform its own analysis and is not bound by the decision of the other two authorities,⁹⁷
- The **General Inspectorate for Immigration** – is seized with a request from the Ministry of Foreign Affairs to approve the visa application. IGI transmits its decision to the National Visa Centre via the National Visa System (*Sistemului național de informații privind vizele*), but the latter is not bound by the IGI decision,⁹⁸
- The **National Visa Centre** – is seized only after the IGI issued its decision with regards to the visa application; the National Visa Centre is however not bound by the decision of IGI and carries out an independent analysis.⁹⁹
- The **Ministry of Business Environment, Commerce and Entrepreneurship** – it performs a technical evaluation of the business plan. The Ministry may ask other institutions to confirm the authenticity of the documents submitted and which had been issued by these other institutions,

The only **competent authority for the extension of temporary residence and for the granting of permanent residence** is the **IGI** is the only authority involved in this process.

■ *Involvement of non-public bodies*

The **Ministry of Foreign Affairs** can outsource certain limited tasks pertaining to the visa application procedure to external service providers.¹⁰⁰

According to Order 652/2018 regarding cooperation with external service providers in the field of visa

⁹³ Art. 70(3)(b)-(d), OUG 194/2002.

⁹⁴ Exchange rate at 24 May 2018.

⁹⁵ Exchange rate at 24 May 2018.

⁹⁶ Art. 74, OUG 194/2002.

⁹⁷ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁹⁸ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

⁹⁹ Information gathered through consultation with national stakeholder (official from the National Visa Centre, competent authority, 7 June 2018).

¹⁰⁰ Art. 29¹(2), OUG 194/2002.

application for entry into Romania, an external service provider is an economic operator carrying out visa application activities, forwarding them to the diplomatic missions and consular posts competent to deal with the requests and, after their settlement, the removal and handing over of the travel documents and, where appropriate, other documents presented.

These external providers include international firms supporting with visas applications for Romania¹⁰¹ as well as international tourism agencies.¹⁰²

The Law on Foreigners provides an exhaustive list of tasks that can be outsourced to external service providers, however the exact conditions of cooperation and tasks transferred to these external service providers are established by order of the Minister of Foreign Affairs:¹⁰³

- Provide **information** on the **application forms and conditions** for a Romanian visa;
- Provide **information** to the applicants on the **documents** that need to be submitted;
- **Collect data**, including biometric identifiers, where applicable, and **visa applications** and forward them to the Romanian diplomatic missions and consular offices;
- Collect the applicable **fees** and forward them to the Romanian diplomatic missions and consular offices;
- Manage the **scheduling** of the visa application **interviews**;
- Collect and return **travel documents** to and from the applicants.¹⁰⁴

The external service providers are barred from accessing the National Visa System and are not competent regarding the analysis of visa applications, carrying out of the interviews, decisions on the visa applications or printing and applying the visa stickers.¹⁰⁵ Even if the Ministry of Foreign Affairs outsourced some or all the tasks listed above, the applicants are free to choose if they will submit the applications with the external service providers (in case they were delegated this power) or directly with the diplomatic missions and consular offices.¹⁰⁶

No procedures for the **monitoring or control** of the activities of external service providers could be identified.

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

There is **no cap** for the investors temporary or permanent residence permits.¹⁰⁷

IGI is under **no scrutiny** from other authorities or bodies, but its activity in general is scrutinised by an oversight authority (*Corpul de Control*) within the Ministry of the Interior, which oversees the activity of all Ministry structures.¹⁰⁸

IGI is **not under any explicit obligation to report**, however they routinely share statistical information with the National Statistics Institute.¹⁰⁹

¹⁰¹ For example, website of Travel Visa Pro, available at <http://romania.travelvisapro.co.uk/>.

¹⁰² For example, website of Loyal Tours, available at <http://loyaltours.in/Visa-Services.php?id=romania>.

¹⁰³ Art. 29¹(2), OUG 194/2002.

¹⁰⁴ Art. 29¹(4), OUG 194/2002.

¹⁰⁵ Art. 29¹(3), OUG 194/2002.

¹⁰⁶ Art. 29¹(4), OUG 194/2002.

¹⁰⁷ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁰⁸ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁰⁹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

1.4 INFORMATION ON APPLICATIONS

Information on applicants, either successful or unsuccessful, are **not published**, the outcomes of the applications are communicated only to the applicants.¹¹⁰

There is no statistical information available on the applications for residence permits by foreign investors. The request to IGI for statistical data was unsuccessful.¹¹¹ While the National Statistics Institute makes various statistical data available on their website, the data is not disaggregated to provide details on whether applications were submitted by foreign investors or other third-country nationals.

The National Statistics Institute only published the annual total figures of all temporary residents in Romania, however the data does not show how many of these individuals were third-country national foreign investors or their family members.

Year	Number of temporary residents	Source
2012	167,266	National Statistics Institute website, TEMPO database - http://statistici.insse.ro/shop/
2013	153,646	
2014	136,035	
2015	132,795	
2016	137,455	
2017	No data available	

In the case of permanent residents, the National Statistics Institute also published only the annual total figures, without distinguishing between the different categories of foreign nationals.

Year	Number of permanent residents	Source
2012	21,684	National Statistics Institute website, TEMPO database - http://statistici.insse.ro/shop/
2013	23,897	
2014	36,644	
2015	23,093	
2016	27,863	
2017	No data available	

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

■ *Measures concerning residence permits granted to family members:*

Family members of foreign investors may apply for a **long-stay visa for family reunification** (symbol D/VF), which will grant them access on the territory of Romania for a period of **90 days**.¹¹² On this basis they can apply for a ‘**temporary residence for family reunification**’ and be issued a **temporary residence permit**. After the family member has spent five continuous years in Romania as a temporary resident, he/she is eligible to request **permanent residence**.

1. Long-stay visa

Family members are eligible to apply for a long-term visa only if the **foreign investor has been granted a temporary or permanent residence permit**.¹¹³

The **family members** are eligible for family reunification are:

- The **spouse** of the investor,

¹¹⁰ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹¹¹ The national expert contacted IGI on several occasions requesting statistical data but the request was never answered to.

¹¹² Art. 20(d)(vi) and art. 24(1)(f) OUG 194/2002.

¹¹³ Art. 46(1), OUG 194/2002.

- The **unmarried minor children** of the investor or his/her spouse, including those who were adopted,
- The **unmarried minor children** of the investor in his care and under his custody, including those who were adopted,
- The **unmarried minor children** of the spouse of the investor in his/her care and under his/her custody, including those who were adopted.¹¹⁴

IGI also has the **discretion** to approve an application concerning the following family members:

- The **parents** of the sponsor and/or of his spouse if they **are unable to support themselves and lack adequate family support in the country of origin**,
- The **unmarried adult children** of the sponsor or his/her spouse if the former are **unable to support themselves for medical considerations**.¹¹⁵

The Law on Foreigners envisioned a **two-step process** for the granting of long-stay visa. First, the investor needs to file an **application for family reunification with IGI** and only if the latter approves the request can the family member **apply for a long-stay visa for family reunification**.

➔ *Application for family reunification with IGI*

The **investor** needs to file an application with the local IGI office and submit the following documents:

- **Application form**, available in electronic format on the IGI website and in hard copy at the local IGI offices;
- **Marriage certificate or proof of family ties**;¹¹⁶
- **Notary declaration** by the investor, attesting to the fact that the family members will be living with him/her;
- Copy of the **document which attests that the investor was granted temporary or permanent residence** – temporary or permanent residence permit;
- Proof that the investor acquired the **living space** legally and has a home which is considered adequate for a similar family in Romania;
- Proof that the investor has **adequate financial means**;
- Proof that the investor concluded a **public social health insurance**;
- When dealing with a minor with shared custody – the **written consent of the person who shares custody** with the investor, by which the other person consents that the minor may live with the investor on the territory of Romania;
- **Copy of the travel document of the family member** for whom reunification is sought.¹¹⁷

IGI will grant the request for family reunification if the following **conditions** are met:

- There is **no suspected bigamy or polygamy**;
- The investor has a **living space which is considered normal** for a similar family in Romania;
- The investor possesses the **adequate financial means** to support himself/herself and an additional amount equal to the minimum net wage for each family member;
- The family member for whom family reunification is sought has a **valid travel document** recognised by Romania, he/she is **not flagged in the National Alert Informatic System** (*Sistemul informatic național de semnalări*) as barred from entering the Romanian territory and the family member is **not a threat to national defence and security, public order, health or morality**.¹¹⁸

IGI will reach a decision on the application **no later than three months** after the documents were submitted.¹¹⁹ If the request is approved, IGI will inform the applicant in writing no later than 60 days

¹¹⁴ Art. 46(1), OUG 194/2002.

¹¹⁵ Art. 46(2), OUG 194/2002.

¹¹⁶ Art. 46(8), OUG 194/2002. If the officials at IGI have doubts concerning the marriage or family ties, they can also request **other documents** that would enable them to reach a decision in this regard.

¹¹⁷ Art. 46(7), OUG 194/2002.

¹¹⁸ Art. 46(9), OUG 194/2002.

¹¹⁹ Art. 46(11), OUG 194/2002.

since a decision was reached and the latter will have to forward the decision to the family members concerned.¹²⁰ A motivated written decision will also be issued if the request is denied.¹²¹

→ *Visa application*

The family members of the investor will have to file a request for a **long-stay visa for family reunification** with the Romanian **diplomatic mission or consular office in the country of residence**,¹²² which needs to include:

- The **approval by IGI** discussed above;
- Proof of **health insurance for the duration of the visa**;
- A **criminal record certificate** or document with an equal legal value issued by the authorities in the country of residence of the family member.¹²³

The Law on Foreigners underlines that the application will be **rejected** if the conditions are not met, but also in case of bigamy or polygamy or if the application was based on a marriage of convenience.¹²⁴

2. Temporary residence permit

According to the Law on Foreigners, the family members of foreign investors must apply for a temporary residence permit for family unity under the general procedures described above. This is referred to in the law as an ‘extension of the right to temporary residence’. The **applicant, together with their spouse**, will be invited to sit an **interview** with IGI.¹²⁵

The right to temporary residence for family members is granted for a **duration equal to that of the validity of the permit** of the foreign investor; in case the investor is a **permanent resident**, the right to temporary residence of family members can be extended for **up to five years**.¹²⁶

The request is **denied** if IGI officials find a situation of **bigamy or polygamy**, if they conclude that the spouses no longer have a **real marital relationship or a family relationship** on the territory of Romania¹²⁷ or if they conclude that the spouses entered into a **marriage of convenience**.¹²⁸

The Law on Foreigners also provides for an **independent right of residence** that can be afforded to family members. Normally, the only connection that such family members have with Romania is represented by their family relationship with a resident, a foreign investor in our case. However, if the family member spent a considerable amount of time in Romania, it is considered that he/she developed a separate set of ties with the country that are independent from those facilitated by the family relationship and which survive even if the latter are severed. As such, Article 64 in the Law on Foreigners provides that the foreigners who have a **temporary residence permit for family reunification** and have been **temporary residents on grounds of family reunification for the past five years**, have the right to apply for the right of independent residence.¹²⁹ The family member can request that the latter requirement be waived if the family ties ended by means of divorce, end of partnership or death of the foreign investor.¹³⁰

If the application is approved, the family member will be granted **temporary residence for up to six months**, starting at the time of the filing of the application or, in the case of those family members who

¹²⁰ Art. 46(12), OUG 194/2002.

¹²¹ Art. 46(13), OUG 194/2002.

¹²² Art. 46(14), OUG 194/2002.

¹²³ Art. 46(12) and (15), OUG 194/2002.

¹²⁴ Art. 46(19), OUG 194/2002.

¹²⁵ Art. 51(7), OUG 194/2002.

¹²⁶ Art. 62(5), OUG 194/2002.

¹²⁷ Art. 62(4), OUG 194/2002.

¹²⁸ Art. 63(1), OUG 194/2002.

¹²⁹ Art. 64(1), OUG 194/2002.

¹³⁰ Art. 64(2), OUG 194/2002.

requested a waiver, the time when the circumstances on which the waiver is based occurred.¹³¹ The family members who are eligible for independent residence and those who were already granted independent residence may apply for an **extension of temporary residence for any of the grounds** provided for in the Law on Foreigners (professional, commercial or economic activities, work, studies, family reunification, humanitarian or religious activities, research or other grounds) **without having to obtain a long-stay visa** first.¹³²

3. Permanent residence

The procedures for permanent residence for family members are the same as those described above.

- *Statistical information on applications for residence permits by family members*

There is no statistical information available on the applications for residence permits by family members of foreign investors. While the National Statistics Institute makes various statistical data available on their website, the data is not disaggregated to provide such details.

¹³¹ Art. 64(4), OUG 194/2002.

¹³² Art. 64(5), OUG 194/2002.

2 TYPE OF INVESTMENT¹³³

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
Business – capital investment into a new or existing Romanian company ¹³⁴	Visa application: <ul style="list-style-type: none"> ■ EUR 100,000 and creation of at least 10 new jobs in the case of a limited liability company; ■ EUR 150,000 and at least 15 new jobs in the case of a joint-stock company¹³⁵ <p>For the purposes of this procedure, the investor only has to demonstrate that he/she has the necessary capital and the business plan must foresee the creation of the required number of new jobs. The investment and job creation can be made up to 12 months following the issuance of the residence permit.</p>	<p>This check is performed when the investor requests the approval of the business plan from the Ministry of Business Environment, Commerce and Entrepreneurship, prior to the visa application.</p> <p>In order to demonstrate that he/she has the required capital to invest, the investor needs to submit a single bank statement from a Romanian bank.¹³⁶ This means that the investor needs to have already opened an account with a bank in Romania and to have transferred the entirety of the capital into that account.</p>	<p>Foreign investors need to file a visa application and request an approval from the Ministry of Business Environment, Commerce and Entrepreneurship.¹³⁷ The Ministry works independently from other authorities.¹³⁸</p> <p>The diplomatic mission and consular offices are bound by the decision of the Ministry and cannot issue a visa unless the applicant can submit the approval of the Ministry of Business Environment, Commerce and Entrepreneurship.¹³⁹</p> <p>The Ministry of Foreign affairs can outsource certain powers to external service providers, non-public entities.¹⁴⁰ The contracts signed by and between the diplomatic mission and the external service providers</p>
	Applications for the temporary residence permit Some conditions are waived/the permit is issued for longer if the following thresholds are met: <ul style="list-style-type: none"> ■ Waiver of conditions pertaining to personal financial means if the investor:¹⁴² <ul style="list-style-type: none"> - Invests EUR 150,000 or creates 25 new jobs for a limited liability company (the proof of personal 		

¹³³ For the purposes of this Table, the term ‘investment’ covers any pecuniary disbursement required as part of the process for obtaining residence under the investors’ residence scheme.

¹³⁴ Art. 24(1)(c), OUG 194/2002.

¹³⁵ Art. 43(2)(c), OUG 194/2002.

¹³⁶ Art. 43(2)(b), OUG 194/2002.

¹³⁷ Art. 43(2), OUG 194/2002.

¹³⁸ Art. 1(1), Procedure of issuance of the specialised approval for the business plan of foreign investors, necessary for the Romanian long-stay visa for commercial purposes, issued by the Ministry of Business Environment, Commerce and Entrepreneurship on 31 May 2017.

¹³⁹ Art. 43(5), OUG 194/2002.

¹⁴⁰ Art. 29¹, OUG 194/2002.

¹⁴² Art. 55(4), OUG 194/2002.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
	<p>financial means can be made using any documents)¹⁴³</p> <ul style="list-style-type: none"> - Invests EUR 200,000 or creates 50 new jobs in the case of joint-stock companies <ul style="list-style-type: none"> ■ Extension granted for three years if the investor: <ul style="list-style-type: none"> - Invests EUR 500,000 or creation of 50 new jobs (applicable to both limited liability companies and joint-stock companies)¹⁴⁴ 		<p>provide for the terms and conditions of this cooperation.¹⁴¹</p> <p>No reporting or scrutiny mechanisms could be identified.</p>
	<p>Additional threshold applicable to subsequent extensions of temporary residence, starting with the second temporary residence permit being sought:</p> <ul style="list-style-type: none"> ■ EUR 70,000 and 15 new jobs for shareholders; ■ EUR 50,000 and 10 new jobs for associates¹⁴⁵ <p>The investor does not have to make this investment each time, but s/he is required to make this proof every time s/he applies for an extension, to demonstrate that the investment is kept at the appropriate level.</p>	<p>The investment is demonstrated with a Trade Register (<i>Registrul Comerțului</i>) certificate (<i>certificat constatator</i>), which contains details pertaining to the identity and contribution of each associate or shareholder. The investor can demonstrate that a certain number of new jobs were created by submitting a certificate issued by the local labour authorities.¹⁴⁶ This check is performed every time the investor applies for an extension of temporary residence.</p>	<p>The same authorities are involved as in the general procedure, namely the IGI; there are no non-public bodies involved.¹⁴⁷</p>
	<p>Permanent residence:</p> <ul style="list-style-type: none"> ■ If the applicant makes an investment of EUR 1,000,000 EUR or 100 new jobs, the conditions of continuous residence of five years and personal 	<p>This check is performed when the investor files a request for permanent residence. Conditions of continuous residence or proof of financial means</p>	<p>The same authorities are involved as in the general procedure, namely the IGI; there are no non-public bodies involved.¹⁵⁰</p>

¹⁴³ Art. 55(4), OUG 194/2002.

¹⁴⁴ Art. 55(5), OUG 194/2002.

¹⁴¹ Art. 10(1) and (3), Order 652/2018 on the cooperation with external service providers for the applications of Romanian entry visas issued by the Minister of Foreign Affairs (*Ordinul 652/2018 privind cooperarea cu prestatorii externi de servicii în materie de solicitare a vizelor de intrare în România*), Official Journal, Part I, no. 418 of 16 May 2018, available at <http://legislatie.just.ro/Public/DetaliiDocument/200702> (**Order 652/2018**).

¹⁴⁵ Art. 55(2)(e), OUG 194/2002.

¹⁴⁶ Art. 55(3)(c) and (f), OUG 194/2002.

¹⁴⁷ Art. 50(1), OUG 194/2002.

¹⁵⁰ Art. 72(1), OUG 194/2002.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
	financial means equal to the minimum wage are waived ¹⁴⁸	are waived if the investor submits a certificate issued by the Trade Registry, certificates from the tax authorities and financial evaluation reports prepared by certified accountants demonstrating the investment of EUR 1,000,000 and creation of 100 new jobs. Proof of creation of new jobs is made with a certificate from the labour authorities. ¹⁴⁹	

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
Temporary residence permit for commercial activities issued for one year (or three years if investment exceeds EUR 500,000 or creates more than 50 new jobs) ¹⁵¹	The foreign investor does not have to meet any residence conditions.	The same authorities are involved as in the general procedure, namely the IGI; there are no non-public bodies involved. ¹⁵²	The right to temporary residence and the temporary residence permit have to be renewed every year (or every three years if investment exceeded EUR 500,000.000 or created more than 50 new jobs). ¹⁵³ The foreign investor can file a request with IGI at least 30 days prior to the expiry of the temporary residence in place ¹⁵⁴ and if the

¹⁴⁸ Art. 71(4), OUG 194/2002.

¹⁴⁹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁵¹ Art. 55(5), OUG 194/2002.

¹⁵² Art. 50(1), OUG 194/2002.

¹⁵³ Art. 55(5), OUG 194/2002.

¹⁵⁴ Art. 51(1), OUG 194/2002.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
			application is successful a new temporary residence permit with the same duration of validity is issued automatically (procedure explained in section 2). ¹⁵⁵ The temporary residence permit can be renewed for an indefinite number of times, however, for each application, the investor needs to demonstrate that the conditions pertaining to the capital investment and jobs created continue to be fulfilled.
Permanent residence permit valid for five years	<p>In order to be granted permanent residence, the investor needs to have had a continuous physical presence on the Romanian territory for five years; during this time, he/she should not have been absent for more than six months at a time or ten months in total. This condition is checked only once, when the foreign investor requests permanent residence with IGI.¹⁵⁶</p> <p>Once granted permanent residence, the foreigner must maintain a continuous physical residence, otherwise the right to permanent residence will cease; the foreigner must not be granted permanent residence in another country, must not be absent from the Romanian territory for more than 12 consecutive months, unless during this time he/she was a temporary resident in another EU Member State and must not be absent from Romania for more than six consecutive years, regardless of whether during this time</p>	The same authorities are involved as in the general procedure, namely the IGI; there are no non-public bodies involved. ¹⁵⁹	No later than 30 days prior to the expiry of the five year validity of the permit, the investor has to file a request with IGI for a new permanent residence permit (procedure explained in section 1). A new permanent residence permit will be issued, valid for another five years.

¹⁵⁵ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁵⁶ Art. 71(1), OUG 194/2002.

¹⁵⁹ Art. 72(1), OUG 194/2002.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
	<p>he/she may have been a temporary resident in another EU Member State.¹⁵⁷</p> <p>IGI is mandated to monitor the stay of all foreigners on the Romanian territory and to revoke or cancel the right to permanent residence when applicable.¹⁵⁸</p>		

4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>Applicants need to submit a criminal record certificate in every step of the procedure – visa application,¹⁶⁰ extension of the temporary residence,¹⁶¹ granting of permanent residence.¹⁶²</p> <p>The legal provisions do not refer to checks pertaining to the origin of the money invested when applying for a visa, extension of temporary residence or application for permanent residence.</p>	<p>The criminal record check is an integral part of each step leading to permanent residence – long-stay visa application, application for the extension of temporary residence, application for the granting of permanent residence; it is performed for each and every application and the assessment is made based on the criminal record certificate submitted by the applicant. Additionally, applications for long-stay visa are</p>	<p>IGI is tasked with performing the criminal records checks for all foreigners, including foreign investors, for visa application,¹⁷¹ extension of temporary residence¹⁷² and application for permanent residence.¹⁷³</p> <p>Criminal record checks are usually made on the basis of the criminal record certificate, however when necessary, IGI can also request the</p>	<p>IGI is competent to monitor a foreigner throughout his/her stay in Romania. Should they discover elements that would justify the cancellation or withdrawal of the residence right, it can take the appropriate steps in this respect.¹⁷⁵</p> <p>No information on cases of misuse associated with</p>

¹⁵⁷ Art. 70(3)(b)-(d), OUG 194/2002.

¹⁵⁸ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁶⁰ Art. 43(5)(b), OUG 194/2002.

¹⁶¹ IGI website, “Migration. Extension of the stay right. Business activities”, available at <http://igi.mai.gov.ro/ro/content/activit%C4%83%C8%9Bi-comerciale> (accessed 06 June 2018).

¹⁶² Art. 72(1)(e), OUG 194/2002.

¹⁷¹ Art. 30(8), OUG 194/2002.

¹⁷² Art. 50(1), OUG 194/2002.

¹⁷³ Art. 73(1), OUG 194/2002.

¹⁷⁵ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>The IGI official interviewed confirmed that the Inspectorate was not competent to carry out this type of checks; nevertheless, IGI can inform the authorities specialised in money laundering if they have suspicions concerning the origin of the money.¹⁶³</p> <p>When applying for a long-stay visa, the foreign investor needs to open an account with a Romanian bank and deposit the sums necessary for the investment.¹⁶⁴ Banking institutions are under the obligation to establish and implement know-your-client due diligence measures¹⁶⁵ which should include at least a client acceptance policy, procedures for the identification and ongoing monitoring of clients and their operations.¹⁶⁶</p> <p>All banking institutions are under the obligation to inform the National Office for the Prevention and Combatting of Money Laundering (<i>Oficiul Național de Prevenire și Combatere a Spălării Banilor</i>) when they suspect that an operation may involve money laundering or terrorism financing.¹⁶⁷ The Office will analyse the situation and, should it conclude that there is substantial grounds to believe that this is the case, it will seize</p>	<p>accompanied by checks in the National Alert Informatic System (<i>Sistemul informatic național de semnalări</i>), Schengen Information System and the Integrated Informatic System on Issues of Migration, Asylum and Visas (<i>Sistemul informatic integrat pentru managementul migrației și azilului</i>) and those for the extension of temporary residence incur checks in the first two of these databases. This is the electronic component of the National System for Foreigners Records, which contains the records kept by IGI with the personal data and other information discovered in the course of its activity. The System is composed of three sub-systems: the Informatic System for the Management of Foreigners (<i>Sistemul informatic de management al străinilor</i>), the On-Line Informatic System (<i>Sistemul informatic visa on-line</i>), a sub-component of the National Visa System (<i>Sistemului</i></p>	<p>assistance of the General Inspectorate of the Romanian Police.¹⁷⁴</p>	<p>corruption and fraud was identified.</p>

¹⁶³ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁶⁴ Art. 43(2)(b), OUG 194/2002.

¹⁶⁵ Art. 13(1) and Art. 18, Law 656/2002 on the prevention and sanctioning of money laundering and for the establishment of measures for the prevention and combatting of terrorism financing (*Legea 656/2002 pentru prevenirea și sancționarea spălării banilor, precum și pentru instituirea unor măsuri de prevenire și combatere a finanțării terorismului*), Official Journal, Part I, no. 702 of 12 October 2012 (latest republication), available at <http://legislatie.just.ro/Public/DetaliiDocument/40569> (Law 656/2002).

¹⁶⁶ Art. 5(2), Regulation 9/2008 of the National Bank of Romania on “know your customer” rules in order to prevent money laundering and terrorism financing (*Regulamentul 9/2008 privind cunoașterea clientului în scopul prevenirii spălării banilor și finanțării terorismului*), Official Journal, 527 of 14 July 2008, available at <http://legislatie.just.ro/Public/DetaliiDocument/95593> (Regulation 9/2008).

¹⁶⁷ Art. 5(1), Law 656/2002.

¹⁷⁴ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>the Office of the Prosecutor attached to the High Court on Cassation and Justice; in case of suspicion of terrorism financing, the Office will also inform the Romanian Intelligence Service.¹⁶⁸</p>	<p><i>național de informații privind vizele</i>) limited to the information entered by the Ministry of the Interior and the Asylum Evidence System (<i>Sistemul de evidență a azilului</i>)¹⁶⁹</p> <p>OUG. 194/2002 establishes multiple grounds for which a rejection decision can be reached in various stages of the procedure, based on criminal records checks, including threats to public order.</p> <p>Know-your-client due diligence checks are performed when the foreign investor opens an account with a Romanian bank, as well as on a regular basis.¹⁷⁰</p>		

¹⁶⁸ Art. 8(1), Law 656/2002.

¹⁶⁹ Information gathered through consultation with national stakeholder (IGI official, competent authority, 30 May 2018).

¹⁷⁰ Art. 5(2), Regulation 9/2008 of the National Bank of Romania.

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

The Government Emergency Ordinance 92/1997 on the stimulation of direct foreign investment (OUG 92/1997) explicitly provides for the **equality of treatment** between Romanian and foreign investors.¹⁷⁶

The Ordinance guarantees, *inter alia*, that the investors may **invest in any sector** and in any legal entities provided for by existing laws. It also guarantees against **nationalisation, expropriation** or similar measures, assistance with **administrative formalities**, the right to appear before the competent courts of law or arbitration tribunals, the right to hire foreign citizens.¹⁷⁷

In its original form, the law contained a series of **fiscal facilities** for foreign investors¹⁷⁸, which have been repealed over time; the only such facility still in place refers to the right to a full tax deduction for the **cost of advertisement and publicity**.¹⁷⁹

Foreign investors who have been granted a temporary residence permit who are employees and those unemployed who registered with the unemployment authorities, foreign investors included, are guaranteed equal treatment regarding work conditions, access to all forms of education and life-long learning, recognition of qualifications, social security rights, public health services, tax deductions and exemptions, access to public goods and services, freedom of association and membership to union and professional associations, as well as services provided by the employment agencies.¹⁸⁰

In addition, holders of **permanent residence** permits have the same rights as Romanian citizens regarding their access to the labour market, including the right to be employed and self-employed, access to all forms of education and life-long learning, recognition of qualifications, social security rights, public health services, tax deductions and exemptions, access to public goods and services, freedom of association and membership to union and professional associations.¹⁸¹

Regarding the involvement of the foreigner in the business he/she invested in, there are no provisions prohibiting or limiting such involvement. Foreign investors have to be associates or shareholders in Romanian companies, they have all the rights and duties associated with these positions. Furthermore, investors who are sole associate in a limited liability company also have the rights and obligations of the general assembly of the associates.¹⁸²

All foreigners granted residence in Romania (there is no distinction between temporary or permanent residence) can benefit from **integration services** from the Romanian government,¹⁸³ which include Romanian language classes, life-long learning opportunities, information on their rights and obligations and integration opportunities, Romanian history, culture, civilisation and legal system classes, meetings between foreigners and Romanian citizens.¹⁸⁴

¹⁷⁶ Art. 9, Government Emergency Ordinance 92/1997 on the stimulation of direct investments (*Ordonanța de Urgență 92/1997 privind stimularea investițiilor directe*), Official Journal, Part I, 386 of 30 December 1997, available at <http://legislatie.just.ro/Public/DetaliuDocument/11574> (OUG 92/1997).

¹⁷⁷ Art. 4(2), OUG 92/1997.

¹⁷⁸ Exemptions from custom duties for imported goods that constituted investment in kind; exemption from custom duties for imported equipments that constituted depreciable assets; when making a new investment, the possibility to benefit from one of two tax incentives – either a deduction of depreciation expenses from the taxable income, or a deduction of 20% of the price for equipments that constituted depreciable assets from the taxable income; recovery of annual loss.

¹⁷⁹ Art. 13(d), OUG 92/1997. There are no further details in the law, it is simply stipulated that foreign investors have the right to the full tax deduction of the costs they incurred with advertising and publicity.

¹⁸⁰ Art. 80¹(3), OUG 194/2002.

¹⁸¹ Art. 80¹(1), OUG 194/2002.

¹⁸² Art. 13(1), Law 31/1990.

¹⁸³ Art. 79(1), OUG 194/2002.

¹⁸⁴ Art. 79, OUG 194/2002.

The Law 95/2006 on health reform provides that third-country nationals with a temporary residence permit or a permanent residence permit are eligible to be included in the national health system.¹⁸⁵

2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Family members holding a temporary residence permit can carry out **economic and professional activities and can be employed**, as long as they adhere to the conditions set by the law for the respective activities.¹⁸⁶

Once granted permanent residence these family members, they can benefit from the **same rights and facilities as the investors and all other foreigners** who have been granted permanent residence permits.

Those family members granted temporary or permanent residence can also benefit from the **integration services** offered by the Romanian government, under the same conditions as other foreigners.¹⁸⁷

3 OTHER BENEFITS

The legal framework **does not provide for any special benefits** for the foreign investors or their family members, different from those established for Romanian or other types of investors.

The Tax Code (*Codul Fiscal*), Law 227/2015, establishes the **principle of neutrality of fiscal policy** in relation to the various categories of investors, capitals and form of property, whereby establishing the **same taxation level** for all investors and capitals, whether Romanian or foreign.¹⁸⁸

There are **tax incentives** in place that benefit all investors, foreign or Romanian, including e.g.:

- Tax credit of up to 80% of the corporate tax due, for up to 10 years, for investments exceeding approx. EUR 330,000, subject to EU state aid legislation.;
- Incentives for investment in certain sectors (production, logistics, service centres, R&D, tourism, film production, sports, etc.¹⁸⁹
- 50% additional corporate tax deduction for eligible expenditure related to R&D activities;
- Corporate tax exemption for the first 10 years of activity for taxpayers carrying out exclusively innovation, research and development activity;

The Ministry of Business Environment, Commerce and Entrepreneurship includes a Directorate for Foreign Investment the task of which is to attract and facilitate foreign investment. This structure was created to offer **professional assistance and consultancy services** to foreign investors free of charge and one of its objectives is to participate actively in events that promote Romania as a business destination, continuing to develop projects that increase visibility and stimulate investment, facilitate the connections between the main actors (foreign and Romanian companies, universities, local and

¹⁸⁵ Art. 222, Law 95/2006 on the health reform (recast) (*Legea 95/2006 **republicată** privind reforma în domeniul sănătății*), Official Journal, Part I, no. 652 of 28 August 2015, available at <http://legislatie.just.ro/Public/DetaliiDocument/71139> (Law 95/2006).

¹⁸⁶ Art. 65, OUG 194/2002.

¹⁸⁷ Art. 79m OUG 194/2002.

¹⁸⁸ Art. 3(a), Law 227/2015 on the Tax Code (*Legea 227/2015 privind Codul fiscal*), Official Journal, Part I, no. 688 of 10 September 2015, available at <http://legislatie.just.ro/Public/DetaliiDocument/171280> (the Tax Code)

¹⁸⁹ Foreign Investors Council website, "Foreign Direct Investment: Development and Importance in Romania", available at <https://www.fic.ro/Documents/view/Report-Foreign-Direct-Investment-Development-and-Importance-in-Romania> (accessed 07 June 2018).

central public authorities, the media, blue angels and other types of potential investors).¹⁹⁰

¹⁹⁰ Ministry of Business Environment, Commerce and Entrepreneurship website, “Foreign investment”, available at <http://www.imm.gov.ro/investitii-straine> (accessed 25 May 2018).

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

There are no special rules pertaining to the granting of citizenship on the basis of a residence permit obtained by an investor. Investors who wish to become Romanian citizens have to go through the **general naturalisation process**.

Romanian citizenship can be granted to those foreigners who have had their **main residence** in Romania for the past **eight years** (or five years, if the foreigner was married and cohabited with a Romanian citizen).¹⁹¹

If the applicant spends more than six months in a year abroad, that entire year is disregarded for the purposes of the citizenship application.¹⁹² The timeframe can be **reduced to half** of its duration if the applicant invested at least **EUR 1,000,000** in Romania – four years or two and a half years if the foreigner is married to a Romanian citizen.¹⁹³

Romanian legislation operates a distinction between regular residence (*reședință*) and main residence (*domiciliu*). Law 21/1991 on Romanian Citizenship provides that only **main residence** can constitute a basis for citizenship.¹⁹⁴ In the case of foreigners, the main residence is established upon being granted a permanent residence permit.¹⁹⁵

Aside from the condition of residence, the foreigners who apply for Romanian citizenship need to also fulfil certain additional criteria:

- Demonstrated their **loyalty towards the Romanian state** through their actions, conduct and attitude;
- Demonstrate that they did not undertake or support actions directed **against the rule of law or national security** and that he/she has never had such conduct in the past either,
- **Is over the age of 18;**
- **Has adequate financial means;**
- Is known to have a **good conduct and has not been convicted**, either in Romania or abroad, for crimes which make him/her unworthy to be a Romanian citizen;
- Speaks the **Romanian language** and has basic knowledge of **Romanian culture and civilisation**, capable of allowing him/her to integrate into the social life;
- Is familiar with the provisions of the Romanian **Constitution** and with the **national anthem**.¹⁹⁶

The process of obtaining Romanian citizenship is not automatic, it is subject to an ordinary naturalisation. **Investors need to fulfil the general conditions for naturalisation, with the only exception that the duration of the required period of residence can be reduced by half for an investment of over EUR 1,000,000.**

The National Citizenship Authority did not publish any data on number of third-country nationals investors who obtained Romanian citizenship. The statistics provided on a monthly basis¹⁹⁷ and the annual reports¹⁹⁸ only disaggregates the data according to the legal basis for citizenship (for example,

¹⁹¹ Art. 8(1)(a), Law 21/1991 on the Romanian citizenship (*Legea 21/1991 a cetățeniei române*), Official Journal, Part I, no. 576 of 13 August 2010 (latest republication), available at <http://legislatie.just.ro/Public/DetaliiDocument/121439> (**Law 21/1991**).

¹⁹² Art. 8(3), Law 21/1991.

¹⁹³ Art. 8(2)(d), Law 21/1991.

¹⁹⁴ Art. 8(1)(1), Law 21/1991.

¹⁹⁵ Information gathered through consultation with national stakeholder (IGI official, competent authority, 7 June 2018).

¹⁹⁶ Art. 8(1), Law 21/1991.

¹⁹⁷ Ministry of Justice, National Authority for Citizenship website, Statistics, available at <http://cetatenie.just.ro/index.php/ro/prezentare/statistici-anc>.

¹⁹⁸ Ministry of Justice, National Authority for Citizenship website, Annual Reports, available at <http://cetatenie.just.ro/index.php/ro/prezentare/rapoarte-si-studii>.

naturalisation – art. 8, naturalisation for outstanding sports performance – art. 8¹ etc.).

Year	Total number of successful citizenship applications	Source
2012	77,267	cetatenie.just.ro/media/rapoarte/Raport.anual_-ANC.-2012.pdf
2013	69,072	cetatenie.just.ro/media/rapoarte/anexa-Raportului-anual2.pdf
2014	68,059	cetatenie.just.ro/images/Anexa_raport_activitate_2014.pdf
2015	55,305	cetatenie.just.ro/images/media/rapoarte/Anexa_Raport_Activ_ANC_2015.xls
2016	81,050	cetatenie.just.ro/images/BILANT_2016.pdf
2017	84,771	cetatenie.just.ro/images/raport_anual_activit__ANC_2017_pentru_MJ_2.pdf

V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

No mechanism to monitor the economic impact of the scheme was identified. Given that there are no data available on the number of successful applications, it is difficult to assess the economic impact of the scheme. The National Statistics Institute confirmed that they were not in the possession of any information on the economic impact of foreign investors residence schemes¹⁹⁹ and the Ministry of Business Environment, Commerce and Entrepreneurship was unresponsive to our requests for consultations.

Media reports in Romania provide some general information regarding foreign investments in Romania.

The president of the Foreign Investors Council (*Consiliul Investitorilor Străini*), an organisation representing the largest foreign companies in Romania (130 companies that have a total RON 183,000,000,000.00 turnover (26% of Romania's GDP))²⁰⁰, declared in February 2018 that Romania is becoming less and less attractive to foreign investors.

The president of the Foreign Investors Council drew attention to the fact that the repeated changes and attempted changes to fiscal policy had a considerable impact and generated distrust among foreign investors. The transfer of contributions to social security from the employer to the employee, split VAT, the attempted switch to a 1% turnover tax for small businesses to replace the 16% profit tax are three fundamental fiscal changes cited by investors as a major source of instability.²⁰¹ He added that Romania had not been able to attract large investments in recent years. Given the economic growth in the EU, one would have expected an increase in foreign investments in Romania.

This conclusion was also shared at Euromoney 2018, the conference for the investors in Central and Eastern Europe held in Vienna, where it was also pointed out that this was caused by the unsustainable budget deficit, political instability and corruption.²⁰² The president of the Foreign Investors Council mentioned that there were foreign investors who were interested in doing business in Romania, but reconsidered, due to the political climate.²⁰³

The Foreign Investors Council (FIC) published a report²⁰⁴ on the state of foreign investments in 2017, which highlighted the following:

- Foreign Direct Investment has contributed significantly to the modernisation of the Romanian economy as well as to its integration into the European market and international production chains;
- Between 2010 and 2015, foreign companies continued to hire even though their turnover remained relatively constant. This suggests that most have made long term investments in Romania and they

¹⁹⁹ Information gathered through consultation with national stakeholder (National Statistics Institute, competent authority, 2 July 2018).

²⁰⁰ Foreign Investors Council website, "Membership. FIC in numbers", available at <https://www.fic.ro/membership/fic-in-numbers> (accessed 07 June 2018).

²⁰¹ Article by Adevarul, available at http://adevarul.ro/economie/stiri-economice/haosul-legislativ-inchide-afacerile-romania-in-3-luni-s-au-facut-120-modificari-codul-fiscal-1_5ad475eedf52022f75e3d764/index.html ; Article by Relitatea.net, available at https://www.realitatea.net/investitorii-straini-alungati-de-guvern-120-de-modificari-de-taxe-in-primele-trei-luni_2144432.html (accessed 08 June 2018).

²⁰² Article by Ziarul Financiar, available at <http://www.zf.ro/zf-24/vazuta-romania-analisti-investitori-straini-cea-mare-crestere-economica-europa-reuseste-scape-stigmatul-deficitului-bugetar-nesustenabil-perceptia-asupra-coruptiei-16931315> (accessed 07 June 2018).

²⁰³ Article by Ziare.com, available at <http://www.ziare.com/afaceri/investitii-straine/investitorii-straini-avantajele-romaniei-se-erodeaza-rapid-exista-investitori-care-s-au-intors-din-drum-nu-poti-face-afaceri-intr-o-tara-pustie-interviu-1503354> (accessed 07 June 2018).

²⁰⁴ Foreign Investors Council website, "Foreign Direct Investment: Development and Importance in Romania", available at <https://www.fic.ro/Documents/view/Report-Foreign-Direct-Investment-Development-and-Importance-in-Romania> (accessed 05 July 2018).

- are not focussed on merely making short-term profits;
- Foreign companies account for an average of 70% of Romania's exports, as well as for 60% of its imports;
- Although the general perception is that the volume of FDI is high, Romania has the lowest FDI stock per capita in the region (EUR 3,130 per capita);
- Almost half of all FDI has been in the industrial sector. These investments are long-term and capital intensive;
- Romania has the second most stable macroeconomic framework in the region after the Czech Republic, but is among the last when it comes to the other indicators like infrastructure, tertiary education and training, and labour market efficiency.²⁰⁵

The National Bank of Romania estimated that between January and April 2018, total foreign investment in Romania amounted to EUR 1,454 Million, EUR 263 Million more than in the same period of the previous year.²⁰⁶ Direct foreign investments amounted to EUR 4,517 Million in 2016 and at the end of the year, it reached the total of EUR 48,964 Million. Most of these investments were made in the manufacturing industry, followed by constructions, real estate, commerce, financial brokering and insurances.²⁰⁷

²⁰⁵ Foreign Investors Council website, “Foreign Direct Investment: Development and Importance in Romania”, available at <https://www.fic.ro/Documents/view/Report-Foreign-Direct-Investment-Development-and-Importance-in-Romania> (accessed 05 July 2018).

²⁰⁶ National Bank of Romania website, “Statistics. Data sets. Balance of Payments and International Investment Position - BPM6. Direct investment - directional principle”, available at <http://bnr.ro/Investitii-directe---principiul-direc%C8%9Bional-12332.aspx> (accessed 05 July 2018)

²⁰⁷ National Bank of Romania website, “Foreign Direct Investment in Romania in 2016”, available at <http://bnr.ro/DocumentInformation.aspx?idDocument=26094&idInfoClass=9403> (accessed 07 June 2018)