

## **Act CXXXIX of 1997 on Asylum <sup>1</sup>**

Parliament

hereby adopts the following Act on Asylum in the interest of the implementation of Article 65 of the Constitution, taking account of the provisions of the Convention relating to the Status of Refugees adopted on 28 July 1951 and of the Protocol relating to the Status of Refugees of 31 January 1967 (hereinafter referred to as the "Geneva Convention"); with regard to the contents of Article 3 of the Convention on the Protection of Human Rights and Fundamental Freedom signed in Rome on 4 November 1950 and to the international practice; recognising and counting on the activities of non-governmental organisations active in the field of providing assistance to refugees and respecting the humanitarian traditions of the country.

### **Chapter I**

#### **BASIC PROVISIONS**

##### **Section 1**

The purpose of this Act is to define the rights and obligations attached to asylum granted in the territory of the Republic of Hungary, to ensure the protection of human rights and fundamental freedom by establishing the guarantees of lawfulness in the official proceedings related to asylum, and to guarantee the enforcement of the prohibition of discrimination on racial, religious and national grounds or on grounds of political opinion.

##### **Section 2**

For the purposes of this Act

a) refugee:

a foreign citizen or a stateless person (hereinafter: foreigner) who, owing to his/her persecution or to his/her well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, having left the country of his/her nationality, or his/her habitual residence in the case of a stateless person, stays in the territory of the Republic of Hungary, and is unable or, owing to such fear, is unwilling to avail himself/herself of the protection of that country;<sup>2</sup> provided that the person concerned has been recognised as a refugee, at the request of the person concerned, by the Refugee Authority;

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<sup>1</sup> Adopted by the Parliament on 9 December 1997, promulgated on 15 December 1997, entered into force on 1 March 1998; amended by: Act LXXV of 1999 (in force since 1 September 1999), Act XXXVIII of 2001 (partly in force since 1 January 2002 and partly since 1 May 2004), Act XXIX of 2004 (in force since 1 May 2004) and Act LXIX of 2004 (in force since 10 July 2004).

<sup>2</sup> Section 2 paragraph a) has been amended by Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

- b) temporarily protected person (a person benefiting from temporary protection):<sup>3</sup>  
a foreigner who is a member of a group of people arriving en masse in the territory of the Republic of Hungary, where the group has been designated to be eligible for temporary protection by the Government or by an institution of the European Union authorised, because the members of said group were forced to escape from their country due to armed conflicts, civil war, or ethnic clashes, and/or due to the general, systematic or brutal violation of human rights - in particular: torture, inhuman or degrading treatment;
- c) unaccompanied minor:<sup>4</sup>  
a foreigner under 18 years of age, excepting persons who have attained adult status under Hungarian law, who entered the territory of the Republic of Hungary unaccompanied by an adult person responsible for her/him on the basis of law or tradition, or who remains without supervision following entry, as long as s/he gets under the attendance/supervision of such a person;
- d) safe country of origin:  
the presumption relating to the country of nationality, or in the case of a stateless person, to the habitual residence, of the person seeking recognition as refugee, that said country adheres to the International Covenant on Civil and Political Rights, the Geneva Convention, the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November, 1950, and where, because of the characteristics of the legal order and the guarantees of legality in said country there exists no threat of persecution for reasons of nationality, membership of a particular social group, political opinion, race, religion; or torture, inhumane or degrading treatment and which country allows independent national and international organisations to control and supervise the enforcement of human rights;
- e) safe third country:<sup>5</sup>  
a country where prior to arrival in the territory of the Republic of Hungary a foreigner stayed, travelled through or travelled from where the applicability of the Geneva Convention had been recognised at his/her request, or he/she had the chance, but did not take advantage of submitting an application for recognition; provided that the legal rules and actual practice of this country guarantee the examination of the merit of the asylum claims and provided that had the foreigner made such a claim, s/he would not have been exposed to persecution, torture, inhuman and/or degrading treatment nor would have been returned to a country where s/he would face persecution or human rights abuses;

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<sup>3</sup> Section 2 paragraph b) has been replaced by Section 1 Subsection (1) of Act XXXVIII of 2001

<sup>4</sup> Section 2 paragraph c) has been replaced by Section 1 Subsection (2) of Act XXXVIII of 2001

<sup>5</sup> Section 2 paragraph e) has been replaced by Section 1 Subsection (3) of Act XXXVIII of 2001

f) immediate family member:

the spouse and minor child of a foreigner, in the case of a minor applicant, the parents.

g) right of asylum:

title to stay in the territory of the Republic of Hungary, and simultaneous protection against return, expulsion and extradition.

### **Section 3**

(1) With the exception of those defined in Section 4, the Refugee Authority shall, on application, recognise a foreigner as a refugee who verifies or substantiates that the provisions of the Geneva Convention shall apply to him in accordance with Article 1, Section A and Section B, Subsection (1) paragraph b) of the Geneva Convention, and Article 1 Subsections (2) and (3) of the Protocol;

(2) In order to ensure the unity of the family, the immediate family member of the person seeking recognition as refugee under Subsection (1) shall be recognised as a refugee if

a) the application has been jointly submitted, or

b) the immediate family member has submitted such a request with the consent of the primary applicant under Subsection (1), before the decision on the status of primary applicant refugee status has been made.

(3) The immediate family member shall not be recognised as refugee in order to ensure the unity of the family, if

a) any of the reasons for exclusion defined in Article 1 F of the Geneva Convention is applicable to him/her;

b) his/her stay or activities in Hungary violate the interest of national security or seriously endangers public security/safety, provided that this presumption has been found to be well-founded in a procedure according to Article 32(2) of the Geneva Convention.

(4) Upon request of a refugee parent, his/her Hungarian-born minor child shall be recognised as refugee.<sup>6</sup>

(5) Barring - grounds for exclusion defined in Section 4 Subsection (1), the Minister of Interior retains the authority to grant refugee status in exceptional cases on humanitarian grounds.

### **Section 4**

(1) The recognition of a foreigner as a refugee

a) with respect to whom any of the reasons for exclusion defined in Article 1, Sections D, E or F of the Geneva Convention applies;

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<sup>6</sup> Section 3 has been complemented by Subsections (2)-(4) while the original Subsection (2) has become Subsection (5) due to Section 2 of Act XXXVIII of 2001

- b) whose stay or activities in Hungary violate the interest of national security; where this presumption has been shown to be well-founded in a procedure according to Article 32 (2) of the Geneva Convention;
  - c) who arrived from a country that, according to this Act, qualifies as a safe country of origin or safe third country, and who has not proven that said country fails to comply with the conditions set forth by Section 2 paragraphs d)-e);
  - d) who applies, on the same factual basis, for recognition as a refugee after the final refusal of an earlier application;
- shall be refused.

(2)<sup>7</sup>

### **Section 5**

The refugee status shall terminate if

- a) the refugee acquires Hungarian citizenship;
- b)<sup>8</sup>
- c) his/her recognition as a refugee has been withdrawn by the Refugee Authority.

### **Section 6**

(1) Recognition as a refugee shall be withdrawn if

- a) any of the conditions defined in Article 1, Section C and F of the Geneva Convention prevails;
- b) the conditions of being recognised as a refugee did not prevail at the time recognition as refugee status;
- c) the conduct of the refugee violates a national security interest; where this presumption has been shown to be well-founded in a procedure according to Article 32 (2) of the Geneva Convention;
- d) the refugee renounces his refugee status in writing.

(2) Renunciation of refugee status cannot be withdrawn.

### **Section 7**

Refugee status may be withdrawn if

- a) recognition has been granted while facts material to the decision were withheld;
- b) the refugee has been convicted for enforceable imprisonment of intentionally committing a particularly serious crime punishable by 5 or more years imprisonment according to law.

### **Section 8<sup>9</sup>**

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<sup>7</sup> Section 4 Subsection (2) ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>8</sup> Section 5 paragraph b) ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>9</sup> Section 8 has been amended by Section 44 of Act XXIX of 2004

(1) In the absence of reasons for exclusion determined in Section 9, the Refugee Authority shall recognize a foreigner as a temporarily protected person who

a) comes under the effect of the decision of the Council of the European Union establishing the fact of the mass influx of persons driven away from their place of residence, or

b) satisfies the conditions set out in the decision adopted by the Government under Section 22 of this Act concerning the authorization of stay in the country, provided that the person concerned is in the territory of the Republic of Hungary.

(2) A foreigner staying outside the territory of the Republic of Hungary may also be recognized as a temporarily protected person for the purpose of the reunification of families torn apart on account of the circumstances of mass escape provided that s/he is the spouse, common-law spouse or supported minor child (hereinafter referred to as “family member”) of a person already recognized as a temporarily protected person (hereinafter referred to as “guarantor”) if

a) the guarantor had previously consented to the recognition of the family member as a temporarily protected person, and

b) no reasons for exclusion determined in Section 9 prevail in respect of the family member, and

c) the competent authority of another member state of the European Union had already provided temporary protection for the family member and, with the guarantor’s agreement, had consented to the relocation of the family member’s place of residence to the territory of the Republic of Hungary for the purpose of family reunification.

### **Section 9**

The following applicants may not be recognised as temporarily protected persons:

- a) a person in connection with whom there are serious grounds to believe that s/he has committed a crime against peace, a war crime or a crime against humanity, as defined in the international instruments defining such crimes;
- b) a person whose stay in Hungary violates a national security interest;
- c) a person who has committed a serious non-political crime<sup>10</sup> prior to his admission to Hungary;
- d) a person who is guilty of acts contrary to the purposes and principles of the United Nations.

### **Section 10<sup>11</sup>**

(1) The legal status of temporarily protected person shall cease if

a) the term of protection has expired or the Government determines that the conditions giving rise to temporary protection have ceased to exist;

b) the temporarily protected person has received a permanent residency permit in Hungary;

c) the temporarily protected person has been recognized as a refugee by the Refugee Authority;

<sup>10</sup> The text “outside of the territory of Hungary” ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>11</sup> Section 10 has been amended by Section 45 of Act XXIX of 2004

d) the temporarily protected person has left the territory of the Republic of Hungary definitively;

e) the recognition as temporarily protected person has been revoked by the Refugee Authority;

f) the temporarily protected person's place of residence has been relocated to the territory of another member state of the European Union with his/her consent.

(2) Unless it is terminated by the Council at an earlier date by virtue of its decision, the term of protection established by the Council of the European Union shall be one year which may be extended by a further one year at intervals of six months.

(3) The legal status of a temporarily protected person recognized on the grounds of family reunification shall also cease, except as set out in Subsection (4), if the guarantor temporarily protected person's legal status has ceased.

(4) If, due to the cessation of the guarantor temporarily protected person's legal status, the temporarily protected person status of a minor recognized on the grounds of family reunification ceases and he/she thereby becomes an unaccompanied minor, such unaccompanied minor shall be recognized as a temporarily protected person without an in-merit investigation.

### **Section 11**

Recognition as a temporarily protected person shall be withdrawn if

- a) the conditions of recognition did not prevail at the time of the recognition decision;
- b) the stay or activities of the temporarily protected person in Hungary violates national security interest.

### **Section 12**<sup>12</sup>

If temporary protection has been introduced by the Government on the basis of Section 22 paragraphs a) and b), recognition as a temporarily protected person may be withdrawn in case the person beneficiary of temporarily protected

a) has left or attempted to leave the territory of the Republic of Hungary without the consent of the Refugee Authority;

b) failed to take advantage of the care and maintenance provided to him/her despite of a written warrant due to the fact that he/she stays at an unknown place;

c) repeatedly failed to fulfil the obligation set by law to register or repeatedly or seriously failed to fulfil his/her obligation to co-operate;

d)<sup>13</sup>

### **Section 13**<sup>14</sup>

## **Chapter II**

<sup>12</sup> Section 12 has been amended by Section 4 of Act XXXVIII of 2001 and by Section 46 of Act XXIX of 2004

<sup>13</sup> Section 12 paragraph d) has been deleted by Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

<sup>14</sup> Section 13 ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

## LEGAL STATUS OF ASYLUM-SEEKERS, REFUGEES AND TEMPORARILY PROTECTED PERSONS<sup>15</sup>

### Section 14

- (1) Foreigners seeking recognition as refugees and temporarily protected persons as well as temporarily protected persons<sup>16</sup> are entitled to stay in the territory of the Republic of Hungary.
- (2) Refugees enjoy asylum.

### Legal status of a Person Seeking Recognition as a Refugee

### Section 15

A person seeking recognition as a refugee is entitled

- a) to a document, as defined by separate legal provision, which certifies the lawfulness of his/her stay in Hungary<sup>17</sup>;
- b) to accommodation and care/maintenance under the conditions defined in the Act and in the Government Decree for the duration of the proceedings;
- c) to enter into relations with the United Nations High Commissioner for Refugees or with any refugee organisation for the purpose of the provision of his/her legal representation during the term of the proceedings.

### Section 16

- (1) A person seeking recognition as a refugee
- a) is obliged to stay and live at the reception centre, or in any other place of accommodation designated by the Refugee Authority;
  - b)<sup>18</sup> is obliged to co-operate with the authority, in particular: disclose the circumstances of his/her escape, provide his/her personal data and facilitate the clarification of his/her identity, deliver his documents, bear the inspection of his/her luggage, clothes and motor vehicle, and to have his/her photograph of his/her face taken, in case the person has turned 14 years of age, bear the taking of his/her fingerprint, and to give an account of his property, income;
  - c) is obliged to subject him/herself to health tests, medical treatment and the replacement of any missing vaccinations prescribed as mandatory by law and required by the relevant health authority in the case of the danger of disease;
  - d)<sup>19</sup>

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<sup>15</sup> The text “and the person authorised to stay” in the title ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>16</sup> The text “and the person authorised to stay” in Section 14 Subsection (1) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>17</sup> Section 15 paragraph a) has been amended by Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

<sup>18</sup> Section 16 paragraph b) has been amended by Section 5 of Act XXXVIII of 2001

<sup>19</sup> Section 16 Subsection (1) paragraph d) ceases to have effect due to Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

(2) An applicant seeking recognition as a refugee may, within one year of the submission of his/her application, only engage in employment on the premises of the reception centre, while thereafter, pursuant to the general rules.<sup>20</sup>

### **Legal Status of a Refugee**

#### **Section 17**

(1) Unless an Act or Government Decree provides otherwise, a refugee shall have the same rights and shall be burdened by the same obligations as Hungarian citizens, with the exceptions in Subsection (2). Refugees must carry an identity card.<sup>21</sup>

(2) A refugee

- a) shall have no voting right except in the election of local government representatives and mayors, local referenda and local popular initiatives;<sup>22</sup>
- b) cannot be conscripted;
- c) may not hold an office or position which by law must be filled by Hungarian citizens.

#### **Section 18**

A refugee is entitled

- a) to an identity card, as defined by separate legal provision, and to a bilingual travel document, as defined in the Geneva Convention;
- b) to care/maintenance and benefits within the sphere and under the conditions defined by the Act and Government Decree;
- c)<sup>23</sup>

### **Legal Status of Persons Seeking Recognition as Temporarily Protected Persons**

#### **Section 19**

(1) A person seeking recognition as temporarily protected person is entitled to a document authorising the holder to stay in Hungary and to accommodation and care/maintenance and benefits under the conditions defined in the Act and in a Government Decree.<sup>24</sup>

(2) A person seeking recognition as temporarily protected person

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<sup>20</sup> Section 16 Subsection (2) has been introduced by Section 47 of Act XXIX of 2004

<sup>21</sup> Section 17 Subsection (1) has been amended by Section 6 of Act XXXVIII of 2001

<sup>22</sup> Section 17 Subsection (2) paragraph a) has been amended by Section 48 of Act XXIX of 2004

<sup>23</sup> Section 18 paragraph c) ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>24</sup> Section 19 Subsection (1) has been amended by Section 147 Subsection (2) paragraph b) of Act XXIX of 2004



- a) is obliged to co-operate with the authority, in particular: to disclose the circumstance of his/her escape, to provide his/her personal data and facilitate the clarification of his/her identity, to produce his/her documents, to have his/her luggage, clothes and motor vehicle inspected, to have his/her photograph of his/her face taken; in case the person 41 years of age, to have his/her fingerprints taken, and to give an account of his/her property and income;
- b) is obliged to subject himself/herself to health screening tests as ordered by the health authority – and according to the National Health Law – to emergency medical treatment without his/her consent, and to the substitution of any missing vaccinations prescribed either as mandatory by legal provisions or deemed necessary by the Health Authority to prevent disease;
- c) is obliged to stay and live at the reception centre or in the place of accommodation designated by the Refugee Authority for the duration of the proceedings;
- d) may not engage in employment, other than employment at the reception centre.<sup>25</sup>

### **Legal Status of Temporarily Protected Persons**

#### **Section 20**

- (1) A temporarily protected person is entitled
  - a) to a document suitable for identification and authorising the holder to remain in Hungary and to receive care/maintenance in Hungary;
  - b) to enter into employment without specific permit;
  - c) to accommodation and care/maintenance and benefits as stipulated the Act and Government Decree.
- (2) A temporarily protected person is obliged
  - a) to report his/her place of accommodation to the Refugee Authority;
  - b) to report any changes in his/her economic situation and earning status which may be relevant to his/her entitlement to care/maintenance and benefits to the notary of the local (in Budapest: district) municipality relevant in his/her place of accommodation (hereinafter: the notary);
- (3) If the temporarily protected person does not possess a valid travel document issued by his/her country of origin, a travel document as defined in a separate legal provision, may be issued which entitles the holder to a single departure from and re-entry into Hungary.

#### **Section 21<sup>26</sup>**

### **Chapter III**

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<sup>25</sup> Section 19 has been amended by Section 7 of Act XXXVIII of 2001

<sup>26</sup> Section 21 and the subtitle preceding it cease to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

## MANAGEMENT AND ADMINISTRATION OF REFUGEE AFFAIRS

### Section 22

In absence of international obligation, the Government shall

a) be responsible for designating the area and the group from which foreigners arriving at Hungary shall be granted temporary protection as temporarily protected persons. Furthermore, the Government shall secure the financial resources to cover the care and maintenance to be extended to such persons;

b) establish the duration of protection, and/or designate the conditions under which protection shall be terminated.<sup>27</sup>

### Section 23

The supervision of refugee affairs shall be performed by the Minister of Interior. The Minister shall be responsible for

- a) establishing the administration of refugee affairs;
- b) initiating decisions to be made by the Government as defined in Section 22;
- c) co-ordinating the co-operation of the governmental organisations taking part in the social integration of and provision of care/maintenance and benefits to refugees and temporarily protected persons<sup>28</sup>;
- d) assisting with the co-ordination of the activities of non-governmental organisations in refugee affairs.

### Section 24<sup>29</sup>

The refugee agency of the Ministry of Interior (hereinafter referred to as the “Refugee Authority”) shall

a) engage in official and administrative (law enforcement) activities in the area of refugee affairs;

b) maintain the central refugee records and shall, in respect of asylum-seekers and recognized refugees, fulfil the responsibilities of national units on the basis of Council Regulation 2725/2000/EC concerning the establishment of “Eurodac” for the comparison of fingerprints for the effective application of the Dublin Convention;

c) be responsible for the fulfilment of the responsibilities arising from Regulation No. 343/2003/EC establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country nationals;

d) operate and supervise reception centres. In this capacity, the Refugee Authority is authorised to conclude agreements with refugee organizations selected by way of tenders to run the reception centres. The Refugee Authority shall establish the rules governing reception centres;

<sup>27</sup> Section 22 has been amended by Section 8 of Act XXXVIII of 2001

<sup>28</sup> The text “and persons authorised to stay” in Section 23 paragraph c) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>29</sup> Section 24 has been replaced by Section 49 of Act XXIX of 2004

e) assume the administrative responsibility for the care/maintenance and repatriation, resettlement of refugees and temporarily protected persons, as well as for the social integration of refugees;

f) cooperate with the government agencies, international refugee and migration organizations and domestic social and non-governmental organizations including that of the refugees, concerned with refugee affairs;

g) be entitled to record a foreigner's image and, in the case of a foreigner having completed the age of 14 years, his/her fingerprints for the purpose of subsequent refugee proceedings, to inspect the applicant's luggage, clothing and vehicle and, if a private home (private area) has been authorized for the applicant as his/her place of accommodation, may conduct an inspection for the purpose of verifying residence on a living basis.

## **Reception Centre**

### **Section 25<sup>30</sup>**

(1) General supervisions of reception centres shall be exercised by the Minister of Interior through the Refugee Authority, while the supervision of specific aspects shall fall to the pertinent ministries and government agencies.

(2) Reception centres shall be headed by directors appointed by the head of the Refugee Authority.

### **Section 26**

Reception centres shall co-operate with local municipalities, governmental and non-governmental organisations engaged in refugee affairs. They shall apprise the co-operating organisations of the experiences related to the operation of the reception centres.

### **Section 27**

Responsibilities of reception centres include

- a) providing accommodation, care/maintenance and benefits for those seeking recognition as refugees or temporarily protected persons for the duration of the status determination procedure. In addition, reception centres shall maintain the circumstances necessary for the orderly administration of official proceedings;
- b) providing care/maintenance, benefits and accommodation for refugees and temporarily protected persons<sup>31</sup>;
- c) providing refugees and temporarily protected persons with general information and essential resources for their social integration, informing them of their legal obligations and rights, and promoting their employment;

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<sup>30</sup> Section 25 Subsections (1)-(") have been amended by Section 147 Subsection (2) paragraph f) of Act XXIX of 2004

<sup>31</sup> The text "and persons authorised to stay" in Section 27 paragraph b) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

- d) promoting the voluntary repatriation of refugees and temporarily protected persons<sup>32</sup> to their home countries or their resettlement to third countries.

### **Agencies Concerned with Refugees**

#### **Section 28**

(1) The Refugee Authority shall, within the framework of legal provisions, cooperate with

- a) non-governmental organisations, churches and persons engaged in providing legal counselling during the procedure, monitoring the living circumstances prevailing at reception centres, promoting social integration and providing for care/maintenance and benefits;
- b) local (metropolitan district) municipalities, engaged in providing care, maintenance and support to refugees and temporarily protected persons and

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promoting the social integration of refugees.<sup>33</sup>

(2) Local municipalities may also extend care/maintenance and benefits to refugees and temporarily protected persons as voluntary initiatives.<sup>34</sup>

#### **Section 29**

The notary of the relevant local (metropolitan district) municipality at the residence of refugees and temporarily protected persons shall provide for the payment of the individual benefits defined in the Act and Government Decree and/or initiated by the municipality.<sup>35</sup>

#### **Section 30**

(1) The alien policing authorities and national security services defined by separate legal provisions shall ensure the conditions necessary for the fair and efficient administration of refugee proceedings.

(2) In response to a foreigner's declared intention to seek asylum, the National Police and the alien policing authorities of the National Border Guards shall

- a) take the applicant's statement regarding his/her flight and other relevant information, and shall send the declaration to the Refugee Authority without delay;
- b) simultaneously take measures necessary for identification, in particular: obtain the foreigner's finger-prints and photograph of his/her face, and may search his/her clothing, luggage, and vehicle;

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<sup>32</sup> The text "and persons authorised to stay" in Section 27 paragraph d) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>33</sup> Section 28 paragraph b) has been replaced by Section 10 Subsection (1) of Act XXXVIII of 2001

<sup>34</sup> Section 28 has been complemented by Subsection (2) while the original text became Subsection (1) due to Section 10 Subsection (2) of Act XXXVIII of 2001

<sup>35</sup> Section 29 has been replaced by Section 11 of Act XXXVIII of 2001

- c) provide for accommodation and/or direction, or in justified cases, transportation to the nearest reception centre, with no delay;
- d) issue a certificate recording such actions taken. The certificate is valid for 24 hours;
- e) inform the Refugee Authority and the reception centre simultaneously regarding the facts of direction or transportation.

## **Chapter IV**

### **ASYLUM PROCEEDINGS**

#### **General Rules of Proceedings**

##### **Section 31**

- (1) Proceedings shall be instituted on application which may be submitted by the person seeking recognition as a refugee or a temporarily protected person (hereinafter together referred to as "applicant") verbally or in writing with the Refugee Authority.
- (2) Under circumstance described in Section 42 (1), applications shall be submitted immediately upon arrival at the border.
- (3) Applications submitted verbally shall be laid down in writing by the Refugee Authority.
- (4) The application shall contain a reference to the facts and circumstances giving rise to escape.

##### **Section 32**

- (1) At the time of submitting the application, the Refugee Authority shall inform the applicant of his/her legal rights and obligations in the proceedings, the legal consequences of violations of the obligations, as well as the place designated for accommodation.<sup>36</sup>
- (2) The interview transcript shall contain a reference to the acknowledgement of the reception of the above information provided.

##### **Section 33**

- (1) The applicant shall take part in the proceedings in person. An interview is compulsory.<sup>37</sup>
- (2) The applicant is permitted to use his/her mother tongue or a language which s/he understands in both verbal and written communication during the proceedings.

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<sup>36</sup> Section 32 Subsection (1) has been replaced by Section 36 Subsection (1) of Act LXXV of 1999

<sup>37</sup> Section 33 Subsection (1) has been replaced by Section 12 Subsection (1) of Act XXXVIII of 2001

(3) The applicant shall have the opportunity to use the legal support of his/her choice at his/her own expense or to accept the free legal aid offered by any registered NGO providing such assistance on a regular basis.

(4) The aliens policing authorities and the refugee authorities shall inform the person applying for protection of his/her rights and of the option of legal counsel during the procedure.

(5)<sup>38</sup>

### **Section 34**<sup>39</sup>

(1) For the representation of the interests of an unaccompanied minor, a case-to-case guardian shall be appointed with no delay and the relevant proceedings shall be conducted with immediate effect.

(2) The services of a psychologist expert may be used in proceedings aimed at the recognition of an unaccompanied minor, who shall attend the interview of the minor.

(3) With the consent of the unaccompanied minor, if any doubt arises concerning his/her age, a medical examination may be performed in the interest of the establishment of his/her age. If s/he does not consent to the performance of such an examination, the application may not be refused solely on account of the refusal of the performance of the medical examination.

### **Section 35**

The Refugee Authority shall terminate the proceedings if the applicant

- a) dies,
- b) withdraws his/her application in writing,
- c) fails to appear at the interview in person in spite of repeated notices and is unable to justify his/her absence,
- d) repeatedly fails to meet his/her obligations as defined in Sections 16 paragraphs a)-c) and 19 Subsection (2) paragraphs a)-c), despite a written warning, or absconds, preventing the proceedings from continuing.<sup>40</sup>

### **Section 36**<sup>41</sup>

(1) If a temporarily protected person submits an application for recognition as a refugee prior to the day of the expiry of his/her protection as a temporarily protected person, his/her legal status as a temporarily protected person shall continue to exist during the assessment of the application and also in the case of the refusal of his/her application until the expiry of such protection, unless his/her recognition as a temporarily protected person has been revoked.

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<sup>38</sup> Section 33 Subsection (5) ceases to have affect due to by Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

<sup>39</sup> Section 34 has been amended by Section 50 of Act XXIX of 2004

<sup>40</sup> Section 35 has been complemented by paragraph d) due to Section 13 of Act XXXVIII of 2001

<sup>41</sup> Section 36 has been amended by Section 51 of Act XXIX of 2004

(2) An application submitted on the basis of Subsection (1) shall also be assessed following the expiry of protection as a temporarily protected person. During this period, the applicant shall have the rights and obligations determined in Sections 15 and 16.

### **Section 37**

The National Security Office shall take part in the proceedings as a specialised authority.

### **Section 38**

(1) A decision on the merits of the application shall be made within 60 days of submission barring the exception outlined in Section 45. The deadline may be extended by the head of the Refugee Authority an additional 30 days.

(2)<sup>42</sup> In its decision providing for the refusal of an application or the revocation of recognition as a refugee or temporarily protected person, the Refugee Authority shall establish whether the prohibition set out in Section 43, Subsection (1) of the Act on the Entry and Residence of Foreigners prevails. Based on a final and non-appealable decision on the refusal of an application or the revocation of recognition as a refugee or temporarily protected person, the Refugee Authority may initiate the institution of proceedings aimed at the deportation of the foreigner.

(3)-(4)<sup>43</sup>

(5) The decision shall be communicated to the applicant in writing. The decision shall be announced in the mother tongue of the foreigner or in any other language which he understands.

### **Section 39**

(1) No administrative appeal shall lie against the decision.

(2) A request for judicial review of the decision shall be submitted to the Refugee Authority within 15 days of the communication of the decision. The authority shall, with no delay, forward the request, together with the documents of the case and its counter-application, to the court.

(3) The Municipal Court of Budapest proceeding in the legal proceedings with exclusive jurisdiction shall adjudicate upon the request within 30 days of receipt of the request. The foreigner shall be heard at the hearing in person. A personal hearing may be dispensed with if the foreigner cannot be summoned from the address stated or has moved to an unknown new location or if the new asylum application is based on the same facts as those of the previous one. The court has the authority to reverse the first instance decision.

(4) No further legal remedy shall lie against the decision of the court.

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<sup>42</sup> Section 38 Subsection (2) has been replaced by Section 52 of Act XXIX of 2004

<sup>43</sup> Section 38 Subsections (3)-(4) cease to have effect due to Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

(5) Refugee proceedings shall be free of charge/expenses.<sup>44</sup>

#### **Section 40<sup>45</sup>**

#### **Section 41**

The representative of the Office of the United Nations High Commissioner for Refugees may take part in any stage of the refugee status determination procedure. Accordingly, the representative

- a) may be present at the applicant's interview;
- b) may gain access to refugee documents/files and may make copies thereof;
- c) shall receive the decision of the Refugee Authority.

### **Airport Procedure**

#### **Section 42**

(1) The Aliens Policing Authority shall, prior to allowing a foreigner to enter the territory of the Republic of Hungary at the border entry point of the International Airport, notify the Refugee Authority immediately if such a foreigner wishes to submit an application for recognition as refugee.

(2) Should the Refugee Authority process the case in accelerated procedure, it shall issue its decision within eight days upon submission of the claim.<sup>46</sup>

### **Accelerated Proceedings**

#### **Section 43**

(1) An application may be considered manifestly unfounded when an applicant is unable to establish one of the grounds for asylum stipulated in Section 3 (1) because:

- a) it is obvious that the applicant has not established persecution or his well founded fear thereof in his/her country of origin;
- b) the application is based on the intentional deception of the authorities or on the abuse of the asylum procedure;
- c) a safe third country is obliged to readmit the applicant;
- d) the applicant is a citizen of a member state of the European Economic Area.<sup>47</sup>

(2) The provision stipulated in Subsection (1) paragraph a) is applicable if the applicant does not refer to persecution or to his/her well-founded fear of such persecution in his/her country;

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<sup>44</sup> Section 39 has been replaced by Section 53 of Act XXIX of 2004

<sup>45</sup> Section 40 ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>46</sup> Section 42 has been replaced by Section 17 of Act XXXVIII of 2001

<sup>47</sup> Section 43 Subsection (3) paragraph d) has been amended by Section 26 Subsection (1) of Act LXIX of 2004



refuses to make a declaration on the reason for seeking asylum despite of direct questions addressed to him/her; or his/her statements are incoherent, controversial – unless such incoherency or controversy is due to the health condition of the applicant - or does not provide for the explanation to establish the persecution of the applicant.

(3) The provision stipulated in Subsection (1) paragraph b) is applicable if the applicant

a) intentionally supplies false details relating to his/her personal data, citizenship, country of origin or the circumstances of his/her entry, hides or destroys his/her travel document or any other document suitable to establish his/her identity from the authorities, or intentionally hinders the procedural actions aimed at the establishment of his/her identity;

b) intentionally uses false or falsified documents and insists on the false contents of such document which certify his/her identity for the purpose of entry;

c) after the refusal of an earlier application applies for recognition as refugee on the same factual basis;

d) unlawfully entered the territory of the Republic of Hungary and had the opportunity to apply for asylum before an expulsion decision was made according to the aliens policing procedure but failed to do so; or the Refugee Authority again terminated the procedure on the basis of an earlier application and the applicant does not prove that his/her behaviour leading to the termination of the procedure was evoked by reasons beyond his/her control;

e) intentionally failed to announce that s/he had submitted an application earlier in one of the member states of the European Economic Area, especially, if s/he presented a false identity in the procedure;

f) has an earlier application rejected in one of the member states of the European Economic Area according to the procedural requirements and guarantees stipulated by the Geneva Convention.<sup>48</sup>

(4) In cases where the identity of the applicant is not established, the application cannot be considered manifestly unfounded as long as the applicant has provided his/her genuine personal details, s/he has facilitated the procedure to establish his/her personal details and Subsection 3 paragraphs a) and b) are not applicable.<sup>49</sup>

#### **Section 44**

If the application is manifestly unfounded according to Section 43 Subsection (1) the applicant's application for recognition as refugee shall be assessed in an accelerated procedure.<sup>50</sup>

#### **Section 45**

Decisions in accelerated procedures – except for the accelerated procedure conducted at the airport - shall be made within 15 days upon submission of the application.<sup>51</sup>

<sup>48</sup> Section 43 Subsection (3) paragraphs e)-f) have been amended by Section 26 Subsection (2) of Act LXIX of 2004

<sup>49</sup> Section 43 has been replaced by Section 18 of Act XXXVIII of 2001

<sup>50</sup> Section 44 has been replaced by Section 19 of Act XXXVIII of 2001

<sup>51</sup> Section 45 has been replaced by Section 20 of Act XXXVIII of 2001

**Section 46**<sup>52</sup>**Section 47**

- (1) The contents of Act IV of 1957 on the General Rules of Public Administrative Proceedings shall apply to refugee proceedings, taking into account the differences defined in this chapter and in the Government Decree issued on the basis of the authority of this Act.
- (2)<sup>53</sup>

**Chapter V****ADMINISTRATIVE PROVISIONS REGARDING CARE/MAINTENANCE AND BENEFITS****Care/Maintenance and Benefits****Section 48**

- (1) Refugees are entitled to integration into Hungarian society, while applicants and temporarily protected persons<sup>54</sup> are entitled to basic conditions for life and to care/maintenance and benefits defined in this Act and Government Decree.
- (2) Care/maintenance and benefits include:
- a) care/maintenance falling within the sphere of personal care,
  - b) pecuniary care/maintenance,
  - c) pecuniary benefits.
- (3) The Refugee Authority may conclude an agreement with the State Health Security Cashier to cover the medical services to be provided for temporarily protected persons based on Act LXXXII of 1997 on mandatory health security services, providing for the opportunity for foreigners to conclude an agreement to cover a range of medical services. The Refugee Authority shall pay a monthly amount equal to 30 % of the minimum wage per temporarily protected persons on the basis of the agreement defined by the relevant law.
- (4) Applicants<sup>55</sup> and temporarily protected persons not covered by an agreement defined in Subsection (3) are entitled to medical care free of charge as defined by Government Decree.

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<sup>52</sup> Section 46 ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>53</sup> Section 47 Subsection (2) ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>54</sup> The text “and the person authorised to stay” in Section 48 Subsection (1) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>55</sup> Text “the person authorised to stay” in Section 48 Subsection (4) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

(5)<sup>56</sup>

## **Expenditures**

### **Section 49**

Parliament shall designate funds to cover the following in the Act on the Budget of the Republic of Hungary within the chapter of the Ministry of the Interior:

- a) operating expenses of the Refugee Authority,
- b) costs of establishment, development and maintenance of the reception centres and other places of accommodations,
- c) membership fees and contribution pertaining to the membership in international refugee and migration organisations,
- d) costs related to asylum proceedings, in particular: expenses related to applicant identification, recording and management of data, interpreters and experts and transportation;
- e) expenditures related to the reimbursement of the costs of certain types of care, maintenance and support.<sup>57</sup>

## **Chapter VI**

### **DATA MANAGEMENT AND DISCLOSURE**

#### **Definition and Contents of Records related to Refugee Affairs**

### **Section 50**

(1) Records related to refugee affairs are central official records which contain the personal details of refugees, temporarily protected persons, and asylum applicants<sup>58</sup> (hereinafter: foreigners), including the details regarding said persons' stay and statutory benefits as well as any changes therein.

(2)<sup>59</sup>

(3) The purpose of the records defined in this Section is to collect and manage the data defined in this Act, to issue certificates thereof and to supply data to relevant agencies defined in this Act for the purpose of establishing the current status of

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<sup>56</sup> Section 48 Subsection (5) ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>57</sup> Section 49 has been replaced by Section 21 of Act XXXVIII of 2001

<sup>58</sup> The texts "the person authorised to stay" and "in case of proceedings initiated ex officio, the foreigner concerned" cease to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>59</sup> Section 50 Subsection (2) ceases to have effect due to Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

refugees and temporarily protected persons<sup>60</sup> and ensuring the entitlements attached thereto.

### **Section 51**

(1) The records shall contain a foreigner's following personal details:

- a) identification (name, former name, pseudonym, current and former citizenship, sex, place and date of birth, or personal identification code in the case of a refugee), mother's maiden name and a personal photograph;
- b) marital status, occupation, and education;
- c) place of accommodation or residence;
- d) citizenship, or in the case of a stateless person, usual place of residence;
- e) any data relating to nationality, and ethnicity, or religious affiliation that were cited by the applicant as grounds for asylum in his/her application;
- f) details of identity and travel documents (document number and code, period of validity, date of issue, name of issuing authority, and place of issue);
- g) personal identification details of immediate family members arriving together with applicant and legal status in Hungary;
- h) fingerprints of those 14 or more years of age.<sup>61</sup>

(2) The records shall contain information on the applicant's financial situation and income in the interest of determining eligibility for care/maintenance and benefits under this Act and Government decree. The applicant shall provide the information either in the form of a personal statement, documentation provided by the tax authority or by the social insurance agency.<sup>62</sup>

(3) The purpose of taking and recording fingerprints is to identify applicants, establish whether the applicants have submitted multiple applications.<sup>63</sup>

(4) The Refugee Authority shall keep the data defined in Subsection (1) for a period of ten years from the refusal of the application or the termination of recognition, while it shall keep the data defined in Subsection (2) for a period of five years from the termination of an entitlement, from the delivery of refundable benefits, or from the statutory limitation of the claim.

(5) The proceeding authority shall, with no delay, forward the recorded fingerprints to the data processing agency determined in subsection (6) together with the applicant's verified natural personal identification details or, in the absence thereof, as stated by the foreigner, his/her citizenship and his/her designated place of accommodation.

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<sup>60</sup> The text "and/or the person authorised to stay" in Section 50 Subsection (3) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>61</sup> Section 51 Subsection (1) paragraph h) has been replaced by Section 23 Subsection (1) of Act XXXVIII of 2001

<sup>62</sup> Section 51 Subsection (2) has been replaced by Section 23 Subsection (2) of Act XXXVIII of 2001

<sup>63</sup> Section 51 has been complemented by a new Subsection (3) while the original Subsection (3) has become Subsection (4)

(6) In respect of the range of data determined in Subsection (5), the data processing agency shall be the agency determined in the Decree of the Minister of Interior. The data manager shall be responsible for the forwarding and reception of data to and from the central unit of Eurodac and for the comparison thereof.<sup>64</sup>

## **Section 52**

- (1) Reception centres shall keep records of
  - a) the personal identification details defined in Section 51 Subsection (1) paragraph a) of the persons placed at the centre;
  - b) the rate and term of the benefits provided by the centre.
- (2) The details of the person concerned shall be retained for a period of one year following his/her final departure from the centre.

## **Section 53**

- (1) The notary with jurisdiction over the place of residence or accommodation of the refugee or temporarily protected person<sup>65</sup> shall keep records of the following items, regarding the persons falling within his/her competence and entitled to benefits:
  - a) personal identification details defined in Section 51 Subsection (1) paragraph a),
  - b) address or place of residence,
  - c) amount of benefits paid,
  - d) date of payment, and, in the case of a refundable benefit, the deadline for repayment.
- (2) The agencies extending benefits may keep data regarding the earning and financial status of the close relatives sharing the same household with the applicant if their financial status has bearing on the primary applicant's eligibility for benefits.
- (3) The agencies extending benefits are entitled to disclose said data to the Refugee Authority and to the agencies authorised by law to request data.
- (4) The agencies extending benefits may retain the data defined in Subsections (1) and (2) as long as the person concerned continues to be entitled to benefits or until his obligation of repayment is satisfied.

## **Section 54**

The Refugee Authority may request data necessary for the conduct of the refugee proceeding from the following sources:

- a) from the records defined in the Act on Criminal Records;<sup>66</sup>
- b) from the agency managing the records of those banned entering and staying in the country;
- c) from the records of the personal details and addresses of citizens;
- d) from the central alien policing records;<sup>67</sup>

<sup>64</sup> Section 51 Subsections (5)-(6) have been introduced by Section 54 of Act XXIX of 2004

<sup>65</sup> The text "or person authorised to stay" in Section 53 Subsection (1) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>66</sup> Section 54 paragraph a) has been replaced by Section 24 Subsection (1) of Act XXXVIII of 2001

<sup>67</sup> Section 54 paragraph d) has been replaced by Section 24 Subsection (2) of Act XXXVIII of 2001

- e) from foreign crime investigating bodies, alien policing and refugee agencies, and related international organisations, in accordance with international treaty or reciprocal practice/understanding.<sup>68</sup>

### **Disclosure of Data**

#### **Section 55**

- (1) Agencies authorised to request data include investigation authorities; police, border guards,<sup>69</sup> and the national security services within the sphere of the fulfilment of their alien policing responsibilities; agencies overseeing matters of citizenship, courts reviewing administrative decisions and agencies extending benefits on the basis of a legal rule or contract.
- (2) The Refugee Authority shall communicate the personal identification details of the applicant to the central agency responsible for recording keeping in order to facilitate the accurate maintenance of records and the issuance of identity cards and personal identification code.
- (3) The data managed on the basis of this Act may be used for statistical purposes in a manner which prevents the identification of specific individuals. The data as defined by Section 51 Subsection (1) paragraphs a)-d), however, may be made available to the Central Statistical Office in a form which is suitable for the identification of individuals.
- (4) The data defined in Section 51 Subsection (1) paragraph b) may only be disclosed to the investigating authority when criminal proceedings are initiated against a criminal suspect defined in Section 84 paragraphs i)-m) of the Act on the National Police - Act XXXIV of 1994 -, or to the national security service and court of review for administrative decisions, as defined in the Act.

#### **Section 56**

Documents related to refugees, temporarily protected persons and persons authorised to stay may not be discarded, and the Refugee Authority shall provide for the maintenance thereof.

### **International Exchange of Data**

#### **Section 57**

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<sup>68</sup> Section 54 paragraph e) has been replaced by Section 24 Subsection (3) of Act XXXVIII of 2001

<sup>69</sup> The text “the public administrative office” in Section 55 Subsection (1) ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

The Refugee Authority shall<sup>70</sup> conduct a mutual exchange of data with the relevant agencies of other states and international organisations with respect to the following information:

- a) legal rules and practices applicable to refugee affairs;
- b) statistical data regarding the monthly arrival of foreigners and the breakdown thereof by citizenship. The latter data shall also be disclosed to the agency appointed by the European Communities' Commission and the Office of the United Nations High Commissioner for Refugees<sup>71</sup>;
- c) information of a general nature on the latest trends in asylum applications;
- d) general information on applicants' country of origin or former country of residence.

### Section 58

- (1) The Refugee Authority shall disclose all information necessary for the assessment of an application for asylum at the request of relevant agencies of other states and of the Office of the United Nations High Commissioner for Refugees within the context of refugee status determination transfers, excepting requests by the applicant's country of origin, and provided that the protection of personal data is guaranteed by the party requesting the information in accordance with international treaty or reciprocal practice/understanding.<sup>72</sup>
- (2) The information defined in Subsection (1) may contain:
  - a) personal details relating to the applicant (name, former names or pseudonyms, current and former citizenship, place and date of birth);
  - b) details of identity and travel documents (identification code and number, period of validity, date of issue, name of issuing authority, and place of issue);
  - c) other details necessary for establishing the applicant's identity;
  - d) data relating to residence permits or visas issued by other states;
  - e) place of submission of application;
  - f) date of submission of an earlier application for asylum, date of submission of current application, status of proceedings and contents of in-merit decision.
  - g) details relating to the applicant's criminal record.
- (3) Information disclosed in support of his/her asylum application may only be disclosed with his/her written consent.
- (4) Apart from agencies authorised in Subsection (1), personal data may only be released to foreign agencies or persons with the written consent of the person concerned. The person concerned shall be informed in advance of the purpose of the request.

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<sup>70</sup> The text "on the basis of international treaties" in Section 57 ceases to have effect due to Section 28 Subsection (3) paragraph a) of Act XXXVIII of 2001

<sup>71</sup> Section 57 paragraph b) has been amended by Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

<sup>72</sup> Section 58 Subsection (1) has been replaced by Section 25 of Act XXXVIII of 2001

## Chapter VII

### ADDITIONAL/CLOSING PROVISIONS

#### Section 59

- (1) This Act shall come into force on 1 March 1998, and its provisions shall apply to matters already in progress, with the exception of procedures defined in Subsection (3).
- (2) The Refugee Authority shall recognise as a refugee any foreigner who, having been recognised by UNHCR as a “mandate refugee” prior to this Act’s entering into force who still remains in the country, provided that the person concerned applied for recognition to the Hungarian Refugee Authority within 90 days of this Act coming into force.
- (3) The provisions contained in Section 61 Subsections (3) - (5), as well as Subsections (7) - (9) of the Act shall apply to applications submitted following its coming into force.
- (4) Henceforth, the term “person enjoying temporary protection” shall be replaced by “temporarily protected person”.
- (5)<sup>73</sup>

### Rules of Authorisation

#### Section 60

- (1) The Government is hereby authorised to establish by Decree:
  - a) detailed rules relating to asylum proceedings, including rules of public hygiene and the procedural rules applicable to temporarily protected persons;
  - b) rules relating to integration, to types and conditions of care/maintenance and benefits, and to the rules of the reimbursement of the costs of taking advantage of them;
  - c) documents related to applicants, refugees, temporarily protected persons,<sup>74</sup> and the data contained therein;
  - d) detailed rules of procedure regarding the assumption of refugee status determination procedures and their transfer to foreign authorities with jurisdiction over refugee affairs;<sup>75</sup>
  - e) the location and scope of jurisdiction of the Field Office of the Central Refugee Agency.<sup>76</sup>

<sup>73</sup> Section 59 Subsection (5) ceases to have effect due to Section 147 Subsection (2) paragraph b) of Act XXIX of 2004

<sup>74</sup> The text “and person authorised to stay” in Section 60 Subsection (1) paragraph c) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>75</sup> Section 60 Subsection (1) has been complemented by paragraph d) due to Section 26 Subsection (1) of Act XXXVIII of 2001



- (2) The Minister of Interior is hereby authorised to establish by Decree:
- a) the organisational system of refugee affairs, the responsibilities thereof and rules of its operation;
  - b) provisions applicable to the management of data and documents related to recognition as a refugee or temporarily protected person<sup>77</sup> and to the care and maintenance of said persons;
  - c) the detailed responsibilities and operational order of reception centres in agreement with the ministers concerned;
  - d) appoint the agency authorized to process the data of the refugee records.<sup>78</sup>

### **Provisions Amended**

#### **Section 61**

- (1) Section 14 of Act XXXVIII of 1996 on Mutual Legal Assistance in Criminal Matters shall be replaced by the following provision:

“Section 14

- (1) The extradition of the refugee shall be refused, unless it is requested by a safe third country defined by the Act on Asylum.
- (2) Temporarily protected persons, persons authorised to stay, and foreigners seeking recognition as refugees or temporarily protected persons may not be extradited to the state where they escaped from.”

(2) - (9)<sup>79</sup>

- (10) Section 32 paragraph j) of Act XX of 1996 on the identification methods replacing Personal Identification Code and on the application of identification codes shall be replaced by the following provision:

“j) the Alien Policing Authority and the Central Refugee Agency to perform their duties (are entitled to use the personal identification code);”

- (11) Section 22 of Act LXVI of 1992 on the registry of the personal data and addresses of the citizens shall be completed by the following paragraph e):

“e) the Central Refugee Agency to perform its duties designated by law.”

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<sup>76</sup> Section 60 Subsection (1) has been complemented by paragraph e) due to Section 26 Subsection (2) of Act XXXVIII of 2001

<sup>77</sup> The text “and person authorised to stay” in Section 60 Subsection (2) paragraph b) ceases to have effect due to Section 28 Subsection (3) paragraph b) of Act XXXVIII of 2001

<sup>78</sup> Section 60 Subsection (2) paragraph d) has been introduced by Section 55 of Act XXIX of 2004

<sup>79</sup> Section 61 Subsections (2)-(9) cease to have effect due to Section 90 Subsection (2) paragraph e) of Act XXXIX of 2001

(is entitled to request data contained in Section 17 Subsection (2) paragraph c) on the basis of that Act).

## Section 62

This Act contains provisions that can be compatible with the instruments of the European Communities enlisted below, as required by Section 3 of Act I of 1994, promulgating the European Agreement concluded by the Republic of Hungary and the European Communities and its member states in Brussels on 16 December 1991:

- a) Convention Determining the State Responsible for Examining Applications for Asylum lodged in one of the Member States of the European Communities,
- b) Resolution of the ministers of member states of the European Communities responsible for immigration on manifestly unfounded applications (30 November 1992),
- c) Resolution of the ministers of member states of the European Communities responsible for immigration on a harmonised approach to questions concerning host third countries (30 November 1992),
- d) Conclusions of the ministers of member states of the European Communities responsible for immigration on countries in which there is generally no serious risk of persecution (London, 30 November and 1 December 1992),
- e) Council resolution on minimum guarantees for asylum procedures (20 June 1995),
- f) Council resolution on unaccompanied minors who are nationals of third countries (26 June 1997),
- g) Council resolution on burden-sharing with regard to the admission and residence of displaced persons on a temporary basis (25 September 1995),
- h) Joint Position of the Council on the Harmonised Application of the Definition of the Term "Refugee" in Article 1 of the Geneva Convention of 28 July 1951 Relating to the Status of Refugees (4 March 1996),<sup>80</sup>
- i) Council Directive 2001/55/EC on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between the Member States in receiving such persons and bearing the consequences thereof;
- j) Council Directive 2003/9/EC laying down minimum standards for the reception of asylum seekers.<sup>81</sup>

<sup>80</sup> The Act has been complemented by Section 62 due to Section 27 of Act XXXVIII of 2001

<sup>81</sup> Section 62 paragraphs i)-j) have been introduced by Section 56 of Act XXIX of 2004

Árpád Göncz  
President of the Republic

Dr. Zoltán Gál  
Speaker of Parliament