

**Act II of 2007**  
**on the Admission and Right of Residence of Third-Country Nationals and**  
**the Government Decree 114/2007 (V. 24.) on the Implementation of Act II**  
**of 2007 on the Admission and Right of Residence of Third-Country**  
**Nationals**

[Written in **bold** is the text of Act II of 2007 and written in regular is the text of Government Decree 114/2007 (v. 24.).]

**With a view to partaking in the progressive establishment of an area of freedom, security and justice, and to promoting the social and economic development and advancement of countries within and outside the borders of the European Union, Parliament has adopted the following Act concerning the admission and residence of third-country nationals:**

Pursuant to the authorization conferred under Paragraphs a)-c) and e)-q) of Subsection (1) of Section 111 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter referred to as "RRTN"), the Government has adopted the following Decree:

**Chapter I**  
**General Provisions**

*RRTN Section 1.*

**(1) Hungary shall ensure the right of entry, exit and residence of third-country nationals in accordance with the provisions of this Act.**

**(2) The right of entry, exit and residence of third-country nationals may be restricted in accordance with the provisions set forth in this Act.**

**(3) This Act - with the exceptions set out in Subsections (4)-(5) - shall not apply to persons with the right of free movement and residence.**

**(4) The persons referred to in Subsection (3) of this Section, if not nationals of any Member State of the European Union, shall be subject to the provisions of Chapter IV of this Act pertaining to EC permanent residence permits, and the provisions of Chapter VIII of this Act governing stateless status and the issue of travel documents to stateless persons.**

**(5) The provisions of this Act shall apply to the persons referred to in Subsection (3) if they are third-country nationals by definition of specific other legislation, and if they apply for authority to reside specified in this Act following termination of their right of residence specified in specific other legislation.**

**Chapter I**  
**General Provisions**

*Government Decree Section 1.*

The administrative proceedings specified in the RRTN (hereinafter referred to as "immigration proceedings") shall be conducted by the following authorities (hereinafter referred to as "immigration authorities"):

29. 05. 2012.

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Contact Point of the European Migration Network*

- a) the minister in charge of immigration;
- b) the minister in charge of foreign policies;
- c) the Office of Immigration and Nationality (hereinafter referred to as "Office");
- d) the local branches of the Office (hereinafter referred to as "regional directorate");
- e) the consulate officer of Hungary authorized to issue visas (hereinafter referred to as "consulate officer");
- f) the Police.

***RRTN Section 2.***

**For the purposes of this Act:**

**a) 'third-country national' shall mean any person who is not a Hungarian citizen and stateless persons, other than the persons referred to in Subsection (3) of Section 1;**

**b) 'stateless person' shall mean a person who is not recognized as a citizen by any country under his/her national law;**

**c) 'Schengen State' shall mean any Member State of the European Union applying in full the Schengen acquis defined in Article 1 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on the European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community (hereinafter referred to as "Schengen Protocol") and in Council Decision 1999/435/EC, as well as the measures adopted by the institutions of the European Union in these fields, and any other State that is in association with the implementation, application and development of the Schengen acquis by virtue of Article 6 of the Schengen Protocol within the meaning of the Agreement concluded with the Council of the European Union;**

**d) 'family member' shall mean:**

**da) the spouse of a third-country national;**

**db) the minor child (including adopted children) of a third-country national and his/her spouse;**

**dc) the minor child, including adopted and foster children, of a third-country national where this third-country national has parental custody and the children are dependent on him/her;**

**dd) the minor child, including adopted and foster children, of the spouse of a third-country national where the spouse has parental custody and the children are dependent on him/her;**

**e) 'unaccompanied minor' shall mean third country nationals below the age of eighteen, who arrive on the territory of Hungary unaccompanied by an adult responsible by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they entered the territory of Hungary;**

**f) 'exile' shall mean any person who is provided temporary shelter and may not be returned to the country of his/her nationality, or in the case of a stateless person to the country of domicile, for fear of facing the threat of the death penalty, torture or any other form of inhumane or humiliating treatment, and there is no safe third country offering refuge, and who is not entitled to asylum or treatment as a stateless persons, nor to any subsidiary form of protection or temporary protection;**

**g) 'travel document' shall mean a passport or another instrument or document that is recognized by Hungary as proper means of identification for its holder for crossing the border of Hungary and to certify his/her citizenship (stateless status);**

h) 'carrier' shall mean any natural or legal person, or business association lacking the legal status of a legal person whose profession it is to provide transport of persons;

i) 'readmission agreement' shall mean the international convention relating to the procedure for the transfer of persons at state frontiers, and the transport or transit of such persons under official escort;

j) 'SIS alert for the purposes of refusing entry and the right of residence' shall mean data files installed in the Schengen Information System by any Schengen State for the purposes of refusing entry to and the right of residence in the territory of the Schengen States for a third-country national;

k) 'employer' shall mean any natural person or any legal entity, or unincorporated organization, including temporary work agencies referred to in Paragraph *b*) of Section 193/C of Act XXII of 1992 on the Labor Code, for or under the direction and/or supervision of whom the employment is undertaken;

l) 'host' shall mean any natural person or any legal entity, or unincorporated organization that in an officially certified letter of invitation undertakes to provide accommodation and contributes to the maintenance for the third country national during their time spent on the territory of Hungary, and – unless an international treaty provides otherwise – covers the cost of their health care and departure;

m) 'visa for a validity period not exceeding three months' shall mean an authorization defined in Article 2(2) of Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (hereinafter referred to as "Visa Code").

n) 'Dublin Regulations' shall mean Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national, and Commission Regulation (EC) No. 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No. 343/2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

o) 'employment' shall mean the exercise of activities covering whatever form of labor or work performed under employment relationship for or under the direction and/or supervision of an employer;

p) 'highly qualified employment' shall mean the employment of a person who has the required adequate and specific competence, as proven by higher professional qualifications, for consideration in an amount specified by the relevant decree on the method for establishing the minimum remuneration payable to third-country nationals, or for higher pay;

q) 'higher professional qualifications' shall mean qualifications attested by evidence of higher education qualifications or professional qualifications of a level comparable to higher education qualifications and which is relevant in the profession or sector specified in the work contract or binding job offer;

r) 'EU Blue Card' shall mean the authorization entitling its highly qualified holder to reside and work in highly qualified employment in the territory of a Member State under the terms set out in Section 20/C;

s) 'particularly exploitative working conditions' shall mean working conditions, including those resulting from gender based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers' health and safety, and which offends against human dignity.

### *RRTN Section 3.*

The following persons shall be treated as third-country nationals:

a) any person who uses a valid travel document issued by a third country to verify his/her nationality, unless proven to the contrary; or

b) any person who is unable to show proof of having the right of free movement and residence under specific other legislation.

29. 05. 2012.

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Contact Point of the European Migration Network*

*Government Decree Section 2.*

(1) In immigration proceedings Hungarian citizenship may be verified by a valid personal identification document, a valid Hungarian passport, or a certificate of citizenship issued within one year to date.

(2) In immigration proceedings the immigration authority shall consult the register of personal data and address records to verify the existence of Hungarian citizenship.

(3) Where there is any doubt, the immigration authority shall request the citizenship division of the Office to determine the existence of Hungarian citizenship.

*RRTN Section 4.*

The provisions of this Act shall apply to third-country nationals granted diplomatic or other personal immunity, or who are entering the country for the purposes stipulated in treaties or international agreements, unless prescribed otherwise by international treaty.

*RRTN Section 5.*

(1) Of the provisions of this Act only the ones contained under Chapters IV, V and X shall apply to third-country nationals recognized as refugees or having been granted any subsidiary form of protection by the Hungarian refugee authority or a court of justice or any other Member State.

(2) Provisions of this Act contained under Chapter IV as pertaining to national permanent residence permits and Chapters V and X shall apply to the third-country nationals having been granted temporary protection by the Hungarian refugee authority or a court of justice.

## **Chapter II**

### **Regulations for the Right of Residence for Less than Three Months Within a Six-Month Period**

#### **General Rules**

*RRTN Section 6.*

(1) Third-country nationals may enter the territory of Hungary and stay for up to three months within a period of six months from the time of first entry (hereinafter referred to as "stay not exceeding three months") under the conditions set out in Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (hereinafter referred to as "Schengen Borders Code").

(2) The third-country nationals who satisfy the conditions set out in Subsection (1) shall be authorized to stay in the territory of Hungary for a period not exceeding three months.

*RRTN Section 7.*

Unless otherwise prescribed by any directly applicable Community legislation, an international agreement, this Act or a government decree adopted by authorization of this Act, third-country nationals shall be admitted for stays not exceeding three months in possession of a visa.

*RRTN Section 7/A.*

Third-country nationals holding a visa for a validity period not exceeding three months, and persons lawfully residing in Hungary as nationals of the states listed in Annex II of Council Regulation

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**539/2001/EC may undertake gainful employment in accordance with Subsection (1) of Section 20, unless this Act contains provisions to the contrary.**

## Chapter II

### Regulations for the Right of Residence for Less than Three Months Within a Six-Month Period

#### General Provisions

##### *Government Decree Section 3.*

(1) Prior to the admission of third-country nationals into the territory of Hungary the Police shall check compliance with Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (hereinafter referred to as "Schengen Borders Code").

(2) Where the entry and residence of a third-country national not exceeding three months is not subject to a visa requirement, the validity period of his/her travel document must exceed the date of his/her entry into the territory of Hungary by at least one month.

(3) The Police may grant an exemption - in exceptional cases - from compliance with what is contained in Subsection (2) on humanitarian grounds, on grounds of national interest or because of international obligations.

##### *Government Decree Section 4.*

(1) Taking into consideration of what is contained in Council Regulation 539/2001/EC of 15 March 2001 (hereinafter referred to as "Council Regulation 539/2001/EC"), the right of entry for the purpose of residence not exceeding three months without a visa and the visas for a validity period not exceeding three months shall be granted:

a) to third-country nationals who have been granted asylum or treatment as stateless persons and holding a travel document listed under Annex II of Council Regulation 539/2001/EC;

b) to third-country nationals who are crew members of an air transport vehicle participating in aid or rescue operations in natural disasters and other and similar events, and to third-country nationals participating in such rescue operations;

c) to third-country nationals holding a travel document issued by the United Nations Organization, Council of Europe or the International Court of Justice.

(2) The right of entry for the purpose of residence not exceeding three months without a visa and the visas for a validity period not exceeding three months shall be granted to third-country nationals holding

a) a transit visa that is also valid for the territory of Hungary, or a short-stay visa;

b) a long-stay visa; issued under the requirements set out in Article 5 (1) a), c)-e) of the Schengen Borders Code.

##### *Government Decree Section 5.*

##### *Government Decree Section 6.*

## Visas for a Validity Period Not Exceeding Three Months

### *RRTN Section 8.*

**Visas for a validity period not exceeding three months shall be issued in accordance with the procedures and under the conditions set out in the Visa Code.**

## Visas for a Validity Period Not Exceeding Three Months

### *Government Decree Section 7.*

The immigration proceedings for issuing visas for a validity period not exceeding three months is conferred under the competence of:

- a) the minister in charge of foreign policies;
- b) the competent consulate officer;
- c) the Office;

(for the purposes of this Chapter hereinafter referred to collectively as "visa authority").

### *Government Decree Section 8.*

### *Government Decree Section 9.*

Issuing visas for a validity period not exceeding three months to persons enjoying diplomatic immunity or some other privilege under international law, and their family members, visitors of members of international organizations and members of diplomatic and consular representations in Hungary, and to persons whose entry is desirable for political reasons shall fall within the competence of the minister in charge of foreign policies as laid down in specific other legislation.

### *Government Decree Section 10.*

(1) Under special circumstances visas for a validity period not exceeding three months may be issued at road, air and water border crossing points of Hungary (hereinafter referred to collectively as "border crossing points") in due compliance with the Schengen Borders Code.

(2) Visas issued at border crossing points are:

- a) single entry transit visas with a limited period of stay of five days;
- b) single entry short-stay visas for a validity period not exceeding fifteen days.

(3) The Police shall forward applications for visas for a validity period not exceeding three months submitted at border crossing points - by way of electronic means - without delay to the Office.

(4) The Office shall promptly adopt a decision concerning the aforesaid applications, not to exceed three hours, and shall notify the applicant of its decision via the Police.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(5) If the application is approved, the visa for a validity period not exceeding three months shall be issued to the applicant by the Police.

(6) If an application for a visa for a validity period not exceeding three months is submitted at a border crossing point, the visa may not be refused based solely on the third-country national's lack of travel insurance prescribed in Paragraph *e*) of Subsection (5) of Section 12.

*Government Decree Section 11.*

*Government Decree Section 12.*

*Government Decree Section 13.*

***RRTN Section 9.***

**(1) In the cases defined by the minister in charge of immigration, the minister in charge of foreign policies, the minister in charge of supervising the national security services, and the minister overseeing civil intelligence activities for reasons of public security and national security, visas for a validity period not exceeding three months may only be granted upon the prior consent of the central visa authority.**

**(2) The central visa authority shall consult with the central authorities of the Schengen States requesting consultation prior to granting consent for the issue of a visa for a validity period not exceeding three months.**

**(3) The resolutions adopted in connection with applications for visas for a validity period not exceeding three months, if approved, may not be appealed.**

**(4) The resolution adopted in connection with applications for visas for a validity period not exceeding three months, if the visa is refused, or for the annulment, revocation and renewal of visas, may be appealed. There shall be no further appeal against the appeal judgment.**

*Government Decree Section 14.*

(1) With the exception set out in Subsection (2), the competent consulate officer shall adopt a decision concerning applications for visas for a validity period not exceeding three months within thirty days from the time of receipt.

(2) The following visa applications shall be evaluated immediately, within a maximum of seven days of receipt:

a) applications of minors and their accompanying legal guardians, if the substantiated purpose of travel is medical treatment for the minor;

b) visa applications of persons with custody of an unaccompanied minor who are arriving to escort the minor home;

c) applications for visas for a validity period not exceeding three months if the entry and stay of the applicant is desired on the grounds of substantial national interest of Hungary in the field of economics, culture, science or sports.

*Government Decree Section 15.*

(1) The minister in charge of foreign policies, and the competent consulate officer in cases falling within his competence, may request the opinion of the National Security Agency concerning applications for visas for a validity period not exceeding three months.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(2) The National Security Agency shall provide the aforementioned opinion:

- a) within seven days in the case described under Subsection (2) of Section 14;
- b) within ten days in all other cases.

*Government Decree Section 16.*

*Government Decree Section 17.*

*Government Decree Section 18.*

*Government Decree Section 19.*

*Government Decree Section 20.*

*Government Decree Section 20/A*

(1) If the decision to invalidate or revoke the visa for a validity period not exceeding three months was made by the consular officer, an appeal may be filed against the decision with the competent consular officer within three days. The consular officer shall immediately forward the appeal to the minister in charge of foreign policy.

(2) The minister in charge of foreign policy shall adjudicate the appeal within fifteen days.

(3) If the minister in charge of foreign policy upholds the appeal against the decision made on the subject of invalidating or revoking the visa, the consular officer shall issue a new visa to the third-country national.

*Government Decree Section 20/B*

(1) An appeal against the decision on the subject of invalidating or revoking – pursuant to Article 20(2) – the visa for a validity period not exceeding three months may be filed with the Police following the decision but within no later than three days of notification of the decision.

(2) The Police organ proceeding in the second instance shall adjudicate the appeal within five days.

(3) If the Police organ proceeding in the second instance upholds the appeal against the decision made on the subject of invalidating or revoking the visa pursuant to Article 20(2), the Police shall issue a new visa to the third-country national.

*Government Decree Section 20/C*

(1) If the decision to invalidate or revoke the visa for a validity period not exceeding three months was made by the regional directorate, an appeal may be filed against the decision with the regional directorate within three days. The regional directorate shall immediately forward the appeal to the Office.

(2) The Office shall adjudicate the appeal within five days.

(3) If the Office upholds the appeal against the decision made on the subject of invalidating or revoking the visa, the regional directorate shall issue a new visa to the third-country national.



*Government Decree Section 21.*

(1) The duties conferred upon the central visa authority in the RRTN shall be discharged by the Office.

(2) If - according to Subsection (6) of Section 9 of the RRTN - the consent of the central visa authority is required for the issue of a visa for a validity period not exceeding three months, the competent consulate officer shall forward the application for such visa without delay upon receipt to the central visa authority.

(3) The central visa authority shall inform the competent consulate officer of its decision to grant or refuse consent for the issue of a visa for a validity period not exceeding three months:

*a)* within seven days of forwarding the visa application, if there is no need for consultation according to Article 9(2) of the RRTN, or consultation is dispensed with by the central visa authority, or consultation is carried out by a representative state under a representation agreement pursuant to Article 8 of the Visa Code;

*b)* immediately upon receipt of all responses or upon expiry of the deadline for the receipt of responses, in the event of consultation pursuant to Article 9(2).

*Government Decree Section 22.*

(1) The central visa authority shall avoid the consultation procedure specified in Subsection (7) of Section 9 of the RRTN if it finds following receipt of a visa application for a visa for a validity period not exceeding three months that it has to be refused.

(2) If according to the assessment of the central visa authority there are no grounds for the refusal of an application for a visa for a validity period not exceeding three months, it shall contact following submission of the visa application the central authorities of the Schengen States requesting consultation, to declare their position in connection with granting consent for the issue of the visa for a validity period not exceeding three months.

*Government Decree Section 23.*

(1) Where the central authority of any Schengen State is required to consult with the central visa authority prior to granting consent for the issue of a visa for a validity period not exceeding three months - according to the decree adopted under Subsection (6) of Section 111 of the RRTN -, the central visa authority shall declare its position in connection with granting consent for the issue of the visa for a validity period not exceeding three months within seven days from the date when contacted.

(2) Under exceptional circumstances linked to the complexity of the case on hand, the central visa authority may request the central authority of the requesting Schengen State to extend the time limit for reply. The request for extension must be properly justified.

(3) If the central visa authority fails to reply within the prescribed time limit, it shall be construed that the central visa authority granted the consent requested.

*Government Decree Section 24.*

(1) The central visa authority, prior to granting the consent under Subsection (6) of Section 9 of the RRTN, shall request the opinion of the National Security Agency.

(2) The regional directorate shall decide on applications for extending visas for a validity period not exceeding three months immediately.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) If the regional directorate rejects an application for extending a visa for a validity period not exceeding three months, an appeal against the decision may be filed with the regional directorate within three days. The regional directorate shall forward the appeal to the Office immediately.

(4) The Office shall adjudicate the appeal within three days.

*Government Decree Section 25.*

The extension of visas for a validity period not exceeding three months is conferred under the competence of the regional directorate of jurisdiction by reference to the place where the third-country national's accommodation is located.

*Government Decree Section 26.*

*Government Decree Section 27.*

*Government Decree Section 28.*

## **Local Border Traffic Permit**

*Government Decree Section 28/A.*

(1) The administrative proceedings for the issue of a local border traffic permit under Regulation (EC) No. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention as specified in the relevant international agreement (hereinafter referred to as "local border traffic permit") shall fall within the competence of the consular officer of the consular post specified in the international agreement.

(2) The local border traffic permit shall be made out in the form specified in Point 3 of Schedule No. II.

*Government Decree Section 28/B.*

(1) Applications for local border traffic permit shall be submitted on a standard form prescribed in specific other legislation.

(2) When lodging an application for a local border traffic permit the applicant shall present his/her valid travel document. The validity period of the travel document must not be less than one year from the date of submission of the application, plus thirty days, and must have at least one suitable page where the local border traffic permit can be installed.

(3) Applications for local border traffic permit must have enclosed:

a) one facial photograph;

b) a document in proof of lawful residence in a border area as defined in the relevant international agreement.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

*Government Decree Section 28/C.*

(1) A local border traffic permit must be refused, or an existing local border traffic permit shall be withdrawn if the applicant or the holder of the local border traffic permit:

- a) fails to comply with the requirements for the issue of a local border traffic permit;
- b) has supplied false or untrue information in his/her application for a local border traffic permit;
- c) has made an attempt to mislead the competent authority as far as the purpose of entry and residence is concerned.

(2) A local border traffic permit may be withdrawn if the third-country national leaves the border area defined in the relevant international agreement without authorization.

(3) The decision for the withdrawal of the local border traffic permit lies with the authority that has issued the local border traffic permit, or if held by a third-country national who resides in Hungary, with the competent regional directorate of jurisdiction by reference to the place where the residence of the third-country national is located.

(4) A local border traffic permit shall be considered cancelled if:

- a) the local border traffic permit was withdrawn by final decision;
- b) the data and information it contains are no longer legible;
- c) it contains false or untrue information or has been forged;
- d) the holder has died.

(5) The consular officer shall immediately forward the appeal against the decision on the subject of the local border traffic permit to the minister in charge of foreign policy.

***RRTN Sections 10-11.***

***RRTN Section 12.***

**(1) Under international agreement the diplomatic or consular missions of other Schengen States with proper entitlement may also issue visas for a validity period not exceeding three months in the name and on behalf of Hungary.**

**(2) Under international agreement the diplomatic or consular missions of Hungary with proper entitlement may also issue visas for a validity period not exceeding three months in the name and on behalf of other Schengen States.**

## **Chapter III**

### **Provisions Governing the Right of Residence for a Period of Longer than Three Months**

#### **General Rules**

***RRTN Section 13.***

29. 05. 2012.

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**(1) For entry into the territory of Hungary and for stays in the territory of Hungary for a period of longer than three months the entry conditions for third-country nationals shall be the following:**

- a) they are in possession of a valid travel document;
- b) they are in possession of:
  - ba) a visa for a validity period of longer than three months,
  - bb) a residence permit,
  - bc) an immigration permit,
  - bd) a permanent residence permit,
  - be) an interim permanent residence permit,
  - bf) a national permanent residence permit,
  - bg) an EC permanent residence permit, or
  - bh) an EU Blue Card;
- c) they are in possession of the necessary permits for return or continued travel;
- d) they justify the purpose of entry and stay;
- e) they have accommodations or a place of residence in the territory of Hungary;
- f) they have sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country;
- g) they have full healthcare insurance or sufficient financial resources for healthcare services;
- h) they are not subject to expulsion or exclusion, they are not considered to be a threat to public policy, public security or public health, or to the national security of Hungary;
- i) they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry.

**(2) In the event of non-compliance with the requirements set out in Subsection (1), the entry and stay of third-country nationals shall be authorized only on humanitarian grounds, on grounds of national interest or because of international obligations.**

**(3) The third-country nationals holding either of the permits listed under Paragraph b) of Subsection (1) are not required to certify at the time of entry the requirements specified under Paragraphs c)-g) of Subsection (1).**

## Chapter III

### Provisions Governing the Right of Residence for a Period of Longer than Three Months

#### General Rules

*Government Decree Section 29.*

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(1) The continued travel or the return trip of a third-country national shall be deemed ensured if the visa for a validity period of longer than three months or a residence permit held by the person in question to enter the destination country or to return to his country of origin will remain valid beyond the expiration of his residence permit, and if having a valid travel ticket or sufficient financial means to purchase one, or a means of transport that is in the legitimate use of the foreign national with adequate insurance coverage.

(2) The purpose of entry and residence shall be considered justified if the applicant wishes to reside in the territory of Hungary for either of the reasons described in Sections 19-28 of the RRTN, and if able to produce documentary evidence to support his/her reasons.

(3) The requirement of accommodation is considered satisfied if the third-country national is

a) the owner of a residential property registered in the real estate register as a detached house or a residential suite, or if entitled to use such property under any title; and

b) if the size of the living space per person residing in the property is at least 6 sqm.

(3a) In cases deserving special equity, the regional directorate may accept the housing of third-country nationals even in absence of the conditions laid down in Subsection (3) b).

(4) In proceedings for the issue of visas for a validity period of longer than three months and for residence permits, the requirement of accommodation may be verified by the following documentary evidence:

a) abstract of title issued within thirty days to date, establishing the applicant's title to a residential real estate property in Hungary;

b) a residential lease contract in proof of the rental of a residence;

c) a valid letter of invitation with an official certificate affixed;

d) documentary evidence to verify the reservation of accommodation and payment;

e) a notarized statement made by a family member with the right of residence in Hungary as holding a long-term visa or residence permit, with immigrant or permanent resident status, holding a residence card or a permanent residence card in accordance with specific other legislation, or with refugee status, promising a place of abode to the applicant; or

f) other reliable means.

(5) A third-country national shall be construed to have sufficient resources to cover his/her subsistence for residence for a period of longer than three months if his/her income or assets or his/her family member's income or assets is sufficient to cover their living expenses, including accommodation, return travel, and if necessary, health care.

(6) In proceedings for the issue of visas for a validity period of longer than three months and for residence permits, the requirement of subsistence may be verified by the following:

a) the national currency of Hungary, or the national currency of any other country that may be converted at a Hungarian financial institution;

b) documentary evidence entitling the third-country national to withdraw cash at a Hungarian financial institution (bank account contract, deposit book, etc.) and a statement from the financial institution to certify the availability of funds;

c) cash substitute payment instruments which are accepted in commercial circulation in Hungary (check, credit card, etc.) and a statement from the financial institution to certify the availability of funds;

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- d) a valid letter of invitation with an official certificate affixed;
- e) documentary evidence to verify the reservation of accommodation and payment;
- f) an authentic instrument or a private document with full probative force in proof of the applicant's financial assets (tangible or intangible) whereby to ensure subsistence in Hungary;
- g) a certificate of income from lawful gainful employment in which the applicant plans to engage in the territory of Hungary or is already engaged;
- h) a certificate in proof of regular income received from abroad;
- i) a notarized statement made by a family member with the right of residence in Hungary as holding a long-term visa or residence permit, with immigrant or permanent resident status, holding a residence card or a permanent residence card in accordance with specific other legislation, or with refugee status, promising support to the applicant along with a document in proof of the family member's ability to provide such support; or
- j) other reliable means.

(7) Verification of compliance with the conditions set out in Paragraph g) of Subsection (1) of Section 13 of the RRTN, if the third-country national in question is able to prove compliance with either of the following requirements for the entire duration of his/her stay in Hungary:

- a) in accordance with the Act on Social Security Benefits, the applicant:
  - aa) is insured; or
  - ab) has acquired access to Hungarian health insurance services by virtue of an agreement, or financing for services similar to what is provided to Hungarian residents is ensured under international convention or agreement; or
  - ac) is entitled to receive medical services only;
- b) the applicant is entitled to health care services similar to those provided to persons under the scope of specific other legislation by virtue of a private accident and health insurance plan from an insurance company outside the compulsory social security system;
- c) by virtue of international convention or agreement the applicant is entitled to health care services similar to those provided to Hungarian residents;
- d) the applicant is able to cover his/her costs of health care services as verified by the documentary evidence on his/her subsistence.

*Government Decree Section 30.*

(1) Prior to the admission of third-country nationals into the territory of Hungary the Police shall check their compliance with the requirements set out in Section 13 of the RRTN.

(2) Where a third-country national fails to comply with the requirements set out in Sections 13 of the RRTN he/she shall be treated as seeking entry for the purpose of residence for a period not exceeding three months, and shall be checked for compliance with the requirements on entry for the purpose of residence for a period not exceeding three months.

**Visas for a Validity Period of Longer Than Three Months**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
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**RRTN Section 14.**

**(1) Visas for a validity period of longer than three months are as follows:**

**a) visa for entitlement to receive a residence permit, for single entry into the territory of Hungary for the purpose of collecting the residence permit and for stay for a period not to exceed thirty days;**

**b) seasonal employment visa, for single or multiple entry and for employment for a period of longer than three months and maximum six months;**

**c) national visa, for single or multiple entry and for stays in the territory of Hungary for a period of longer than three months under international agreement.**

**(2) The validity period for a visa for a validity period of longer than three months shall be:**

**a) maximum one year for the visas specified in Paragraphs a) and b) of Subsection (1);**

**b) maximum five years for the visa specified in Paragraph c) of Subsection (1).**

## Visas for a Validity Period of Longer Than Three Months

*Government Decree Section 31.*

The immigration proceedings for the issue of visas for a validity period of longer than three months are conferred under the competence of:

a) the competent consulate officer;

b) the Office;

c) the regional directorate;

(for the purposes of this Chapter hereinafter referred to collectively as "visa authority").

*Government Decree Section 32.*

Applications for visas for a validity period of longer than three months are adjudged:

a) by the regional directorate in the case of visas for entitlement to collect a residence permit,

b) by the Office in the case of national visas;

c) by the competent consulate officer in the case of seasonal employment visas.

*Government Decree Section 33.*

(1) Third-country nationals may apply for an entry visa for entitlement to collect the residence permit before admission to the country in the application for residence permit, without having to lodge a separate application.

(2) The decision concerning an application for a visa for entitlement to receive a residence permit lies with the regional directorate that issued the residence permit.

(3) If the decision of the regional directorate is in favor of the application for residence permit, it shall constitute approval for the issue of a visa for entitlement to collect the residence permit, of which the competent consulate officer shall be notified.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(4) The visa for entitlement to collect the residence permit shall be issued by the competent consulate officer based on the regional directorate's decision.



*Government Decree Section 34.*

(1) With the exception set out in Subsection (2), applications for visas for a validity period of longer than three months may be submitted to any consulate officer of Hungary, or at any other place authorized to accept such applications located in the country where the applicant's permanent or temporary residence is located, or in the applicant's country of origin.

(2) Applications for visas for a validity period of longer than three months may also be submitted at consular posts situated in a country other than those specified in Subsection (1), or at any other place authorized to accept such applications located in a country where the applicant lawfully resides, provided that:

a) Hungary does not have a consular post or another place authorized to accept such visa applications in the country specified in Subsection (1); or

b) the applicant is able to justify the reasons for submitting the application in a country other than where his/her permanent or temporary residence is located; or

c) the entry and stay of the applicant is desired on the grounds of substantial national interest of Hungary in the field of economics, culture, science or sports.

(3) Third-country nationals residing in the territory of Hungary may lodge their long-term visa applications at the regional directorate of jurisdiction by reference to their place of accommodation if:

a) there are special circumstances to justify lodging the application in Hungary, such as on the grounds of family reunification or medical treatment;

b) the purpose of residence for a period of longer than three months is research.

*Government Decree Section 35.*

(1) Applications for visas for a validity period of longer than three months shall be submitted on a standard form prescribed in specific other legislation.

(2) When lodging applications for visas for a validity period of longer than three months the applicant shall present his/her valid travel document. The validity period of the travel document - with the exception set out in Subsections (3) and (4) - must exceed the planned date of exit from the territory of Hungary by at least three months and must have at least one suitable page where the visa can be installed.

(3) Where the purpose of residence of a third-country national for a period of longer than three months is the pursuit of studies or research, the validity period of his/her travel document shall cover only the planned duration of residence.

(4) The competent visa authority may grant an exception from the requirement set out in Subsection (2) concerning the validity period if the travel document - in exceptional cases - on humanitarian grounds, on grounds of national interest or because of international obligations, on condition that the validity period of the travel document exceeds the planned date of exit from the territory of Hungary.

(5) Unless otherwise prescribed in this Decree, applications for visas for a validity period of longer than three months must have enclosed:

a) one facial photograph; and

b) documentary evidence verifying compliance with the requirements set out in Paragraphs c)-g) of Subsection (1) of Section 13 of the RRTN.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(6) Where it is necessary to clarify the relevant facts concerning the applicant's stay, the visa authority may request the applicant to produce documentary evidence in addition to those specified in Subsection (5).

*Government Decree Section 36.*

In connection with applications for visas for a validity period of longer than three months the visa authority shall record in the applicant's passport - with the exception of diplomatic, service and other official passports - the fact of application and the date and place when and where submitted, the code of the visa requested, and the name of the authority receiving the application.

*RRTN Section 15.*

**(1) Visas for entitlement to receive a residence permit may be granted to third-country nationals who have been authorized to receive a residence permit.**

**(2) The visa for entitlement to receive a residence permit shall be cancelled if the underlying residence permit had been or should be withdrawn.**

**(3) Seasonal employment visas or national visas may be granted to third-country nationals who satisfy the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13.**

**(4) Seasonal employment visas and national visas shall be refused, or shall be withdrawn if already issued from the third-country nationals:**

**a) who fail to comply with either of the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13;**

**b) who have disclosed false information or untrue facts to the competent authority in the interest of obtaining the right of residence.**

**(5) The resolution adopted in connection with applications for seasonal employment visas and national visas, or for the cancellation of such visas may not be appealed.**

*Government Decree Section 37.*

(1) The competent consulate officer shall forward long-term visa and national visa applications to the Office upon receipt without delay.

(2) Where Subsection (3) of Section 34 applies, long-term visa applications shall be adjudged by the competent regional directorate.

*Government Decree Section 38.*

The visa authority shall adopt a decision concerning seasonal employment visas and national visas within fifteen days from the time of receipt.

*Government Decree Section 39.*

(1) The visa authorities shall request the opinion of the National Security Agency concerning applications for long-term visas and national visas for reasons of public security and national security.

(2) The National Security Agency shall provide the aforementioned opinion:

a) within seven days in the case described under Subsection (2) of Section 38;

b) within ten days in all other cases.

**29. 05. 2012.**

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*Government Decree Section 40.*

The visa authority shall determine the duration of residence permitted by visas for a validity period of longer than three months and the validity period of such visas - within the limits defined in the RRTN - on the basis of the documents enclosed with the application, the verifiable purpose of entry and residence, the planned duration of stay, and based on all other information available regarding the circumstances of residence, taking also into consideration the applicant's personal and particular circumstances.

*Government Decree Section 41.*

Visas for a validity period of longer than three months shall be issued in the form and with the content specified in Point 1 of Schedule No. II to this Decree.

*Government Decree Section 42.*

The decision for the withdrawal of a visa for a validity period of longer than three months lies with the competent regional directorate of jurisdiction by reference to the place where the residence of the third-country national is located.

*Government Decree Section 43.*

A visa for a validity period of longer than three months shall be considered cancelled if:

- a) the visa is no longer valid for entry into Hungary and residence in the territory of Hungary in light of its validity period and/or the number of days and the number of entries authorized;
- b) the visa for a validity period of longer than three months was withdrawn;
- c) the third-country national was issued a new visa in a proceedings for the exchange or replacement of the visa;
- d) the data and information it contains are no longer legible;
- e) it contains false or untrue information or has been forged;
- f) the holder is granted a residence permit, a document evidencing permanent resident status or a document evidencing the right of free movement and residence;
- g) the holder has died
- h) its beneficiary has obtained Hungarian citizenship.

## **Residence Permit**

*RRTN Section 16.*

**(1) The third-country nationals holding a valid national visa shall be authorized to remain in the territory of Hungary after the period of residence authorized in the visa in possession of a long-term visa or a residence permit expires, unless this Act provides otherwise.**

**(2) A residence permit is an authorization to reside in the territory of Hungary for a limited duration of at least three months and not more than two years.**

**(3) Unless otherwise prescribed in this Act, a residence permit may be extended for two additional years.**

29. 05. 2012.

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Contact Point of the European Migration Network*

**(4) The third-country national whose request for special consideration had been accepted in accordance with the implementing decree of this Act, may submit an application for residence permit in the territory of Hungary.**

## Residence Permit

### *Government Decree Section 44.*

The immigration proceedings for the issue and extension of residence permits is conferred under the competence of:

- a) the minister in charge of foreign policies,
- b) the regional directorate.

### *Government Decree Section 45.*

Applications of third-country nationals for the issue and extension of residence permits (hereinafter referred to as "application for a residence permit") are adjudged by the regional directorate, with the exception set out in Section 46.

### *Government Decree Section 46.*

Issuing residence permits to persons enjoying diplomatic immunity or some other privilege under international law, and their family members, visitors of members of international organizations and members of diplomatic and consular representations in Hungary, and to persons whose entry is desirable for political reasons, shall fall within the competence of the minister in charge of foreign policies as laid down in specific other legislation.

### *Government Decree Section 47.*

(1) With the exception set out in Subsections (2) and (4), applications for residence permits may be submitted at any consulate officer of Hungary, or any other agency authorized to accept such applications for residence permit in the country where the permanent or temporary residence of the applicant is located or in the country of the applicant's nationality.

(2) Applications for residence permits may be submitted at the consulate officers of Hungary, or any other agency authorized to accept such applications for residence permit in countries other than the ones referred to in Subsection (1), in which the applicant is lawfully residing, provided that:

- a) in the country specified in Subsection (1) there is no consulate officer or any other agency authorized to accept such applications for residence permit; or
- b) the applicant is able to provide documentary evidence to verify the reasons to submit his/her application in a country other than where his/her permanent or habitual residence is located; or
- c) the entry and stay of the applicant is desired on the grounds of substantial national interest of Hungary in the field of economics, culture, science or sports.

(2a) Another location authorised to accept applications for residence permits shall be understood as an honorary consul, or trade mission, or an external service provider authorised to accept applications.

(3) The competent consulate officer shall forward applications for residence permit to the regional directorate of jurisdiction by reference to the future residence in Hungary of the third-country national affected upon receipt without delay.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(4) Third-country nationals residing in the territory of Hungary may lodge their applications for a residence permit at the regional directorate of jurisdiction by reference to their place of accommodation if:

*a)* there are special circumstances to justify submission of the application in Hungary, such as on the grounds of family reunification or medical treatment;

*b)* the purpose of residence for a period of longer than three months is research;

*c)* lawfully residing in Hungary as nationals of the states listed in Annex II of Council Regulation 539/2001/EC, or together with such third-country national in the capacity of a family member.

(4a) Pursuant to Section (4)a), a third-country national may submit a petition for equitable consideration and the application for a residence permit concurrently to the regional directorate with competence according to his or her place of residence. The regional directorate shall decide on the petition for equitable consideration by resolution within eight days. If the petition for equitable consideration is rejected, the regional directorate shall reject the application for a residence permit without considering the merits of the case.

(5) With the exception set out in Section 46, third-country nationals shall submit applications for the extension of their residence permit to the regional directorate by reference to the place where the third-country national's accommodation is located.

(6) Applications for the extension of a residence permit and for the issue of a national residence permit shall be submitted on a standard form prescribed in specific other legislation within thirty days prior to the expiry of the residence permit or national residence permit underlying the application for a residence permit.

(7) When lodging the application for a residence permit the applicant shall present his/her valid travel document.

(8) Unless otherwise prescribed in this Decree, applications for a residence permit must have enclosed:

*a)* one facial photograph; and

*b)* documentary evidence verifying compliance with the requirements set out in Paragraphs *c)-g)* of Subsection (1) of Section 13 of the RRTN.

*c)* the third-country national's statement on whether he or she undertakes to leave voluntarily the territory of the European Union member states defined in Section 42(3) of the RRTN.

(9) Where it is necessary to clarify the relevant facts concerning the applicant's stay, the visa authority may request the applicant to produce documentary evidence in addition to those specified in Subsection (8).

(10) If any of the circumstances that served as the basis for issuing a long-term visa or a previous residence permit issued in Hungary did not change by the time the application for the extension of a residence permit was submitted, documents to support such unaltered conditions need not be recurrently attached to the application.

*Government Decree Section 48.*

(1) Applications for residence permits shall contain a statement from the applicant third-country national as to whether or not he/she suffers from a disease or disorder specified in a decree issued by the minister in charge of the healthcare system, or is suffering from a contagious or pathogenic condition, or if he/she receives compulsory and regular treatment for any disease that constitute a potential threat to public health, or for a contagious or pathogenic condition.

(2) If according to the third-country national's statement, the health condition specified in Subsection (1) exists, the regional directorate shall notify the government body in charge of the healthcare system competent according to the third-country national's Hungarian place of domicile.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) The government body referred to in Subsection (2) that is in charge of the healthcare system may compel the third-country national to attend the necessary medical examinations, or to present an official medical report issued by the competent authority of his/her country of origin bearing the contents specified in specific other legislation.

(4) If the government body referred to in Subsection (2) that is in charge of the healthcare system finds that the third-country national suffers from a disease that constitutes a potential threat to public health, and he/she is in violation of the rules of conduct, official resolutions and legal regulations concerned with medical treatment or therapy, the said government body shall notify the regional directorate without delay.

(5) If the regional directorate issues a new residence permit or an extension in spite of what is contained in Subsection (4), it shall notify the government body referred to in Subsection (2) that is in charge of the healthcare system so as to take the necessary disease control measures.

***RRTN Section 17.***

**(1) Unless otherwise prescribed in this Act, residence permits may be issued to third-country nationals who satisfy the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13, and**

**a) have a valid national visa if applying for a national residence permit, or**

**b) have a valid residence permit in the case of applications for the extension of residence permits.**

*Government Decree Section 49.*

(1) With the exceptions set out in Subsections (2)-(3), the regional directorate shall adopt a decision concerning applications for residence permits within thirty days from the time of receipt.

(2) The following applications shall be evaluated immediately within a maximum of seven days of receipt:

a) applications of minors and their accompanying legal guardians for a residence permit, if the substantiated purpose of travel is medical treatment for the minor;

b) applications for a residence permit of persons with custody of an unaccompanied minor who are arriving to escort the minor home;

c) applications for a residence permit, if the entry and stay of the applicant is desired on the grounds of substantial national interest of Hungary in the field of economics, culture, science or sports.

(3) The applications for a residence permit of third-country nationals shall be adjudged within fifteen days if the purpose of entry is:

a) the pursuit of studies; or

b) research.

*Government Decree Section 50.*

(1) The regional directorate shall request the opinion of the National Security Agency concerning applications for a residence permit for reasons of public security and national security.

(2) The National Security Agency shall provide the aforementioned opinion:

a) within seven days in the case described under Subsection (2) of Section 49;

b) within fifteen days in the case described under Subsection (3) of Section 49;

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

c) within twenty days in all other cases.

*Government Decree Section 51.*

(1) The regional directorate shall determine the validity period of residence permits - within the limits defined in the RRTN - on the basis of the documents enclosed with the application, the verifiable purpose and the planned duration of residence, and based on all other information available regarding the circumstances of residence, taking also into consideration the applicant's personal and particular circumstances.

(2) The authorized duration of residence shall be determined - with the exceptions set out in Subsections (3) and (4) - so that the validity period of the third-country national's travel document shall have at least three months remaining at the time the authorized duration of residence expires.

(3) Where the purpose of residence of a third-country national is the pursuit of studies or research, the validity period of his/her travel document shall cover only the authorized duration of residence.

(4) The regional directorate may grant an exception from the requirement set out in Subsection (2) concerning the validity period of the travel document - in exceptional cases - on humanitarian grounds, on grounds of national interest or because of international obligations, on condition that the validity period of the travel document exceeds the authorized duration of residence.

(5) If during the validity of the residence permit an application for a residence permit is submitted in view of a change in the purpose of residence, the regional directorate may define the validity of the residence permit for a shorter duration than that of the previous residence permit. However, the duration of the validity of the residence permit may not exceed the duration stipulated by the Act in respect of the modified purpose of residence. The regional directorate shall invalidate the formerly issued residence permit.

*Government Decree Section 52.*

If the application of a third-country national for a residence permit is approved, the residence permit shall be issued in the form and with the content specified in Point 1 of Schedule No. III to this Decree.

*Government Decree Section 53.*

A residence permit shall be considered cancelled if:

- a) the authorized duration of residence has expired;
- b) the residence permit was withdrawn by final decision;
- c) the third-country national was issued a new residence permit in a proceedings for the exchange or replacement of the residence permit, or for the extension of the residence permit;
- d) the data and information it contains are no longer legible;
- e) it contains false or untrue information, or has been forged;
- f) the holder is granted a document evidencing permanent resident status or a document evidencing the right of free movement and residence;
- g) the holder has died;
- h) its beneficiary has obtained Hungarian citizenship.

**RRTN Section 18.**

**(1) Unless otherwise prescribed in this Act, new residence permits or the extension of existing ones shall be refused, or if already issued shall be withdrawn from third-country nationals:**

**a) who fail to comply with either of the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13;**

**b) who have disclosed false information or untrue facts to the competent authority in the interest of obtaining the right of residence, or misled the competent authority in respect of the purpose of residence;**

**c) who suffer from any disease that is considered to constitute a threat to public health, and who refuse to submit to the appropriate compulsory medical treatment, or who fail to abide by the Hungarian health regulations while staying in the territory of Hungary;**

**d) who established the family relationship for the purpose of obtaining a residence permit on the grounds of family reunification.**

**(1a) The issue of an EU Blue Card shall be refused if the third-country national fails to comply with either of the requirements set out in Subsection (1) of Section 20/A.**

**(1b) Renewal of an EU Blue Card shall be refused or the EU Blue Card issued shall be withdrawn if the third-country national:**

**a) fails to comply with either of the requirements set out in Subsection (1) of Section 20/A, or failed to meet such conditions at the time of issue of the EU Blue Card;**

**b) does not have the higher professional qualifications required for the job in question;**

**c) does not have sufficient resources to maintain himself in the territory of Hungary, except if the third-country national is not engaged under contract for employment relationship, where the provision contained in Paragraph e) or f) does not apply;**

**d) has disclosed false information or untrue facts to the competent authority in the interest of obtaining the right of residence, or misled the competent authority in respect of the purpose of residence, or is residing for purposes other than that for which the holder was authorized to reside;**

**e) is not engaged under any contract for employment relationship for at least three consecutive months;**

**f) was unemployed during the period of validity of an EU Blue Card on at least two occasions; or**

**g) has taken up employment other than previously authorized in a period of two years following the issue of the EU Blue Card without prior written authorization.**

**(2) By way of derogation from what is contained in Subsection (1), on humanitarian grounds, on grounds of national interest or because of international obligations a third-country national for whom an alert has been issued in the SIS may be granted a residence permit or the existing residence permit shall not be withdrawn.**

*Government Decree Section 54.*

(1) The regional directorate may issue a residence permit on the grounds specified in Subsection (2) of Section 18 of the RRTN to a third-country national for whom an alert has been issued in the SIS for the purposes of refusing entry and residence, or may renew the residence permit of such third-country national only upon consultation held before adopting a decision with the competent authority of the Schengen State that has issued the alert through the SIRENE Office described in specific other legislation (hereinafter referred to as "SIRENE Office").



**29. 05. 2012.**

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(2) If any Schengen State issues an alert in the SIS for the purposes of refusing entry and residence for a third-country national with a residence permit, the competent regional directorate shall consult with the competent authority of the Schengen State that has issued the alert via the SIRENE Office.

(3) Following consultation as specified in Subsections (1) and (2) the regional directorate shall elaborate whether or not to adopt the decision referred to in Subsection (2) of Section 18 of the RRTN taking, in particular, into consideration the reasons for issuing the alert in the SIS for the purposes of refusing entry and residence, whether the third-country national affected represents any threat to public policy or public security in the Schengen State in question, and the duration of the alert.

(4) The regional directorate shall inform the competent authority of the Schengen State affected via the SIRENE Office.

*Government Decree Section 55.*

(1) An appeal against a resolution for the refusal of an application for a residence permit or for the withdrawal of a residence permit shall be lodged within five working days following delivery of the resolution.

(2) In respect of applications for residence permits and if a residence permit is withdrawn prior to the first entry of a third country national, the third-country national may also file his or her appeal with the consular officer. The consular officer shall immediately forward the appeal to the competent regional directorate.

(3) The Office shall adjudicate the appeal within thirty days.

(4) If a third-country national proves the existence of a family relationship by presenting a certificate of a DNA test performed abroad, the regional directorate shall contact the Hungarian Institute for Forensic Sciences for an expert opinion on the acceptability of the certificate.

(5) All expenses incurred in relation to the DNA test shall be borne by the applicant.

(6) A family member of a third-country national recognised as a refugee shall have to prove the existence of conditions laid down in Section 13(1)e)-g) of the RRTN if more than six months have passed between the recognition of the refugee status and the application for family reunification.

(7) The benefits laid down in Subsection (6) may not be applicable where an application for a residence permit is submitted by a family member of a third-country national recognised as a sheltered person.

## **Special Regulations Relating to Stays for a Period of Longer Than Three Months**

*RRTN Section 19.*

**(1) A residence permit may be issued on the grounds of family reunification to a third-country national who is relative of a third-country national who is in possession of a residence permit, immigration permit, permanent residence permit, interim permanent residence permit, a national or EC permanent residence permit, or - under specific other legislation - in possession of a residence card or permanent residence card (for the purposes of this Section hereinafter referred to as "sponsor").**

**(2) The following persons may be granted a residence permit on the grounds of family reunification:**

**a) family members of persons with refugee status, and**

**b) the parents of unaccompanied minors with refugee status, or their legally appointed guardian.**

**(3) A decision rejecting an application for family reunification with a person with refugee status may not be based solely on the fact that documentary evidence of the family relationship is lacking**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**(4) The following relatives of sponsors, the spouses of sponsors or persons with refugee status may be granted a residence permit on the grounds of family reunification:**

- a) their parents who are dependants;
- b) their brothers and sisters, if they are unable to provide for themselves due to health reasons.

**(5) The spouse of a person with refugee status may be issued a residence permit for the purpose of family reunification if their marriage was contracted before the entry of the person with refugee status into the territory of Hungary.**

**(6) The spouse of a sponsor may not be issued a long-term visa or a residence permit if the other spouse of the sponsor has residence permit that was issued on the grounds of family reunification.**

**(7) Family members - unless they have obtained the right of residence on any other grounds - shall be authorized to extend his/her right of residence after five years from the date of issue of his/her first residence permit, or upon the death of the spouse or the persons with refugee status, and if other requirements for further residence are ensured.**

**(8) The children of third-country nationals with a national visa or a residence permit born in the territory of Hungary shall be issued a residence permit on the grounds of family reunification.**

**(9) The validity period for a residence permit granted for the purpose of family reunification shall be up to three years, and it may be extended by maximum three additional years at a time.**

**(10) The validity period of a residence permit issued for the purpose of family reunification may not exceed the validity period of the sponsor's residence permit.**

## Special Regulations Relating to Stays for a Period of Longer Than Three Months

### *Government Decree Section 56.*

(1) Where the purpose of entry and residence is family reunification, the third-country nationals may verify compliance with the requirements set out in Paragraph d) of Subsection (1) of Section 13 of the RRTN with the following:

- a) birth certificate,
- b) marriage certificate,
- c) adoption document, or
- d) other reliable means.

(2) Any reference made in this Decree to a registrar certificate shall also mean a similar or equivalent document issued by a foreign authority.

### *Government Decree Section 57.*

(1) The refugee authority shall be notified of any application filed by a family member of a person with refugee status for a long-term visa or for a residence permit.

(2) Family relationship for the purpose of reunification with a person with refugee status may be verified by any reliable means.

29. 05. 2012.

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Contact Point of the European Migration Network*

(3) The family members of third-country nationals with refugee status shall verify their compliance with the requirements set out in Paragraphs e)-g) of Subsection (1) of Section 13 of the RRTN if more than six months have lapsed between the time when refugee status was granted and the time when the request for family reunification was lodged.

*Government Decree Section 58.*

Any third-country national who received his/her long-term visa or residence permit for reasons of family reunification shall be required to report to the competent regional directorate of jurisdiction by reference to the place where the residence of the third-country nationals is located if his/her marriage is dissolved or in the event of the death of his/her spouse within thirty days following the spouse's death or the final court ruling for the dissolution of the marriage with the relevant documents attached.

*RRTN Section 20.*

**(1) A residence permit may be issued for the purpose of gainful employment to third-country nationals whose nature of stay is:**

**a) to perform work for or under the direction and/or supervision of others, for remuneration, under contract for employment relationship;**

**b) to lawfully perform work in a self-employed capacity for remuneration;**

**c) to engage - save where Paragraph b) applies - in any gainful activity in the capacity of being the owner or director of a business association, cooperative or some other legal entity formed to engage in gainful employment, or is a member of the executive, representative or supervisory board of such entity.**

**(2) Unless otherwise prescribed in this Act, the third-country nationals wishing to engage in gainful employment in accordance with Subsection (1):**

**a) shall have a seasonal employment visa, or**

**b) shall have a residence permit granted on humanitarian grounds, or**

**c) shall have a residence permit for the purpose of gainful employment, family reunification or in order to pursue studies, or**

**d) shall have an EU Blue Card.**

**(3) Third-country nationals with a residence permit issued on grounds of pursuit of studies may engage in gainful employment during their term-time for maximum twenty-four hours weekly, and outside their term-time or for a maximum period of ninety days or sixty-six working days.**

**(4) The validity period of a residence permit granted for the purpose of gainful employment shall be three years maximum, and it may be extended by three additional years at a time.**

**(5) The period of validity of a residence permit issued for the purpose of gainful employment subject to work permit shall correspond to the duration of the work permit.**

*RRTN Section 20/A.*

**(1) An EU Blue Card shall be given to a third-country national:**

**a) who is able to meet the conditions set out in Paragraphs a), d), h)-i) of Subsection (1) of Section 13, and is not subject to the grounds for exclusion under Subsection (2) of this Section and Paragraph b) of Subsection (1b) of Section 18;**

**b) whose employment is justified in line with specific guidelines laid down by the relevant legislation, or on grounds of domestic employment policy considerations;**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**c) who has full healthcare insurance or applied for coverage for healthcare services with respect to all periods when his contract for employment relationship carries no insurance; and**

**d) who has notified the address of his accommodation in the territory of Hungary.**

**(2) An EU Blue Card shall be refused, and shall not be issued:**

**a) to any third-country national who has applied for refugee status to the refugee authority, or having requested any subsidiary form of protection or temporary protection from the refugee authority;**

**b) to any person who has been granted any subsidiary form of protection or temporary protection in Hungary;**

**c) to exiles;**

**d) to any third-country national holding a residence permit for the purpose of carrying out scientific research;**

**e) to any person authorized under specific other legislation to exercise the right of free movement and residence;**

**f) to any third-country national holding an EC residence permit certifying long-term residence status granted by any Member State of the European Union;**

**g) to any third-country national who enter the territory of Hungary under commitments contained in an international agreement facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons;**

**h) to any third-country national who has been admitted to the territory of Hungary with seasonal employment visa, or who has been admitted to the territory of any Member State of the European Union as a seasonal worker;**

**i) to any third-country national covered by Directive 96/71/EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services, as long as he/she is posted on the territory of Hungary.**

**(2a) In the EU Blue Card application procedure the competent authorities shall make their final decision within ninety days from the submission of the application.**

**(3) An EU Blue Card shall be made out for a period of at least one year. If the contract of employment is for a shorter period, the EU Blue Card shall be made out for the term of the relationship covered by the contract of employment, plus three months.**

**(4) The validity period of an EU Blue Card shall be four years maximum, and it may be extended by four additional years at a time.**

*RRTN Section 20/B.*

**A third-country national holding a residence permit issued by any Member State of the European Union for the purpose of highly qualified employment may be issued a EU Blue Card:**

**a) after eighteen months of legal residence in the Member State having issued the EU Blue Card, and**

**b) if able to meet the requirements set out in Paragraphs a)-d) of Subsection (1) of Section 20/A.**

*RRTN Section 20/C.*

**For a period of two years after the date of issue, the holder of an EU Blue Card shall be allowed to work:**

**a) only in the employment relationship for which it was issued, or**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**b) only in an employment relationship authorized in connection with domestic employment policy considerations, for the purpose of highly qualified employment.**

*Government Decree Section 59.*

(1) If the purpose of entry and residence is to engage in gainful employment, the applicant shall supply the following proof for compliance with the requirements set out in Paragraph d) of Subsection (1) of Section 13 of the RRTN:

- a) a document verifying the employment relationship;
- b) a temporary employment book;
- c) a business plan for the economic activities;
- d) a private entrepreneurial license;
- e) a small-scale agricultural producer's license;
- f) a personal service contract, contract for professional services or an exploitation contract entered into as a private individual; or
- g) other reliable means.

(2) The purpose of entry and residence specified in Paragraph c) of Subsection (1) of Section 20 of the RRTN shall be considered verified if:

a) the business association, cooperative or other legal entity established to engage in gainful operations (for the purposes of this Subsection hereinafter referred to collectively as "business association") employs at least three Hungarian citizens or persons with the right of free movement and residence in full time employment; or

b) the stay of the applicant third-country national in Hungary is essential for the business association, and the business plan enclosed with the application contains sufficient information to ascertain that the business association will prosper to ensure the applicant's subsistence.

(3) The contents of the business plan referred to in Subsection (2)b) shall have to be substantiated in particular by attaching a copy of the service contract, agency contract, sales or purchase contract.

*RRTN Section 21.*

**(1) A residence permit may be issued on grounds of pursuit of studies to third-country nationals accepted by an establishment of secondary or higher education accredited in Hungary and admitted to the territory of Hungary to pursue as his/her main activity a full-time course of study, or to attend a course in an establishment of higher education, which may cover a preparatory course prior to such education, if they are able to verify the linguistic knowledge required for the pursuit of studies.**

**(2) The validity period of a residence permit issued on grounds of the pursuit of studies:**

- a) shall correspond to the duration of training, if it is less than two years,**
- b) shall be at least one year or maximum two years if the duration of training is two years or more, and it may be extended by at least one or at most by two additional years at a time.**

**(3) The validity period of a residence permit issued on grounds of the pursuit of studies may not exceed the validity period of the applicant's travel document even if the provisions of Subsection (2) are taken into consideration.**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

*Government Decree Section 60.*

(1) If the purpose of entry and residence is the pursuit of studies, the applicant third-country national may verify compliance with the requirement set out in Paragraph d) of Subsection (1) of Section 13 of the RRTN by the following:

- a) a certificate from the relevant educational institution;
- b) a document to verify his/her student status; or
- c) other reliable means.

(2) A residence permit issued for the purpose of attending a preparatory course prior to education may be extended for the purpose of pursuing studies only if the third-country national in question is admitted into an institution of higher education accredited in Hungary following the aforesaid preparatory course.

(3) A third-country national may prove language skills defined in Section 21(1) of the RRTN in particular by the following:

- a) an official language school certificate proving language skills;
- b) an official certificate proving the completion of studies in a foreign language; or
- c) other evidence.

*RRTN Section 22.*

**(1) A residence permit may be issued for the purpose of carrying out scientific research to third-country nationals:**

**a) seeking admission to the territory of Hungary for the purposes of carrying out a research project under a hosting agreement concluded with a research organization accredited under specific other legislation; and**

**b) the research organization provides a written commitment for reimbursing the costs of expulsion in cases where the researcher remains in the territory of Hungary past the period authorized - if the researcher does not have the financial means necessary.**

**(2) The validity period of a residence permit granted for the purpose of carrying out scientific research shall correspond to the duration of the hosting agreement, not to exceed five years, and it may be extended by a duration corresponding to any extension of the hosting agreement, not to exceed five years.**

*Government Decree Section 61.*

If the purpose of entry and residence is to carry out a research project, the applicant third-country national may verify compliance with the requirement set out in Paragraph d) of Subsection (1) of Section 13 of the RRTN by producing a hosting agreement concluded with the relevant research organization.

*RRTN Section 23.*

**(1) Residence permits may be issued for official duty to third-country nationals:**

**a) enjoying any special privileges and immunities under diplomatic relations or international law, and their family members;**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**b) who are members of official delegations of foreign states or foreign government bodies, or international organizations;**

**c) who are journalists;**

**d) seeking admission within the framework of an international convention, international cooperation or an intergovernmental aid program in the field of education, science or culture or participating in continuing professional training;**

**e) who are staff members of scientific, educational and cultural institutions operating in Hungary under an international convention and to persons seeking admission in connection with the activities of such institutions.**

**(2) The validity period of a residence permit issued for official duty shall correspond to the duration of training or continuing professional training, not to exceed three years, and it may be extended by the duration corresponding to any extension of the training or continuing professional training, not to exceed three years.**

*RRTN Section 24.*

**(1) Residence permits may be issued for the purpose of medical treatment to third-country nationals:**

**a) seeking admission into the territory of Hungary for the purpose of receiving medical treatment;**

**b) accompanying their minor children or family members in need of support for receiving medical treatment in Hungary.**

**(2) The validity period of a residence permit issued for the purpose of medical treatment shall correspond to the duration of treatment, not to exceed two years, and it may be extended by the duration corresponding to any extension of the treatment, not to exceed two years.**

*Government Decree Section 62.*

If the purpose of entry and residence is medical treatment, the applicant third-country national may verify compliance with the requirement set out in Paragraph d) of Subsection (1) of Section 13 of the RRTN by a certificate from the medical institution providing the treatment.

*RRTN Section 25.*

**(1) Residence permits may be issued for the purpose of visit to third-country nationals holding a letter of invitation specified in specific other legislation.**

**(2) The validity period of a residence permit issued for the purpose of visit shall correspond to the duration of the commitment fixed in the letter of invitation, not to exceed one year, and it may not be extended for the purpose of visit.**

*Government Decree Section 63.*

If the purpose of entry and residence is to visit, compliance with the requirements set out in Paragraphs d)-g) of Subsection (1) of Section 13 of the RRTN may be verified by a letter of invitation with an official certificate affixed (hereinafter referred to as "letter of invitation").

*Government Decree Section 64.*

**(1) A request for a letter of invitation may be presented by:**

**a) a Hungarian citizen;**



**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

b) a third-country national with immigrant or permanent resident status, or recognized by Hungary as a refugee and holding a long-term visa or a residence permit;

c) a person with the right of free movement and residence granted under specific other legislation; and

d) a legal person or business association lacking the legal status of a legal person that is established or registered in Hungary.

(2) A request for a letter of invitation shall be submitted on a standard form, a model of which is contained in specific other legislation, at the regional directorate of jurisdiction by reference to the requesting person's permanent or temporary residence or place of accommodation, or the registered office of a legal person.

(3) The regional directorate shall evaluate requests for a letter of invitation within fifteen days, or within seven days if the entry and stay of the invited third-country national is desired on the grounds of substantial national interest of Hungary in the field of economics, culture, science or sports.

*Government Decree Section 65.*

The person requesting a letter of invitation must be able to verify his/her compliance with the conditions to satisfy the commitment specified under Paragraph 1) of Section 2 of the RRTN.

*Government Decree Section 66.*

(1) If the regional directorate approves the request for a letter of invitation, it shall grant consent for invitation and issue a letter of invitation to the requesting person.

(2) A letter of invitation shall be issued in the form and with the content specified in specific other legislation.

(3) The validity period of a letter of invitation shall be specified in days, determined with regard to all prevailing circumstances. The maximum validity period of a letter of invitation is 365 days.

(4) The responsibility to send the letter of invitation to the invited third-country national lies with the host.

*Government Decree Section 67.*

(1) A request for a letter of invitation shall be refused if the requesting person:

a) is unable to satisfy the conditions for performance of the commitment;

b) failed to perform his commitments associated with a previous letter of invitation;

c) has supplied false or untrue information in his/her request.

(2) The host shall be informed that a letter of invitation shall not in itself constitute authorization for the third-country national to enter Hungary.

*Government Decree Section 68.*

The following shall not be required to obtain a letter of invitation: the Parliament, the President of the Republic, the Government, their administrative offices, the State Audit Office, the Ombudsman, the Constitutional Court, the ministries, the Hungarian Academy of Science, central administration authorities, the courts and the public prosecutors' offices, the administration offices, and minority self-governments.

***RRTN Section 26.***

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(1) A residence permit may be issued for the purpose of voluntary service activities to third-country nationals seeking admission into the territory of Hungary under a voluntary service agreement concluded with the hosting organization specified in specific other legislation for providing voluntary services in the public interest.

(2) The validity period of a residence permit issued for the purpose of voluntary service activities shall correspond to the duration of the voluntary services provided in the public interest, not to exceed one year.

(3) A residence permit issued for the purpose of voluntary service activities may not be extended.

*Government Decree Section 69.*

If the purpose of entry and residence is to engage in voluntary service activities, compliance with the requirements set out in Paragraph d) of Subsection (1) of Section 13 of the RRTN may be verified by the voluntary service agreement concluded between the third-country national and the hosting organization.

*RRTN Section 27.*

(1) A national visa or national residence permit may be issued under international agreement to third-country nationals seeking admission into the territory of Hungary:

- a) to engage in activities to preserve and maintain the Hungarian language;
- b) to engage in activities intended to preserve cultural and ethnic identity;
- c) for the purpose of learning and enlightenment in an establishment of secondary or higher education recognized by the State;
- d) for the purpose of furthering family ties, other than family reunification.

(2) The validity period of a national residence permit shall be up to five years, and it may be extended by maximum five additional years at a time.

*RRTN Section 28.*

(1) Any third-country national who is able to satisfy the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13 may have a residence permit issued in the absence of the objectives listed under Sections 19-27 for eligibility for a residence permit.

(2) The validity period of a residence permit referred to in Subsection (1) shall be five years at most, and it may be extended by maximum five additional years at a time.

*RRTN Section 29.*

(1) In the absence of the requirements for a residence permit specified in this Act the following persons shall be granted a residence permit on humanitarian grounds:

- a) the person recognized by Hungary as a stateless person;
- b) the person recognized by Hungary as an exile;
- c) any third-country national who applied to the refugee authority for asylum, or who applied to the refugee authority for any subsidiary form of protection or temporary protection;
- d) any third-country national who was born in the territory of Hungary who has been removed from the custody of his guardian having custody according to Hungarian law, and also unaccompanied minors;
- e) for substantial national security or law enforcement reasons - by initiative of the relevant public prosecutor, court, national security or law enforcement agency, or the investigating arm of the Nemzeti

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

Adó- és Vámhivatal (*National Tax and Customs Authority*) - to any third-country national, or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence;

f) by initiative of the court, to third-country nationals who have been subjected to particularly exploitative working conditions, or to third-country national minors who were employed illegally without a valid residence permit or other authorization for stay.

(2) The validity period of a residence permit granted on humanitarian grounds:

a) shall be three years in the case referred to in Paragraph a) of Subsection (1), that may be extended by maximum one year at a time;

b) shall be one year in the cases referred to in Paragraphs b) and d) of Subsection (1), that may be extended by maximum one year at a time;

c) shall be up to six months in the cases referred to in Paragraphs c) and e) of Subsection (1), that may be extended by maximum six months at a time.

d) shall be up to six months in the case referred to in Paragraph f) of Subsection (1), that may be extended by up to six months at a time, until the binding conclusion of proceedings brought by the third-country national against his/her employer for the purpose of recovering outstanding remuneration.

(3) By way of derogation from Subsection (1) of Section 18, a residence permit granted on humanitarian grounds may not be extended, or it shall be withdrawn if:

a) any requirement for issue is no longer satisfied;

b) the third-country national in question has disclosed false information or untrue facts to the competent authority in the interest of obtaining the right of residence;

c) withdrawal is requested by the authority or body on whose initiative it was issued on the grounds specified in Paragraph a) or for some other reason.

(4) Where a residence permit was granted on humanitarian grounds by the initiative of a duly authorized authority or body, the withdrawal, extension or refusal of extension of such residence permit shall be subject to the initiative or consent of the aforesaid duly authorized authority or body.

(5) The residence permit of a third-country national referred to in Paragraph d) of Subsection (1) may be withdrawn, or extension of the duration specified in his/her residence permit may be refused only if family reunification in the country of origin or in any other country liable to accept him/her is ensured, or if state or other institutional support is ensured.

(6) Exiles shall be entitled to the rights afforded to persons with residence permits and to the rights granted to exiles in specific other legislation. The exile shall provide assistance for having his identity established, however, failure to establish his identity shall not justify refusal of a residence permit.

(7) Exiles, and the third-country nationals to whom a residence permit had been issued under Paragraph e) of Subsection (1), who are victims of trafficking in human beings shall be provided aid and support specified under specific other legislation.

*Government Decree Section 70.*

(1) A residence permit may be granted on humanitarian grounds ex officio, and shall be extended by:

a) the competent regional directorate granting stateless or refugee status, respectively, under Paragraph a) and b) of Subsection (1) of Section 29 of the RRTN;

b) the refugee authority under Paragraph c) of Subsection (1) of Section 29 of the RRTN;

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

c) the regional directorate of jurisdiction by reference to the place of accommodation of the unaccompanied minor under Paragraph d) of Subsection (1) of Section 29 of the RRTN, at the request of the guardian authority;

d) the regional directorate of jurisdiction by reference to the place of accommodation of the third-country national under Paragraph e) of Subsection (1) of Section 29 of the RRTN.

e) In the case defined in Section 29(1)f) – upon the initiative of the court – the regional directorate with competence according to the third-country national's place of residence.

(2) A residence permit shall be issued to a third-country national requesting asylum, or requesting any subsidiary form of protection or temporary protection from the refugee authority within three days from the date when the request is submitted.

(3) The third-country nationals referred to in Paragraphs a)-e) of Subsection (1) of Section 29 of the RRTN are required to fill out the residence permit application form or residence permit extension form prescribed in specific other legislation, and submit it with a photograph attached.

*Government Decree Section 71.*

(1) Residence permits granted to third-country nationals on humanitarian grounds shall be issued - with the exception set out in Subsection (2) - in the form and with the content specified in Point 2 of Schedule No. III to this Decree.

(2) Residence permits granted to the third-country nationals referred to in Paragraph c) of Subsection (1) of Section 29 of the RRTN on humanitarian grounds shall be issued in the form and with the content specified in Point 3 of Schedule No. III to this Decree.

*Government Decree Section 72.*

(1) The immigration authority shall conduct immigration proceedings relating to a minor child who is a third-country national to investigate as to whether the provisions laid down in the RRTN and in this Decree pertaining to unaccompanied minors apply to the child in question. The inquiry shall, in particular, aim to determine:

a) whether the third-country national in question is in fact a minor;

b) if there is an adult who can be held responsible for him/her whether by law or custom.

(2) For the protection of the rights of unaccompanied minors, the immigration authority shall take adequate measures at the beginning of the proceeding to have a representative ad litem appointed.

(3) With a view to provide support and care for the unaccompanied minor the immigration authority shall contact the competent guardian authority and the consular post of the country of origin of the minor in question in Hungary.

*Government Decree Section 72/A*

(1) The provisions of Sections 31, 32a), 33, 36, 41-48, 49(1), 50, 51(3) and 52-55 shall be applicable to submitting and adjudacting applications for the issuance of the EU Blue Card.

(2) In the procedure aimed at the issuance or extension of the EU Blue Card, the existence of the condition laid down in Section 13(19)d) of the RRTN may be proven by a preliminary agreement or a valid employment contract concluded between the employer and the third-country employee for employment – for a fixed term of up to four years – requiring higher-level qualifications.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) Higher-level vocational qualifications required for employment under a preliminary agreement or an employment contract attached to the application for the EU Blue Card may be evidenced by a certificate proving the completion of the required higher-level vocational or higher-educational studies.

(4) In reporting the place of residence indicated in the application for the EU Blue Card, the third-country national shall attach a residence report form as specified by separate legislation and signed by the person entitled to dispose over the property.

(5) In the procedure of application for the issuance and extension of the EU Blue Card, livelihood shall be considered to be proven provided that the level of the third-country national reaches or exceeds the gross monthly salary defined in separate legislation.

(6) In the procedure of application for the issuance and extension of the EU Blue Card, livelihood may not be considered to be proven if the third-country national does not have sufficient resources for himself or herself and his or her family members in order not to create an undue burden on Hungary's social welfare system.

(7) A person shall not be considered to have sufficient resources if he or she has been a recipient of

a) old-age benefit, pursuant to Section 32/B(1);

b) working-age benefit, pursuant to Section 33; or

c) carer's allowance, pursuant to 43/B

of Act III of 1993 on Social Governance and Social Benefits for longer than three months.

(8) Subsection (7) may not be applicable where the conditions laid down in Section 18(1b)e) and f) of the RRTN exist.

(9) The condition laid down in Section 20/A(1)e) shall be considered to be met by that third-country national who meets the conditions defined in Section 29(7).

*Government Decree Section 72/B*

(1) In the procedure aimed at the issuance or extension of the EU Blue Card, the Government shall, in order to ascertain whether or not the third-country national's employment linked to a higher-level qualification may be subsidised based on statutory criteria or to serve domestic employment policy interests, assign the Labour Centre of the County (Metropolitan) Government Office in the first instance and the Employment Office in the second instance as special authority.

(2) The Labour Centre shall send its special authority statement formulated in accordance with the Government Decree laying down the rules of formulating special authority statements on the issuance of the EU Blue Card to the Regional Directorate within thirty days.

(3) If after sending its special authority statement the special authority finds out about data that warrant the revocation of the earlier special authority statement, the special authority shall send its new special authority statement to the Regional Directorate without delay.

(4) In respect of an appeal against the special authority statement, the Employment Office shall proceed in the second instance. It shall send its special authority statement to the Office within fifteen days.

**Aid and Support Granted to Exiles and Third-Country Nationals Who Are  
Victims of Trafficking in Human Beings**

*Government Decree Section 73.*

**29. 05. 2012.**

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Contact Point of the European Migration Network*

The Office shall provide aid and support for the subsistence of exiles and third-country nationals who are victims of trafficking in human beings and to whom a residence permit has been granted (hereinafter referred to as "third-country nationals who are victims of trafficking in human beings").

*Government Decree Section 74.*

(1) Exiles and third-country nationals who are victims of trafficking in human beings shall be entitled to receive provisions under the scope of personal care, including financial provisions and financial assistance.

(2) Provisions under the scope of personal care are:

- a) room and board in a community hostel or the like;
- b) medical services;
- c) meals provided in an educational institution.

(3) Financial provisions:

- a) one-off moving allowance;
- b) school aid.

(4) Financial assistance:

- a) rental support;
- b) financial support for leaving the country permanently;
- c) covering the costs of a pre-employment medical examination and aptitude test, and the costs of translation of documents in proof of vocational training.

*Government Decree Section 75.*

(1) The financial provisions and financial assistance defined in Section 74 shall be provided to an exile or a third-country national who is a victim of trafficking in human beings who does not have any assets or whose income, or the combined monthly income of his family as distributed equally among all family members living under the same roof, including his spouse, domestic partner, brother, sister and next of kin, is not more than the mandatory minimum old age pension.

(2) For the purposes of this Decree assets and income shall have the meaning as defined in Paragraphs a) and b) of Subsection (1) of Section 4 of Act III of 1993 on Social Administration and Social Provisions.

*Government Decree Section 76.*

(1) Exiles and third-country nationals who are victims of trafficking in human beings requesting any of the aid or support defined in Section 74 shall be required to fill out the form contained in Schedule No. VI of this Decree to declare their financial and income situation and submit it enclosed with the written request for aid and support.

(2) Requests submitted by exiles and third-country nationals who are victims of trafficking in human beings for aid and support shall be evaluated by the regional directorate of jurisdiction by reference to their place of accommodation.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) The competent regional directorate shall issue a provisions certificate, contained in Schedule No. VII to this Decree, to the exiles and third-country nationals who are victims of trafficking in human beings eligible for aid and support. The provisions certificate shall be valid only when presented together with the residence permit of exiles and third-country nationals who are victims of trafficking in human beings.

*Government Decree Section 77.*

(1) Exiles may be placed in community hostels or refugee centers, and third-country nationals who are victims of trafficking in human beings may be placed in reception centers or other places of accommodation maintained under contract for third-country nationals who are victims of trafficking in human beings (for the purposes of this Subtitle hereinafter referred to collectively as "community hostel").

(2) The exiles and third-country nationals who are victims of trafficking in human beings placed under compulsory confinement in a community hostel shall not be required to pay for the hostel's services for a period of eighteen months from the date of the compulsory order, if his/her income does not exceed the threshold amount specified in Subsection (1) of Section 75.

(3) Exiles and third-country nationals who are victims of trafficking in human beings shall be subject to the provisions laid down in Sections 130-133 during their tenancy in community hostels.

(4) In addition to the provisions specified in Subsection (3), exiles and third-country nationals who are victims of trafficking in human beings over the age of fourteen shall be provided spending money each month - in an amount equal to twenty-five per cent of the prevailing minimum old-age pension - starting in the third month of their stay in the community hostel. If the recipient repeatedly or seriously violates the house rules of the community hostel the director of the community hostel shall withhold payment of spending money for a specific period of time. The duration of non-payment shall be determined by the nature and gravity of the act committed.

(5) If the income of an exile or a third-country national who is a victim of trafficking in human beings is over the threshold amount specified in Subsection (1) of Section 75, he/she shall pay for the costs of the services received from the community hostel by the fifth day of each month, in the amount specified by the director of the community hostel.

*Government Decree Section 78.*

(1) Exiles and third-country nationals who are victims of trafficking in human beings shall be permitted to leave the community hostel if moving out with the permission of the competent regional directorate and upon providing a statement before moving out (hereinafter referred to as "statement of relocation").

(2) The spending money may be deprived of any exile and third-country national who is a victim of trafficking in human beings, who leaves the community hostel without a statement of relocation and remains absent for over forty-eight hours without a plausible explanation. The duration of the non-payment shall be determined by the director of the community hostel.

(3) Any exile or third-country national who is a victim of trafficking in human beings who has moved to a private accommodation, may be allowed to return to the community hostel with the permission of the competent regional directorate, and if eligible for community hostel services by virtue of his/her financial standing and income.

(4) The competent regional directorate may authorize exiles and third-country nationals who are victims of trafficking in human beings tenancy in a community hostel beyond the eighteen-month period under special and equitable circumstances, and if justified by virtue of their financial standing and income.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

*Government Decree Section 79.*

(1) Any exile and third-country nationals who are victims of trafficking in human beings who are not covered by any social insurance system shall be eligible to receive the health care services defined in Section 138 free of charge.

(2) Basic medical care shall be provided to exiles and third-country nationals who are victims of trafficking in human beings residing in community hostels in the community hostel of tenancy.

(3) Exiles and third-country nationals who are victims of trafficking in human beings residing in places other than community hostels shall be provided basic medical care by the general practitioner responsible for the region where their abode is located.

(4) Special medical care shall be available at the health care provider responsible for the region in question.

*Government Decree Section 80.*

Regarding the costs of meals of exiles and third-country nationals who are victims of trafficking in human beings received in a nursery school, primary or secondary school, or in a boarding school or a children's institution, the Office - upon the initiative of the competent regional directorate - shall make allowance for such costs by request of the legal representative of the exiles and third-country nationals who are victims of trafficking in human beings, directly reimbursing the institution that has provided them.

*Government Decree Section 81.*

(1) If an exile or a third-country national who is a victim of trafficking in human beings moves to a private accommodation within six months from the date when his residence permit was issued, he may request a one-off moving allowance from the competent regional directorate. A statement of relocation shall be attached together with a new financial and income statement and proof of registration of the place of abode, plus a rental agreement and a statement of consent from the owner of the private accommodation and proof of registration of the applicant's place of abode.

(2) In the case of a flat not exceeding the minimum size and quality recognised in the settlement, the benefit may only be disbursed on the basis of a flat rental agreement or lodging agreement (hereinafter: flat rental agreement) and may only be spent on covering the lodging fee or security deposit.

(3) The application shall include as an attachment a move-out statement and a copy of the flat rental agreement, and proof shall have to be presented of the fact that the place of residence of the third-country national, who was admitted or fell victim to human trafficking, has been reported.

*Government Decree Section 82.*

(1) The request for a one-off moving allowance shall be adjudged by the competent regional directorate in consideration of the applicant's social welfare. The moving allowance shall be provided one time only.

(2) The allowance shall be three hundred per cent of the prevailing minimum old-age pension for adults and one hundred and seventy per cent for persons under eighteen years of age, however, it may not be more than the six-times the amount of the prevailing mandatory minimum old-age pension per family.

(3) In adopting a decision concerning the amount of the allowance, the regional directorate shall, in particular, consider the following factors:

a) the number of persons sharing the same flat;



**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

b) the amount of per capita income calculated on the basis of the total income of the third-country applicant, who was admitted or fell victim to human trafficking, and his or her spouse, sibling and lineal relative living in the same household with him or her; and

c) the size, condition and equipment of the flat.

(4) The Office shall dispatch the allowance via postal service to the applicant's registered place of abode indicated in the application.

(5) The persons claiming any one-off moving allowance shall be eligible for room and board in a community hostel only in accordance with the provisions of Subsection (4) of Section 78.

*Government Decree Section 83.*

(1) The legal representative of an exile or a third-country national who is a victim of trafficking in human beings of school age may apply to the competent regional directorate for aid at the beginning of the academic year. The Office - upon the initiative of the competent regional directorate - shall award a single, one-time-only school aid if it determines that the student is indigent for social reasons.

(2) The amount of school aid provided shall be equal to fifty per cent of the prevailing mandatory minimum old age pension.

(3) The school aid may be applied for once per school year and spent on textbooks, workbooks for subjects, school supplies and clothes.

*Government Decree Section 84.*

(1) Upon request, the competent regional directorate may provide assistance for exiles and third-country nationals who are victims of trafficking in human beings to pay their rental fee or lease for a dwelling or lodging, provided it does not surpass the basic requirements by local standards in terms of size and comfort. Rental support shall be provided only upon a valid rental or lease agreement or a declaration of admission, following a preliminary assessment of living conditions. The preliminary assessment of living conditions shall be conducted by the regional directorate of jurisdiction by reference to applicant's place of abode.

(2) Rental support shall be provided for a maximum period of eighteen months from the date when the first residence permit was issued.

(3) The amount of the support shall be fifty per cent of the rental fee or lease charge, as verified by the lessor or the landlord, or maximum the amount of the prevailing mandatory minimum old age pension if provided to a single individual, or twice the amount of the prevailing mandatory minimum old age pension if provided to a family. The exiles and third-country nationals who are victims of trafficking in human beings living in the same residential unit, who are not regarded as family members, shall be subject to the provisions pertaining to families.

*Government Decree Section 85.*

Upon request, the competent regional directorate may reimburse, in part or entirely, the fare paid by an exile or a third-country national who is a victim of trafficking in human beings (as substantiated by a valid ticket) wishing to permanently leave the country and return to his home country or relocate to another country. The amount established by the competent regional directorate shall be paid by the Office.

*Government Decree Section 86.*

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

Upon the request made by an exile or a third-country national who is a victim of trafficking in human beings, the competent regional directorate may - on one occasion - finance the cost of medical examination required for employment purposes and the costs of translation of documents in proof of vocational training. The amount thus financed shall be paid by the Office.

*Government Decree Section 87.*

(1) The Office may contract non-governmental organizations, local governments, churches, legal persons, associations, foundations, their institutions, and business associations (hereinafter referred to as "contractor") for:

a) providing accommodation to exiles and third-country nationals who are victims of trafficking in human beings;

b) administering provisions;

c) providing social and consultative mental health services to exiles and third-country nationals who are victims of trafficking in human beings;

d) providing information to exiles and third-country nationals who are victims of trafficking in human beings concerning their rights and obligations.

(2) These contracts shall cover:

a) the persons to whom the services are provided, and the description and duration of provisions;

b) the terms and conditions for providing the services contracted and the remuneration payable;

c) the clauses and conditions for keeping records of the services provided and the payment terms and conditions;

d) the Office's right to oversee performance and the manner in which to exercise such oversight;

e) the conditions for termination of the contract, the notice period in months, and clauses to settle any legal disputes.

*Government Decree Section 88.*

(1) The agencies, institutions and persons under contract for supplying services and provisions shall keep separate records of the expenses incurred in connection with their contractual relation with the Office, and shall check the eligibility of applicants as appropriate.

(2) The Office shall subsequently settle the accounts for the costs and expenses involved in the provision of aid and support under this Decree. Contractors shall submit their invoice to the Office for services - indicating the name of the exiles or third-country nationals who are victims of trafficking in human beings to whom the services were provided and the serial number of the official document or the case number to which it pertains - within one month from the date when the service was rendered.

(3) The Office may advance funds to cover essential expenses in connection with urgent services or support provided to exiles and third-country nationals who are victims of trafficking in human beings to the contractor rendering such service.

(4) The Office shall reimburse the funeral costs of an exile or third-country national who is a victim of trafficking in human beings buried in Hungary by request of the notary of the community local government that has advanced such costs.

## Certificate of Temporary Residence

### *RRTN Section 30.*

(1) A certificate of temporary residence shall be issued to any third-country national:

a) who has filed an application for a residence permit, and whose national visa or previous residence permit has already expired before the permit is issued, or shall be granted residence permit in accordance with this Act, furthermore, if the applicant has submitted an application for a residence permit under Subsection (5) of Section 1;

b) who has submitted an application for a or interim permanent residence permit in the territory of Hungary;

c) who remained in the territory of Hungary beyond the duration of lawful residence due to humanitarian reasons or reasons in connection with his/her gainful employment, or for personal or some other unavoidable reasons beyond his/her control;

d) who was born in the territory of Hungary and whose parent is a third-country national lawfully residing in the territory of Hungary, and whose lawful residence cannot be ensured by any other permit that may be granted under this Act;

e) who is a victim of trafficking in human beings, if initiated by the victim support authority, for the duration of support;

f) whose entry is authorized - in exceptional cases - on humanitarian grounds, on grounds of national interest or because of international obligations due to their failure to fulfill one or more of the conditions laid down by law, if he/she does not have any form of authorization to reside in the territory of Hungary;

g) whose travel document had been confiscated, and he/she does not have any form of authorization to reside in the territory of Hungary;

h) who is subject to any immigration related proceeding for unlawful entry and residence pending;

i) who has applied for stateless status, for the duration of such proceedings, if he/she does not have any form of authorization to reside in the territory of Hungary;

j) who is subject to an order of compulsory confinement under Paragraph *a), b), c), d) or f), g)* of Subsection (1) of Section 62.

k) who has filed an application for a residence permit for the purpose of highly qualified employment in any Member State of the European Union, and has re-entered the territory of Hungary for the period of unemployment after the EU Blue Card has expired or has been withdrawn.

(2) The validity period of a certificate of temporary residence:

a) shall be up to three months in the cases specified in Paragraphs *a)-c)* and *f)-h)* of Subsection (1), and it may be extended by maximum three additional months at a time;

b) shall correspond to the duration of residence of the parent in the case specified in Paragraph *d)* of Subsection (1);

c) shall be one month in the case specified in Paragraph *e)* of Subsection (1), and it may not be extended;

d) shall be six months in the cases specified in Paragraphs *i)* and *j)* of Subsection (1), and it may be extended by six additional months at a time.

e) shall be three months in the case specified in Paragraph *k)* of Subsection (1), and it may not be extended.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**(3) The third-country nationals to whom a certificate of temporary residence had been granted under Paragraph a) of Subsection (1) may engage in gainful employment if having submitted an application for a residence permit for the purpose of gainful employment in possession of a residence permit that was issued for the purpose of gainful employment.**

**(4) A certificate of temporary residence may not be extended, or it shall be withdrawn if any requirement for issue is no longer satisfied.**

**(5) A certificate of temporary residence constitutes the right of residence in the territory of Hungary, it may not be used for exit or reentry, it shall become void upon the third-country national's departure, when it shall be surrendered. The certificates surrendered shall be returned to the issuing authority.**

## Certificate of Temporary Residence

*Government Decree Section 89.*

(1) The issue of certificates of temporary residence is conferred under the competence of:

a) the competent regional directorate conducting the immigration proceedings under Paragraphs a), b), h) and i) of Subsection (1) of Section 30 of the RRTN;

b) in the case under Paragraph c) of Subsection (1) of Section 30 of the RRTN, the regional directorate of jurisdiction by reference to the place where the third-country national resides in Hungary, or failing this where his/her permanent or temporary residence is located;

c) in the case under Paragraph d) of Subsection (1) of Section 30 of the RRTN, the regional directorate of jurisdiction by reference to the place where the parent resides in Hungary or where his/her residence is located;

d) in the case under Paragraph e) of Subsection (1) of Section 30 of the RRTN, the regional directorate of jurisdiction by reference to the place where the third-country national who is a victim of trafficking in human beings resides in Hungary;

e) the Police in the case under Paragraph f) of Subsection (1) of Section 30 of the RRTN;

f) in the case under Paragraph g) of Subsection (1) of Section 30 of the RRTN, the regional directorate withholding or withdrawing the travel document;

g) in the case under Paragraph j) of Subsection (1) of Section 30 of the RRTN, the regional directorate of jurisdiction by reference to where the place of compulsory confinement is located.

h) the regional directorate competent according to the place of residence, in the case defined in Section 30(1)k) of the RRTN

(2) The certificate of temporary residence shall be cancelled when the third-country national is granted a long-term visa, a residence permit or an interim permanent residence permit upon the conclusion of the proceedings on the basis of which the certificate of temporary residence was awarded.

## **Provisions relating to the Entry and Residence of the Civilian Personnel, and their Relatives, under the Convention between the Parties to the North Atlantic Treaty on the Status of their Forces, signed in London on 19 June 1951**

*RRTN Section 31.*

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(1) With regard to the entry and residence of civilian staff and their relatives (hereinafter referred to as "civilian personnel") described under Paragraph b) of Article I of the Convention between the Parties to the North Atlantic Treaty on the Status of their Forces, signed in London on 19 June 1951 (hereinafter referred to as 'NATO-SOFA Agreement') and promulgated by Act CXVII of 1999, and for the verification of the status of such personnel described under Point 3 of Article III, the provisions of this Act shall be applied subject to the exceptions set out in Subsections (2)-(3) of this Section.

(2) The aforementioned civilian personnel shall not be required to obtain visas for a validity period of longer than three months, and shall not be compelled to provide proof for the requirements set out in Paragraphs e)-g) of Subsection (1) of Section 13.

(3) The immigration authority shall notify the department appointed by the minister in charge of defense if any criminal charges are filed against said civilian personnel and on the conclusion of such, and for any expulsion, for the department to notify the State of origin.

## Provisions Relating to the Entry and Residence of the Civilian Personnel, and their Relatives, under the Convention between the Parties to the North Atlantic Treaty on the Status of their Forces, signed in London on 19 June 1951

### *Government Decree Section 90.*

By way of derogation from what is contained in Subsection (5) of Section 35 and in Subsection (4) of Section 47, the third-country nationals referred to in Subsection (1) of Section 31 of the RRTN shall supply the following documents enclosed with the application for a long-term visa or residence permit:

- a) one facial photograph; and
- b) documentary evidence verifying compliance with the requirements set out in Paragraphs c)-d) of Subsection (1) of Section 13 of the RRTN; and
- b) a certificate made out by the minister in charge of defense relating to the applicant's status in Hungary.

## **Chapter IV**

### **Establishing Residence**

#### *RRTN Section 32.*

**(1) The third-country nationals in possession of the following permits shall be considered residents:**

- a) a permanent residence permit issued before the time of this Act entering into force;**
- b) an interim permanent residence permit;**
- c) a national permanent residence permit;**
- d) an EC permanent residence permit.**

**(2) Third-country nationals with permanent resident status shall have the rights afforded in the Fundamental Law and in specific other legislation.**

**(3) Persons with permanent resident status - other than those with temporary resident status - shall be authorized to reside in the territory of Hungary for an indefinite period of time.**

**(4) Persons with permanent resident status are entitled to the rights afforded to holders of residence permits by specific other legislation.**

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**(5) The competent authority shall notify the central body managing the personal data and permanent address about**

**a) residence permits issued to third country nationals registered as refugees or persons under protection in order to record a new legal status in addition to the existing one,**

**b) withdrawal of permanent residence permits, interim permanent residence permits, national permanent residence permits and EC permanent residence permits,**

**c) withdrawal of immigration permits.**

## Chapter IV

### Detailed Provisions on Establishing Residence

#### *Notification of the Place of Domicile of Third-Country Nationals with Permanent Resident Status and Supplying Them with Personal Identification Documents*

##### *Government Decree Section 91.*

(1) Third-country nationals applying for an interim permanent residence permit, national permanent residence permit, or EC permanent residence permit shall register their first place of domicile in Hungary - if they do not yet have a place of abode in Hungary - at the same time when filing the application for the aforesaid permanent resident permits.

(2) The notification of place of domicile shall have attached a document in proof of the third-country national's right or title to the residential property. The section of the application for permanent resident permit for registration of the place of domicile shall be signed by the applicant and by the owner of the residential property, or by the landlord where applicable.

(3) If the application for registration of the first place of domicile is rejected it shall be contained in the resolution of the competent regional directorate rejecting the application for permanent residence permit.

(4) A third-country national with permanent resident status, when relocating from the address indicated in his/her application for permanent residence permit shall be required to notify the notary of the local government of the new address according to the provisions contained in specific other legislation.

(5) Relocating from one place of domicile to another shall not cause the replacement of the permanent resident permit. The new address shall be contained, in consequence of the procedure under Subsection (4), in the personal identification number and official address card issued by the notary, which means that this official document shall be kept together with the resident permit, and shall be surrendered to the duly empowered authorities upon request.

(6) Attached to the application for a personal identification number and an official address card, the third-country national with permanent resident status shall produce an official certificate issued by the competent regional directorate to evidence his/her first place of domicile, his personal data of record with the immigration authority, and the serial number of the document containing his residence permit. Any change in his home address thereafter shall be contained in the personal identification number and official address card.

##### *Government Decree Section 92.*

Third-country nationals with permanent resident status shall supply their personal data and addresses to the notary of the local government in whose jurisdiction their residence is located within three working days following the issue of the document containing their permanent resident status, and they shall apply for a personal identification document at the notary of the competent local (Budapest district) government in whose jurisdiction the resident foreign national is domiciled.

##### *RRTN Section 33.*

**(1) The third-country nationals applying for interim permanent residence permit, a national permanent residence permit or an EC permanent residence permit must satisfy the following conditions:**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- a) **must have a place of abode and subsistence in the territory of Hungary secured;**
- b) **must have full healthcare insurance or sufficient financial resources for healthcare services; and**
- c) **must be exempt from any reason for rejection set out in this Act.**

**(2) No interim permanent residence permit, national permanent residence permit or EC permanent residence permit shall be issued to any third-country national:**

- a)
- b) **whose residence in the territory of Hungary constitutes a threat to public security or national security;**
- c) **who is subject to expulsion or exclusion from the territory of Hungary or for whom an alert has been issued in the SIS for the purposes of refusing entry.**
- d) **who has disclosed false information or untrue facts in the interest of obtaining the permit, or misled the competent authority;**

**(3) If a third-country national with resident or immigrant status has a child born in the territory of Hungary, who is considered a third-country national, the birth of such child shall be registered and:**

- a) **an interim permanent residence permit shall be issued for him/her if the parent has an interim permanent residence permit;**
- b) **a national permanent residence permit shall be issued to him/her if the parent has an immigration permit, a permanent residence permit, national permanent residence permit or an EC permanent residence permit.**

## Jurisdiction of Competent Authorities

*Government Decree Section 93.*

(1) Applications for interim permanent residence permits, national permanent residence permits and EC permanent residence permits shall be submitted on a standard form, a model of which is contained in specific other legislation, at the regional directorate of jurisdiction by reference to the applicant third-country national's future residence.

(2) The regional directorate of jurisdiction by reference to the third-country national's residence shall have powers to withdraw the immigration permit, permanent residence permit, interim permanent residence permit, national permanent residence permit, or EC permanent residence permit of third-country nationals.

## Mandatory Enclosures

*Government Decree Section 94.*

(1) When lodging an application for an interim permanent residence permit, national permanent residence permit, or EC permanent residence permit the applicant shall present his/her valid travel document and shall enclose with the application:

- a) his/her birth certificate, and also the marriage certificate if the applicant is married, the certificate of divorce if the marriage was terminated, furthermore, in the case of minors, documentary evidence from the competent authority of the country of origin stating that there is no legal impediment for the minor person in question who is a third-country national to seek permanent residency abroad;
- b) a certificate of clean criminal record issued within six months to date by the competent authority of the country where the applicant's permanent or temporary residence was located before his/her entry to Hungary;



29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- c) documentary proof of the applicant's abode and subsistence in Hungary;
- d) documentary evidence of insurance coverage.

*Government Decree Section 95.*

(1) The following shall, in particular, be accepted as proof of subsistence in Hungary:

- a) a statement from a Hungarian financial institution concerning the applicant's savings account;
- b) an authentic instrument or a private document with full probative force in proof of the applicant's financial assets (tangible or intangible) whereby to ensure subsistence in Hungary;
- c) a certificate on the applicant's taxable income from employment or other similar relationship performed on a regular basis under Hungarian law;
- d) an authentic instrument or other proof for the applicant's income from other gainful activity performed in Hungary on a regular basis;
- e) a certificate issued by a Hungarian financial institution as proof of regular income received from abroad;
- f) a notarized statement made by a family member with the right of residence in Hungary promising support to the applicant along with a document in proof of the family member's ability to provide such support.

(2) The examination of subsistence in Hungary shall cover, in particular, the following criteria:

- a) number of family members of the household with any income or assets;
- b) number of dependant persons living in the household;
- c) as to whether the applicant is the owner of the real estate property in which they reside.

(3) The assets referred to in Paragraph b) of Subsection (1) may not comprise:

- a) articles of everyday use and household equipment and accessories;
- b) any property serving as the residence of the third-country national and his dependant family members;
- c) the vehicle of handicapped persons; and
- d) any assets which are required for the third-country national's gainful activity.

(4) The amount of monthly income shall be calculated as the monthly average of the sums:

- a) in the case of regular income:
  - aa) taxed income received during the one-year period prior to the date of submission of the application if lawful residence exceeds one year, plus any income received during the three-month period prior to submission;
  - ab) in all other cases the income received during the three-month period prior to submission of the application;
- b) income received during the twelve-month period prior to submission of the application in the case of non-regular income.

(5) The requirement of accommodation in Hungary may be verified by the following documentary evidence:

- a) abstract of title issued within thirty days to date, establishing the applicant's title to a residential real estate property in Hungary;

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

b) a residential lease contract in proof of the rental of a residence;

c) a notarized statement made by a family member living in Hungary promising a place of abode to the applicant.

(6) No further proof of abode is required if the applicant has already supplied them with his application for the issue or extension of the residence permit, and the registered place of accommodation of the third-country national did not change.

*Government Decree Section 96.*

An exemption from supplying the documents referred to in Paragraphs a) and b) of Subsection (1) of Section 94 may be granted if they cannot be obtained for reasons beyond the third-country national's control, or it would entail unreasonable difficulties. In such cases the applicant's statement shall be accepted as a substitute to these documents.

## Proceedings of the National Security Agency

*Government Decree Section 97.*

(1) In order to determine as to whether the residence of a third-country national is considered to constitute a threat to the national security of Hungary, the opinion of the National Security Agency shall be obtained.

(2) The competent regional directorate, in connection with the first issue of an interim permanent residence permit, shall forward the personal data of third-country nationals applying for national permanent residence permits or EC permanent residence permits from the central immigration register to the National Security Agency. At the National Security Agency's request the competent regional directorate shall allow access to the documents enclosed with such applications, or shall make copies of them.

(3) The National Security Agency shall complete its official assessment:

a) within twenty days in connection with applications for interim permanent residence permits;

b) within forty-five days in connection with applications for national permanent residence permits and EC permanent residence permits,

and send it to the competent regional directorate in writing.

(4) In the event of any information arising after the official assessment of the National Security Agency is delivered concerning the third-country national to whom it pertains, based on which the official assessment is to be revoked, the National Security Agency shall forthwith notify the competent regional directorate.

(5) In respect of an appeal against the special authority statement, it shall be the minister in charge of the governance of civilian national security services that shall proceed. The Employment Office shall proceed in the second instance. He or she shall send his or her special authority statement to the Office

a) within fifteen days in the case of applications for provisional permanent residence permits;

b) within twenty days in the case of applications for national permanent residence permits or EC permanent residence permits.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

*Government Decree Section 97/A*

(1) In the procedure aimed at the issuance of provisional permanent residence cards, national permanent residence cards and EC permanent residence cards, the Government shall, in order to ascertain whether or not the third-country national's permanent residence poses a threat to the public security of Hungary, assign the County Police Headquarters in the first instance and the National Police Headquarters in the second instance as special authority.

(2) The Regional Directorate shall forward the data of the third-country applicant for a provisional permanent residence card, national permanent residence card or EC permanent residence card handled in the central alien policing database to the County Police Headquarters competent according to the future place of residence. At the request of the competent County Police Headquarters, the regional directorate shall allow viewing the documents attached to the application or shall make a copy thereof.

(3) The County Police Headquarters shall send its special authority statement to the regional directorate

a) within twenty days, in the case of an application for a provisional permanent residence permit;

b) within forty-five days, in the case of an application for a national permanent residence permit or an EC permanent residence permit.

(4) If after sending its special authority statement the special authority finds out about data that warrant the revocation of the earlier special authority statement, the special authority shall send its new special authority statement to the Regional Directorate without delay.

(5) In respect of an appeal against the special authority statement, the National Police Headquarters shall proceed in the second instance. It shall send its special authority statement to the Office

a) within fifteen days, in the case of an application for a provisional permanent residence permit,

b) within twenty days, in the case of an application for a national permanent residence permit or an EC permanent residence permit.

## Proceedings for the Notification of the Birth of Child of Third-Country Nationals with Immigrant or Permanent Resident Status in the Territory of Hungary

*Government Decree Section 98.*

The competent regional directorate shall issue an interim permanent residence permit or national permanent residence permit to the child of a third-country national with immigrant or permanent resident status born in the territory of Hungary immediately upon receipt of notice submitted on a form prescribed in specific other legislation, or maximum within five days.

### **Interim Permanent Residence Permit**

*RRTN Section 34.*

**(1) The third-country nationals holding an EC residence permit certifying long-term residence status granted by any Member State of the European Union under Council Directive 2003/109/EC of 25 November 2003 on the status of third-country nationals who are long-term residents shall be issued an interim permanent residence permit if seeking admission into the territory of Hungary:**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- a) for the purpose of gainful employment, with the exception of seasonal employment;
- b) for the pursuit of studies or for the purpose of vocational training; or
- c) for other justified reasons;

if able to meet all other conditions specified by the relevant legislation.

(2) Family members from third countries of the third-country nationals referred to in Subsection (1) applying together for an interim permanent residence permit, and the family members of third-country nationals holding an interim permanent residence permit shall be issued an interim permanent residence permit if their family relationship already existed in the Member State of the European Union where the EC residence permit certifying long-term residence status was issued, and if able to meet all other conditions specified by the relevant legislation.

(3) The validity period of an interim permanent residence permit shall be five years maximum, and it may be extended by five additional years at a time. An application for the extension of an interim permanent residence permit may not be refused for the public health reasons referred to in Paragraph *h*) of Subsection (1) of Section 13, if the disease was contracted after the first interim permanent residence permit was issued.

(4) The period of validity of the interim permanent residence permit of a family member referred to in Subsection (2) shall correspond to the duration of the third-country national's interim permanent residence permit.

(5) An interim permanent residence permit may be withdrawn if the third-country national no longer satisfies the requirements set out in Paragraph a) or b) of Subsection (1) of Section 33.

(6) The interim permanent residence permit must be withdrawn from a third-country national who has been expelled or excluded.

(7) The interim permanent residence permit issued to a family member of a third-country national according to Subsection (2) must be withdrawn if:

- a) the third-country national's interim permanent residence permit had been withdrawn;
- b) the family relationship no longer exists, unless the family member in question satisfies the conditions set out in Paragraphs a) and b) of Subsection (1) of Section 33 following the third-country national's death.

(8) The immigration authority shall notify the Member State of the European Union concerning the issue of an interim permanent residence permit, and also if withdrawn with the reasons indicated, where the EC residence permit certifying long-term residence status was issued for the third-country national.

(9) If a third-country national holding an EC residence permit certifying long-term residence status has been recognized as a refugee or has been granted subsidiary protection by one of the EU Member States, the immigration authority contacts the Member State issuing the EC residence permit indicating details specified in Section 94 to verify if the refugee status or subsidiary protection still exists before issuing an interim permanent residence permit.

(10) If a third-country national holding an EC residence permit certifying long-term residence status has been recognized as a refugee or has been granted subsidiary protection by the Hungarian immigration authority, the immigration authority contacts the Member State issuing the EC residence permit indicating details specified in Section 94 to modify the 'Comments' section of the EC residence permit document.

## Interim Permanent Residence Permit

*Government Decree Section 99.*

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(1) Third-country nationals may submit an application for an interim permanent residence permit on or before the last day of their lawful residence for a period not exceeding three months, or thirty days before the expiry of their right of residence for a period of longer than three months.

(2) Enclosed with the application for an interim permanent residence permit third-country nationals shall present their EC residence permit issued under Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (hereinafter referred to as "Council Directive 2003/109/EC").

(3) To verify the purpose of residence referred to in Subsection (1) of Section 34 of the RRTN the following document shall be enclosed with the application for an interim permanent residence permit:

a) the document referred to in Subsection (1) of Section 59 if the purpose of residence is to engage in gainful employment;

b) the document referred to in Subsection (1) of Section 60 if the purpose of residence is the pursuit of studies or vocational training;

c) the document evidencing the purpose of residence if other than what is described above;

d) if applying as a family member the document in proof of the family relationship specified in Subsection (2) of Section 34 of the RRTN.

(4) In connection with the extension of an interim permanent residence permit the applicant is required to supply only the documents referred to in Subsection (3) if providing a statement to the extent that his/her situation in terms of subsistence and abode did not change since the last application.

*Government Decree Section 100.*

(1) The period of validity of an interim permanent residence permit shall be determined in consideration of the planned duration of stay, as stated by the applicant, and the contents of the documents supplied in support of the purpose of residence.

(2) Following authorization, the competent regional directorate shall issue the residence document specified in Schedule No. IV of this Decree containing the interim permanent residence permit.

*Government Decree Section 101.*

An interim permanent residence permit shall be considered cancelled if:

a) the authorized period of residence has expired;

b) the interim permanent residence permit was withdrawn by final decision;

c) the third-country national was issued a new document in a proceedings for the exchange or replacement of the interim permanent residence permit or for the extension of his/her interim permanent residence permit's validity period;

d) the data and information it contains are no longer legible;

e) it contains false or untrue information or has been forged;

f) the holder is granted a national permanent residence permit, EC permanent residence permit, or document evidencing the right of free movement and residence, or Hungarian citizenship;

g) the holder has died.

*Government Decree Section 102.*

In accordance with Subsection (8) of Section 34 of the RRTN the competent regional directorate of the first instance shall notify the Member State affected when the withdrawal becomes final and definitive.

## **National Permanent Residence Permit**

*RRTN Section 35.*

(1) National permanent residence permits may be issued - with the exception set out in Subsection (4) - to third-country nationals holding a residence permit or an interim permanent residence permit for establishing residence in the territory of Hungary, if:

a) having lawfully resided in the territory of Hungary continuously for at least the preceding three years before the application was submitted;

b) a family member of dependent direct relatives in the ascending line - other than the spouse - of a third-country national with immigrant or permanent resident status or who has been granted asylum, and living in the same household for at least the preceding one year before the application was submitted;

c) the spouse of a third-country national with immigrant or permanent resident status or who has been granted asylum, provided that the marriage was contracted at least two years before the application was submitted;

d) the applicant was formerly a Hungarian citizen and whose citizenship was terminated, or whose ascendant is or was a Hungarian citizen.

(2) Temporary absence from the territory of Hungary of less than four consecutive months shall not be deemed as discontinuity of residence, if the combined duration of absence does not exceed two hundred and seventy days during the preceding three years before the application was submitted.

(3) The immigration authority may authorize a third-country national to establish permanent residence in the territory of Hungary in the event if any discontinuity of residence for a period longer than that described in Subsection (2), if residence was discontinued for a substantial reason, such as medical treatment of foreign assignment of the third-country national in connection with his/her gainful employment.

(4) The third-country nationals recognized by the refugee authority as refugees may apply for a national permanent residence permit in the absence of a long-term visa or residence permit.

(5) A national residence permit shall not be issued to third country nationals who have a criminal record, and who are not exempted from the inherent disadvantages.

*RRTN Section 36.*

(1) Under special circumstances the third-country national who is unable to satisfy the conditions set out in Paragraph *a*) of Subsection (1) of Section 13, Subsection (1) of Section 33 and Subsection (1) of Section 35 may be granted a national permanent residence permit by decision of the minister in charge of immigration.

(2) Within the meaning of Subsection (1), the minister in charge of immigration shall take into account the applicant's particular circumstances, family relations and health condition as special and equitable considerations, as well as the interests of Hungary.

(3) The decision of the minister in charge of immigration cannot be appealed.

*RRTN Section 37.*

29. 05. 2012.

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Contact Point of the European Migration Network*

**(1) The immigration authority may withdraw any authority to reside, a national permanent residence permit or immigration permit in the following cases:**

**a) the circumstances based on which they were issued have changed to an extent that the criteria for authorization is no longer satisfied, and if a period of five years has not elapsed from the date of issue of the permit;**

**b) it was issued on the grounds of family reunification, and the marriage was dissolved within three years from receipt of the permit for reasons other than the spouse's death, or if the third-country national no longer has parental custody, unless the third-country national in question has resided in Hungary for at least four years under permanent resident or immigrant status;**

**c) the third-country national has departed from the territory of Hungary and remained absent for a period of over six months.**

**(2) The immigration authority shall withdraw the permit if:**

**a) the third-country national in question has disclosed false information or untrue facts to the competent authority in the interest of obtaining the permit;**

**b) the immigration authority has withdrawn the authority to reside in the territory of Hungary of the third-country national exercising parental custody over a minor child who is a third-country national, and the continued residence of the minor with the other parent with parental custody is not ensured in the territory of Hungary;**

**c) it was granted to a third-country national on the grounds of family reunification and his/her spouse with Hungarian citizenship has departed from the territory of Hungary with a view to establish residence elsewhere, or the lawful residence of the third-country national spouse in the territory of Hungary has been terminated;**

**d) the third-country national to whom it was issued is expelled or excluded.**

## National Permanent Residence Permit

*Government Decree Section 103.*

(1) The conditions specified in Paragraph a) of Subsection (1) of Section 35 of the RRTN shall be satisfied by any third-country national who has been residing in Hungary lawfully for three years - in light of Subsection (2) of Section 35 of the RRTN -without interruption up to the time at which they submit their application for a national permanent residence permit.

(2) If the period of lawful residence is disrupted, the required period of stay shall be calculated from the time when residence is re-established.

(3) In the application of Section 35 of the RRTN, 'lawful residence' shall mean any stay in Hungary by persons in possession of:

a) a visa for a validity period of longer than three months,

b) a residence permit,

c) an interim permanent residence permit,

d) a certificate of temporary residence issued under Paragraph a) of Subsection (1) of Section 30 of the RRTN,

e) a residence card granted under specific other legislation.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(4) Within the meaning of Paragraph b) of Subsection (1) of Section 35 of the RRTN, shared household means when the applicant third-country national lives under the same roof with another third-country national with immigrant status, permanent resident status or refugee status.

(5) Where lawful residence was discontinued, the person applying for a national permanent residence permit shall provide documentary evidence to verify that it was for a substantial reason, such as:

a) a certificate of medical treatment provided in a foreign institution;

b) a certificate to verify employment in a position that frequently involves foreign assignments, or a list of such assignments endorsed by the employer.

*Government Decree Section 104.*

(1) The competent regional directorate shall process applications for national permanent residence permits within one hundred and twenty days in the first instance. Appeals against resolution in the first instance shall be adjudged by the Office within sixty days.

(2) Following authorization, the competent regional directorate shall issue the residence document specified in Schedule No. IV of this Decree containing the national permanent residence permit.

(3) The validity period of the document referred to in Subsection (1) shall be five years, which may be extended with an additional five years upon the third-country national's request submitted on the standard form, a model of which is contained in specific other legislation by the regional directorate of jurisdiction by reference to the place where the third-country national's residence is located.

(4) When the document containing the permanent residence permit expires, or if the document has to be replaced, or if the person with immigrant status was issued a new travel document, upon the third-country national's request submitted on the standard form - a model of which is contained in specific other legislation - the regional directorate of jurisdiction by reference to the place where the third-country national's residence is located shall issue the document specified in Subsection (2).

*Government Decree Section 105.*

(1) The following shall be treated as significant changes in the circumstances underlying the authorization of residence under Paragraph a) of Subsection (1) of Section 37 of the RRTN, notably, when the third-country national with permanent resident status:

a) is no longer able to support him/herself and his/her dependent family members, nor is able to provide a place of abode;

b) is receiving social welfare benefits and support in spite of having full capacity to work;

c) is no longer provided support or a place of abode by the family member who has previously agreed to provide them.

(2) Any third-country national who received his/her permanent residence permit or national permanent residence permit on the grounds of family relations shall be required to report to the competent regional directorate of jurisdiction by reference to the place where the residence of the third-country national is located if his/her marriage is dissolved or in the event of the death of his/her spouse within sixty days following the spouse's death or the final court ruling for the dissolution of the marriage with the relevant documents attached.

(3) Third-country nationals with immigrant or permanent resident status shall be required to notify the regional directorate of jurisdiction by reference to the place where their permanent or temporary residence is located if they wish to leave Hungary and resettle in another country.



29. 05. 2012.

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Contact Point of the European Migration Network*

(4) Third-country nationals with an immigration permit, permanent residence permit or national permanent residence permit shall be required to notify in writing the regional directorate of jurisdiction by reference to the place where their permanent or temporary residence is located concerning their intention to exit the territory of Hungary for a period of more than six months, with the reasons and the planned duration of foreign residence indicated. If the third-country national leaves the territory of Hungary for a period not exceeding two years for reasons other than resettlement, the competent regional directorate may not withdraw - pursuant to Paragraph c) of Subsection (1) of Section 37 of the RRTN - the immigration permit, permanent residence permit, or national permanent residence permit of this person who is inside the planned duration of foreign residence indicated in the notice, provided that the third-country national in question resided in Hungary for at least one hundred and eighty days within a period of one year before the notice was filed.

*Government Decree Section 106.*

An immigration permit, permanent residence permit and national permanent residence permits shall be considered cancelled if:

- a) its validity period has expired;
- b) the immigration permit, permanent residence permit or national permanent residence permit was withdrawn by final decision;
- c) the third-country national was issued a new document in a proceedings for the exchange or replacement of the document or for the extension of the document's validity period;
- d) the data and information it contains are no longer legible;
- e) it contains false or untrue information or has been forged;
- f) the holder is granted an EC permanent residence permit or document evidencing the right of free movement and residence, or Hungarian citizenship;
- g) the holder has died.

## **EC Permanent Residence Permit**

*RRTN Section 38.*

**(1) EC permanent residence permits may be issued for long-term residence in the territory of Hungary to a third-country national:**

**a) who has lawfully resided in the territory of Hungary continuously for at least a period of five years before the application was submitted; or**

**b) who was issued an EU Blue Card, and**

**ba) has lawfully resided in the territory of Hungary continuously for at least a period of two years before the application was submitted, and**

**bb) has lawfully resided in the territory of any Member State of the European Union continuously for at least five years.**

**(2) EC permanent residence permits may not be issued to:**

**a) third-country nationals residing in the territory of Hungary in order to pursue studies in an institution of higher education or vocational training;**

**b) third-country nationals residing in the territory of Hungary for the purpose of seasonal employment or voluntary service activities;**

29. 05. 2012.

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Contact Point of the European Migration Network*

c) third-country nationals residing in the territory of Hungary under diplomatic or other personal immunity;

d) third-country nationals having applied for refugee status to the refugee authority, or having requested any subsidiary form of protection or temporary protection from the refugee authority until the final decision in their case;

e) exiles;

f) third-country nationals recognized as refugees or having been granted subsidiary protection by the immigration authority, a court of justice or an EU Member State, who based on this legal status, don't have a refugee status anymore and are not subject to subsidiary protection;

g) third-country nationals subject to temporary protection.

(3) Any duration of previous lawful residence of third-country nationals in accordance with Paragraphs b)-c) of Subsection (2) shall not be included in the duration specified in Subsection (1).

(4) Half of the duration of the previous lawful residence of third-country nationals in accordance with Paragraph a) of Subsection (2) shall be included in the duration specified in Subsection (1).

(5) The duration of residence of a third-country national in the territory of Hungary under refugee status, or under any subsidiary form of protection or temporary protection shall be included in the duration specified in Subsection (1).

(5a) Half of the period between the submission of the refugee status application and the recognition or issue of documents verifying subsidiary protection shall be included in the duration specified in Subsection (1). If this period exceeds eighteen months, the total time shall be included in the duration specified in Subsection (1).

(6) The following shall not be deemed as discontinuity of residence:

a) in the case defined in Paragraph a) of Subsection (1), temporary absence from the territory of Hungary of less than six consecutive months at any given time, if the combined duration of absence does not exceed three hundred days over a period of five years;

b) in the case defined in Paragraph b) of Subsection (1), temporary absence from the territory of Member States of the European Union of less than twelve consecutive months at any given time, if the combined duration of absence does not exceed eighteen months over a period of five years.

(7) If a third-country national has a long-term residence permit issued by another Member State of the European Union, the immigration authority shall notify the Member State affected concerning the issue of an EC permanent residence permit.

#### *RRTN Section 39.*

(1) The immigration authority shall withdraw the EC permanent residence permit in the following cases:

a) the third-country national was absent from the territory of the Community for a period of over twelve months;

b) the third-country national was granted long-term resident status in another Member State of the European Union;

c) the third-country national was absent from the territory of Hungary for a period of over six years;

d) the third-country national disclosed false information or untrue facts to the immigration authority in the interest of obtaining the permit;

e) the third-country national is expelled or excluded.

29. 05. 2012.

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Contact Point of the European Migration Network*

**f) by way of derogation from Paragraph a), the third-country national was granted the EC permanent residence permit as holder of a valid EU Blue Card or as a family member of an EU Blue Card holder, and was absent from the territory of the Member States of the European Union for a period of over twenty-four consecutive months.**

**(1a) The immigration authority shall withdraw the permanent residence permit if the third-country national is no longer recognized as a refugee or is no longer subject to subsidiary protection.**

**(2) Any third-country national whose EC permanent residence permit the immigration authority has withdrawn under Paragraphs a)-c) of Subsection (1) shall be granted a new EC permanent residence permit when re-applying, without checking the condition specified in Subsection (1) of Section 38.**

## EC Permanent Residence Permit

### *Government Decree Section 107.*

(1) The conditions specified in Subsection (1) of Section 38 of the RRTN shall be satisfied by any third-country national who have been residing in Hungary lawfully for five years - in light of Subsection (6) of Section 38 of the RRTN - without interruption up to the time at which they submit their application for EC permanent residence permit.

(2) If the period of lawful residence is disrupted, the required period of stay shall be calculated from the time when residence is re-established.

(3) In the application of Section 38 of the RRTN, 'lawful residence' shall mean any stay in Hungary in possession of:

- a) a visa for a validity period of longer than three months,
- b) a residence permit,
- c) an interim permanent residence permit,
- d) an immigration permit, permanent residence permit or national permanent residence permit,
- e) a certificate of temporary residence issued under Paragraph a) of Subsection (1) of Section 30 of the RRTN,
- f) a residence card granted under specific other legislation.

### *Government Decree Section 108.*

(1) The competent regional directorate shall process applications for EC permanent residence permits within one hundred and twenty days in the first instance. Appeals against resolutions in the first instance shall be adjudged by the Office within sixty days.

(2) Following authorization, the competent regional directorate shall issue the residence document specified in Schedule No. IV of this Decree containing the EC permanent residence permit.

(3) The validity period of the document referred to in Subsection (2) shall be five years, that may be extended upon the third-country national's request submitted on the standard form, a model of which is contained in specific other legislation by the regional directorate of jurisdiction by reference to the place where the third-country national's residence is located with an additional five years.

### *Government Decree Section 109.*

**29. 05. 2012.**

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Contact Point of the European Migration Network*

If the competent authority of any Member State of the European Union sends notice of having issued an EC residence permit certifying long-term residence status under Council Directive 2003/109/EC to a third-country national holding an EC permanent residence permit in Hungary, the competent regional directorate shall notify the competent authority of the Member State in question of having withdrawn the EC permanent residence permit of the third-country national affected when the withdrawal becomes final and definitive.

*Government Decree Section 110.*

An EC permanent residence permit shall be considered cancelled if:

- a) its validity period has expired;
- b) the EC permanent residence permit was withdrawn by final decision;
- c) the holder third-country national was issued a new document in a proceedings for the exchange or replacement of the document or for the extension of the document's validity period;
- d) the data and information it contains are no longer legible;
- e) it contains false or untrue information or has been forged;
- f) the holder is granted a document evidencing the right of free movement and residence, or Hungarian citizenship;
- g) the holder has died.

## **Notice of Withdrawal of Immigrant Status or Permanent Resident Status**

*Government Decree Section 111.*

(1) The competent regional directorate shall send an official copy of the final and executable resolution for the withdrawal of an immigration permit, permanent residence permit, interim permanent residence permit, national permanent residence permit, or EC permanent residence permit to the central body operating the register of the personal data and addresses of citizens (hereinafter referred to as "central body operating the register of the personal data and addresses of citizens") within five working days, and shall confiscate the personal identification document, the personal identification number and official address card of the third-country national affected.

(2) The documents confiscated according to Subsection (1) shall be sent to the central body operating the register of the personal data and addresses of citizens.

## **Chapter V**

### **Regulations Pertaining to Third-Country Nationals**

#### **Refusal of Entry and Assisted Return**

*RRTN Section 40.*

**(1) The authority carrying out border checks shall refuse the entry of third-country nationals seeking admission for stays not exceeding three months according to the provisions of the Schengen Borders Code, and shall return such persons - in due observation of its interests:**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- a) to the country of origin of the third-country national in question;
- b) to the country that is liable to accept the third-country national in question;
- c) to the country where the customary residence of the third-country national in question is located;
- d) to any third country prepared to accept the third-country national in question.

(2) If entry is refused because the third-country national is under exclusion, the visa issued in accordance with this Act shall be void.

(3) The decision for the refusal of entry may not be appealed.

#### *RRTN Section 41.*

(1) A third-country national whose entry was refused and is turned back shall:

a) remain for a maximum period of eight hours on the means of transport that is scheduled to depart to the point of origin or another destination of transit;

b) remain in a designated place located in the frontier zone for a maximum period of seventy-two hours, or if having arrived by means of air transport, in a designated place of the airport for a maximum period of eight days; or

c) transfer onto another means of transport of the carrier that is liable to provide return transport.

(2) If the return procedure cannot be carried out within the time limit specified in Paragraph *b*) of Subsection (1), the third-country national shall be expelled. If expulsion is ordered for reasons other than what is contained in Paragraph *d*) of Subsection (2) of Section 43, the third-country national in question may not be excluded.

## Chapter V

### Regulations Pertaining to Third-Country Nationals

#### Refusal of Entry and Assisted Return

##### *Government Decree Section 112.*

(1) The time limits specified in Subsection (1) of Section 41 of the RRTN shall be calculated from the date of refusal of entry.

(2) If the Police confines a third-country national under Paragraph *b*) of Subsection (1) of Section 41 of the RRTN to a designated area of the frontier zone or the airport, the place set up in the airport transit zone or in the frontier zone shall be suitable to provide the provisions specified in Section 132.

(3) Where Subsection (2) of Section 41 of the RRTN applies, the Police shall admit the third-country national affected in accordance with Article 5 (4) *c*) of the Schengen Borders Code and transport him/her to the competent regional directorate for the place of entry, and the regional directorate shall forthwith conduct the immigration proceedings to examine as to whether expulsion applies.

#### Expulsion and Voluntary Departure

##### *RRTN Section 42.*

(1) The immigration authority, if it finds that a third-country national who has lawfully resided in the territory of Hungary no longer has the right of residence, shall adopt a resolution to refuse his/her

application for a residence permit or to withdraw the document evidencing right of residence of the third-country national in question, and - with the exceptions set out in this Act - shall order him/her to leave the territory of the Member States of the European Union. The third-country nationals may seek remedy against the expulsion order in the appeal submitted to challenge the resolution adopted to refuse the application for residence permit or to withdraw the document evidencing right of residence.

(2) If the court's decision is for expulsion or the immigration authority considers that the conditions for the third-country national's expulsion under this Act do exist, the immigration authority shall - with the exceptions set out in this Act - adopt a decision ordering the third-country national in question to leave the territory of the Member States of the European Union.

(3) The immigration authority shall prescribe the time limit for voluntary departure in its resolution ordering expulsion, or in its ruling adopted for carrying out the expulsion ordered by the court so that it falls between the seventh and the thirtieth day following the time of delivery of the resolution for expulsion to the third-country national, if the third-country national affected agrees to leave the territory of the Member States of the European Union on his/her own accord, except where the cases defined by this Act apply. The time period provided for above shall not exclude the possibility for the third-country national concerned to leave earlier.

(4) Where justified by the personal circumstances of the person expelled - such as the length of stay in the territory of Hungary, on account of which more time is required for making preparations for departure, or the existence of other family and social links -, the immigration authority may - upon request or on its motion - extend the period for voluntary departure by a period of up to thirty days. If the child who is in the parental custody of an expelled third-country national pursues studies in a public education institution, the immigration authority may - upon request or on its motion - extend the period for voluntary departure by a period up to the end of the running semester. Extension of the time limit for voluntary departure shall be ordered by way of a ruling.

(5) Enforcement of ruling on the extension of the time limit for voluntary departure may be contested.

(6) No time limit for voluntary departure shall be specified, or the immigration authority may set the deadline for leaving the territory of the Member States of the European Union before the seventh day following the time of delivery of the resolution for expulsion in the following cases:

*a)* the third-country national's right of residence was terminated due to his/her expulsion or exclusion, or for whom an alert has been issued in the SIS for the purpose of refusing entry and the right of residence;

*b)* the third-country national's application for residence permit was refused by the authority on the grounds referred to in Paragraphs *b)* and *d)* of Subsection (1) of Section 18;

*c)* the third-country national has expressly refused to leave the territory of the Member States of the European Union voluntarily, or, based on other substantiated reasons, is not expected to abide by the decision for his/her expulsion;

*d)* the third-country national's residence in Hungary represents a serious threat to public security, public policy or national security.

(7) If according to the immigration authority's resolution, expulsion is to be carried out by way of deportation, a time limit shall not be specified for voluntary departure.

## Order to Leave the Territory of Hungary

### *Government Decree Section 113.*

(1) The time limit referred to in Subsection (2) of Section 42 of the RRTN shall be determined in consideration of the purpose of residence and the time required to make the necessary preparations for the third-country national's return travel.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(2) The obligation to leave the territory of Hungary shall commence on the day when the resolution for the refusal of issue or extension of a document evidencing right of residence, or for the withdrawal of the document evidencing right of residence becomes final and definitive.

(3) Legal grounds for the third-country national's stay in Hungary up to the deadline for leaving the country shall be verified by

- a) a resolution rejecting his or her application for a residence permit;
- b) a resolution revoking his or her document authorising residence;
- c) a resolution ordering expulsion;
- d) a decree on the execution of court-ordered expulsion; or
- e) a decree on the extension of the deadline for leaving.

## **Expulsion Ordered Under Immigration Laws and Exclusion**

### *RRTN Section 43.*

**(1) The immigration authority shall independently order the exclusion of a third-country national whose whereabouts are unknown or who resides outside the territory of Hungary, and:**

- a) who must not be allowed to enter the territory of Hungary under international commitment; or**
- b) who is to be excluded by decision of the Council of the European Union;**
- c) whose entry and residence represents a threat to national security, public security or public policy;**
- d) who has failed to repay any refundable financial aid received from the State of Hungary;**
- e) who has failed to pay any instant fine or a fine imposed in conclusion of a misdemeanor proceeding within the prescribed deadline, and it cannot be recovered or collected.**

**(2) Subject to the exception set out in this Act, the immigration authority shall order the expulsion of a third-country national under immigration laws who:**

- a) has crossed the frontier of Hungary illegally, or has attempted to do so;**
- b) fails to comply with the requirements set out in this Act for the right of residence;**
- c) was engaged in any gainful employment in the absence of the prescribed work permit or any permit prescribed under statutory provision;**
- d) whose entry and residence represents a threat to national security, public security or public policy; or**
- e) whose entry and residence represents a threat and is potentially dangerous to public health.**

**(3) An independent exclusion order, and an expulsion order under immigration laws may be issued upon the initiative of law enforcement agencies delegated under the relevant government decree on the grounds referred to, respectively, in Paragraph c) of Subsection (1) and Paragraph d) of Subsection (2) within the framework of discharging their duties relating to the protection public policies defined by law. Where exclusion is ordered independently on the grounds referred to in Paragraph c) of Subsection (1), the law enforcement agencies delegated under the relevant government decree shall make a recommendation as to the duration of such exclusion in cases falling within their jurisdiction.**

**RRTN Section 44.**

**(1) The duration of exclusion that was ordered independently under Paragraphs a)-b) of Subsection (1) of Section 43 shall be adapted to the period of the underlying obligation or exclusion. The duration of exclusion that was ordered independently under Paragraphs c)-e) of Subsection (1) of Section 43 shall be determined by the competent immigration authority, for a period of up to three years, and it may be extended by maximum three additional years at a time. An exclusion order shall be cancelled forthwith when the grounds therefore no longer exist.**

**(2) An exclusion ordered independently may not be appealed.**

**(3) An exclusion that was ordered independently under Paragraphs a)-b) of Subsection (1) of Section 43 may not be appealed.**

## Expulsion Ordered Under Immigration Laws and Exclusion

*Government Decree Section 114.*

(1) With the exception set out in Subsection (2), the competent regional directorate shall have authority to order expulsion under immigration laws.

(2) In the application of Paragraph a) of Subsection (2) of Section 43 of the RRTN, the Police shall have powers to order expulsion under immigration laws, if it detected the intention to illegally cross or the act of illegally crossing the external borders of Hungary during border control activities carried out according to Point 9 of Article 2 of the Schengen Borders Code, and the expulsion of the third-country national in question can be carried out under a readmission agreement.

(3) Authority to order exclusion independently is vested:

- a) upon the Office under Subsection (1) of Section 43 of the RRTN;
- b) upon the competent regional directorate under Subsection (2) of Section 43 of the RRTN;
- c) upon the Police under Paragraph e) of Subsection (2) of Section 43 of the RRTN, if the third-country national affected failed to cover the costs associated with his/her expulsion ordered by the Police.

(4) Expulsion under immigration laws or exclusion may be ordered independently:

- a) upon the initiative of the Police under Paragraph a) of Subsection (2) of Section 43 of the RRTN;
- b) only upon the initiative of the investigating authority or the National Security Agency under Paragraph f) of Subsection (2) of Section 43 of the RRTN;
- c) only upon the initiative of the government body in charge of the healthcare system under Paragraph g) of Subsection (2) of Section 43 of the RRTN;
- d) upon the initiative of the misdemeanor authority, the court or the agency levying the instant fine under Paragraph i) of Subsection (2) of Section 43 of the RRTN.

(5) The minister in charge of foreign policies shall inform the Office where there are any grounds to order the expulsion or exclusion of a third-country national under Subsection (1) of Section 43 of the RRTN.

(6) With the exception set out in Subsection (8) of Section 115, an order of exclusion may be lifted only by the same immigration authority that has ordered it.



**29. 05. 2012.**

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Contact Point of the European Migration Network*

(7) If based on the visa procedure the minister in charge of foreign policy considers likely the existence of conditions defined in Section 43(1)c) in respect of the applicant, he or she will immediately notify the law enforcement agency responsible for protecting the interest under threat thereof.

*Government Decree Section 115.*

(1) On the grounds specified in Paragraph i) of Subsection (2) of Section 43 of the RRTN, the misdemeanor authority, the court or the agency levying the instant fine shall contact the competent regional directorate and initiate to order exclusion as of the forty-sixth day following the operative date of the resolution ordering the fine or when the instant fine was levied.

(2) The misdemeanor authority, the court or the agency levying the instant fine shall communicate the personal identification data of the delinquent third-country national in its request referred to in Subsection (1), including his/her nationality, place of domicile outside of Hungary, the name of the misdemeanor authority, the court or the agency levying the instant fine, the number and operative date of the misdemeanor resolution, the case number of the instant fine, the account number, and the amount of the fine.

(3) Upon receipt of the above-specified request, the competent regional directorate shall check the third-country national's particulars on record, and shall notify the agency specified in Subsection (1) if it finds that the person in question was granted the right of residence subsequent to the misdemeanor offense.

(4) Any exclusion ordered pursuant to Paragraph i) of Subsection (2) of Section 43 of the RRTN shall be lifted with immediate effect upon receipt of payment from the third-country national affected of the fine or instant fine levied.

(5) When a third-country national pays a fine or instant fine subsequently in cash, the misdemeanor authority, the court or the agency levying the instant fine shall notify the competent regional directorate immediately upon receipt of the payment to have the exclusion order cancelled.

(6) If, in the course of a visa application proceedings, the applicant third-country national provides proof of having paid the fine or instant fine subsequently, the competent consulate officer shall notify the competent regional directorate that has ordered the exclusion to cancel the order of exclusion regarding the payment without delay, with the payer's personal identification data, nationality, passport number, the number of the resolution or the case number of the instant fine, the amount of fine paid and the name of the competent authority or agency.

(7) If the Police determines in the course of security checks on persons carried out at the border crossing point that the third-country national requesting admission is subject to exclusion solely on the grounds of a delinquent fine or instant fine, the third-country national in question shall be informed of his right to pay the fine subsequently in cash.

(8) If the above-specified third-country national pays the fine subsequently in cash, or is able to produce a bank statement in proof of having the money transferred, the Police shall permit his/her admission following cancellation of the exclusion order.

*RRTN Section 45.*

**(1) The immigration authority shall have regard for the following factors before adopting an expulsion order under immigration laws concerning a third-country national who is holding a residence permit issued on the grounds of family reunification:**

**a) the duration of stay;**

**b) the age and family status of the third-country national affected, possible consequences of his/her expulsion on his/her family members;**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**c) links of the third-country national to Hungary, or the absence of links with the country of origin.**

**(2) Any third-country national who:**

**a) resides in the territory of Hungary under immigrant or permanent resident status;**

**b) is bound to a third-country national residing in the territory of Hungary under immigrant or permanent resident status by marriage or registered partnership, and has a residence permit,**

**may be expelled only if his/her continued residence represents a serious threat to national security, public security or public policy.**

**(2a) The immigration authority's decisions on expulsion orders specified in Subsection (2) shall be taken with consideration to aspects specified in Subsection (1).**

**(2b) Before taking a decision on the expulsion order, the immigration authority shall contact the Member State issuing the EC residence permit indicating details specified in Section 94 to verify if the refugee status or subsidiary protection still exists.**

**(2c) If the refugee status or subsidiary protection still exists, the third-country national holding an EC residence permit certifying long-term residence status granted by any Member State of the European Union shall be expelled from the territory of Hungary by the immigration authority to the Member State where the refugee status or subsidiary protection exists.**

**(2d) If a third-country national holding an EC residence permit has been granted refugee status or subsidiary protection by the Hungarian immigration authority or a court of justice is expelled by a Member State of the European Union, the third country national or their family members shall be readmitted to Hungary.**

**(2e) If a third-country national holding an EC residence permit or their family members are expelled from a Member State of the European Union, they shall be readmitted to Hungary even if the EC residence permit has expired.**

**(3) The provisions of Subsection (2) shall also apply to the immediate family members - defined in specific other legislation - of a third-country national who has applied to the refugee authority for refugee status for the duration of the application pending, and those with refugee status or to whom any subsidiary form of protection or temporary protection was granted.**

**(4) Third-country nationals who are victims of trafficking in human beings may be expelled during the time of deliberation they are afforded only if their residence in the territory of Hungary constitutes any threat to national security, public security or public policy.**

**(5) An unaccompanied minor may be expelled only if adequate protection is ensured in his country of origin or in a third country by means of reuniting him with other members of his family or by state or other institutional care.**

**(6) The immigration authority may abstain from ordering the expulsion of a third-country national who resides in the territory of Hungary illegally, if he/she is the subject of a pending procedure for renewing his or her residence permit or other authorization offering a right to stay in the territory of Hungary.**

**(7) Expulsion may not be ordered under immigration laws, and exclusion may not be ordered independently against a third-country national who was convicted for a crime in the court of the law, yet the sentence did not include expulsion in any form, neither as a principal punishment nor as an ancillary punishment.**

**(8) A third-country national holding an authorization issued by a Member State of the European Union offering a right to stay in the territory of that Member State, may be expelled only if:**

**a) he/she refused to leave the territory of Hungary upon receipt of notice from the immigration authority in writing, or**

**b) his/her residence in the territory of Hungary represents a serious threat to national security, public security or public policy.**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(8a) The immigration authority shall have powers to expel a third-country national holding an authorization issued by a Member State of the European Union offering a right to stay in the territory of that Member State from the territory of Hungary, primarily to the Member State that has issued the residence permit authorizing the third-country national to stay legally on its territory.

(8b) A third-country national holding an EU Blue Card issued by any Member State of the European Union shall be expelled to the Member State having issued the EU Blue Card, even if the EU Blue Card has expired during the third-country national's stay in Hungary.

(8c) If a third-country national holding an EU Blue Card has been expelled by any Member State of the European Union, he/she shall be allowed to return to the territory of Hungary even if his/her EU Blue Card has expired. The provisions contained in Subsection (1b) of Section 18 shall apply concerning the third-country national after readmission.

(9) If the immigration authority decided to abstain from ordering expulsion of third-country national on the grounds specified in Subsections (3)-(5), and the third-country national affected is unable to satisfy the statutory requirements of residence, the immigration authority shall issue a humanitarian residence permit on his/her behalf.

*RRTN Section 45/A.*

(1) By way of derogation from Subsection (2) of Section 43, the immigration authority shall not order the expulsion of any third-country national who has been expelled by the competent authority of another Member State of the European Union:

*a)* for the reason that the person in question represents a genuine, present and sufficiently serious threat affecting national security or public security;

*b)* in connection with a conviction under the laws of the country where the resolution was adopted for an offence punishable by a penalty involving imprisonment of at least one year;

*c)* based on suspicion of serious criminal offences; or

*d)* based on failure to comply with regulations on the entry or residence of foreign nationals.

(2) The immigration authority shall execute the expulsion order referred to in Subsection (1) in accordance with the provisions contained therein and with the provisions of this Act.

*RRTN Section 45/B.*

(1) By way of derogation from Subsection (2) of Section 43, the immigration authority shall not order the expulsion of any third-country national residing unlawfully, who has been readmitted by another Member State of the European Union under a bilateral readmission agreement or other similar agreement signed before 13 January 2009.

(2) Return under the readmission agreement shall be decided by the immigration authority by way of a ruling, that may be contested by the third-country national affected by lodging a complaint within twenty-four hours following the time of delivery of the ruling. Implementation of the ruling on the return order shall not be suspended upon receipt of the said complaint.

(3) The provisions on deportation measures shall also apply to return under readmission agreement.

*Government Decree Section 116.*

Where a third-country national with immigrant or permanent resident status is expelled by final decision, the regional directorate ordering the expulsion or carrying out the expulsion ordered by the court shall send the personal identification document, personal identification number and official address card of the third-country national in question within thirty days to the central body operating the register of the personal data and addresses of citizens.

29. 05. 2012.

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Contact Point of the European Migration Network*

*Government Decree Section 117.*

If expulsion cannot be executed in accordance with Subsection (5) of Section 45 of the RRTN the immigration authority shall contact the competent guardian authority to provide support and care for the unaccompanied minor.

***RRTN Section 46.***

**(1) Expulsion orders shall specify:**

- a) the criteria weighted in connection with the decisions adopted under Subsections (1)-(6) of Section 45;**
- b) the duration of exclusion;**
- c) the country to which the person in question is expelled;**
- d) the time limit for voluntary departure from the territory of the Member States of the European Union, or from the territory of Hungary in the cases defined by this Act;**
- e) a warning to the third-country national affected of facing deportation in the eventuality of his/her refusal to depart voluntarily; and**
- f) the obligation for being photographed and fingerprinted.**

**(2) Expulsion orders may not be appealed; however, a petition for judicial review may be lodged within eight days of the date when the resolution was delivered. The court shall adopt a decision within fifteen days upon receipt of the petition.**

**(3)**

**(4) The final decision of expulsion and the duration of exclusion shall be recorded in the passport in the form of an entry, unless the third-country national affected is holding a valid residence permit issued by any Member State of the European Union. The entry shall not be made if the foreign national affected agrees to leave Hungary on his/her own accord, or leaves the territory of Hungary within the framework of a voluntary return program.**

*Government Decree Section 118.*

(1) Where expulsion is ordered by the immigration authorities, the deadline for leaving the country shall be determined in consideration of the time limit for remedy, whether the third-country national represents any threat to public policy, public security or national security, and the time required to make the necessary preparations for the third-country national's return travel.

(2) The country designated as the destination of expulsion shall be determined according to the following sequence:

- a) any Schengen State, if the third-country national has a valid residence permit that was issued by this Schengen State,
- b) a Member State of the European Union, if the third-country national in question is holding a residence permit issued by that Member State certifying long-term residence status under Council Directive 2003/109/EC;
- c) the country that is liable to accept the third-country national in question;
- d) the country where the third-country national's permanent or temporary residence is located;
- e) the country in which the third-country national in question has a citizenship;
- f) any third country prepared to accept the third-country national in question.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) With the exception contained in Paragraph b) of Subsection (2), expulsion may not be carried out to any Member State of the European Union.

***RRTN Section 47.***

(1) Unless otherwise prescribed in this Act, exclusion shall be ordered in conjunction with expulsion ordered under immigration laws, if the immigration authority has ordered the deportation of the third-country national concerned.

(2) The immigration authority shall order exclusion by means of a separate resolution, if deportation of the third-country national in question was ordered under Paragraph d) of Subsection (1) of Section 65.

(3) The third-country national affected shall have the right to appeal the resolution adopted separately on exclusion. There shall be no further appeal against the resolution. The appeal shall be submitted within twenty-four hours from the time of delivery of the resolution to the same immigration authority that has ordered it. The immigration authority shall forward the appeal, together with the documents of the case, to the authority of competent jurisdiction, that shall render a decision within eight days.

(4) Where expulsion is ordered on the grounds defined in Subsection (2) of Section 43, the immigration authority may also order exclusion taking into account the nature and severity of the infringement, the personal circumstances of the third-country national concerned, and as to whether his/her continued residence represents a serious threat to public security, public policy or national security.

(5) The duration of an exclusion measure, ordered in conjunction with expulsion or separately, shall be determined in years, and - subject to the exception set out in Subsection (6) - may not exceed five years.

(6) The duration of an exclusion measure may not exceed ten years, if the third-country national's residence in the territory of Hungary represents a serious threat to public security, public policy or national security.

(7) The duration of exclusion ordered in conjunction with expulsion shall apply from the date of departure from the territory of the Member States of the European Union, or if this is not known, from the deadline prescribed therefor.

(8) Third-country nationals whose exclusion was ordered may enter the territory of Hungary only upon the special consent of the ordering authority.

(9) The immigration authority may withdraw - upon request or on its own motion - the exclusion order if:

*a)* the exclusion measure was ordered in conjunction with expulsion against a third-country national under Subsection (2) of Section 43, and the third-country national affected is able to demonstrate that he or she has left the territory of a Member State in full compliance with the resolution for expulsion, or

*b)* continued enforcement is no longer justified due to major changes in the underlying circumstances.

*Government Decree Section 119.*

The duration of an exclusion measure shall be determined in years.

*Government Decree Section 120.*

(1) Third-country nationals who are subject to exclusion shall be admitted to the territory of Hungary by permission of the immigration authority ordering the expulsion or the authority ordering the exclusion under special circumstances for a single entry and stay for a duration consistent with the purpose of entry, not exceeding three months, while the exclusion shall remain in effect.

(2) The request for such entry permit shall be submitted in writing to the competent consulate officer specified in Section 11.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) If having in possession the aforesaid entry permit the third-country national may be admitted to the territory of Hungary according to the rules on stays not exceeding three months.

(4) If the admission of the third-country national is subject to a visa requirement as referred to in Subsection (1), the competent consulate officer shall indicate in the visa issued to the third-country national the number of the special authorization as well.

***RRTN Section 48.***

**(1) Expulsion measures shall be carried out primarily in accordance with a readmission agreement.**

**(2) In order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected; this action cannot be contested.**

**(3) Enforcement of an expulsion measure may be suspended until the necessary means and conditions are secured, i.e. until the travel document, visa, transport ticket is obtained. The decision ordering suspension cannot be contested.**

***RRTN Section 48/A.***

**(1) If during immigration proceedings for the expulsion of a third-country national there is any indication that the Dublin Regulations should be applied, and the third-country national affected did not submit an application for recognition in accordance with the Asylum Act, the immigration authority shall move to request the refugee authority to carry out the Dublin process, and shall suspend the immigration proceedings until the conclusion of the Dublin process.**

**(2) The ruling for the suspension of the procedure referred to in Subsection (1) above may not be appealed.**

***RRTN Section 48/B.***

**(1) Where, in accordance with the Dublin Regulations, any State that applies the Dublin Regulations is required to take the applicant back, the refugee authority shall adopt a ruling on returning the third-country national affected.**

**(2) The ruling on the return order may be subject to judicial review.**

**(3) The petition for judicial review shall be submitted to the refugee authority within three days following the date of delivery of the ruling. The refugee authority shall forthwith forward the petition for judicial review to the competent court together with the documents of the case and any cross-complaint attached.**

**(4) The petition for judicial review shall be adjudged by the court - within eight days following receipt of the petition for judicial review - in nonjudicial proceedings, relying on the available documents. In the proceedings personal interviews may not be conducted. The court's decision is final, and it may not be appealed.**

**(5) Pending judicial review, implementation of the ruling on the return order shall not be suspended upon receipt of a request therefor.**

***RRTN Section 48/C.***

**(1) If the Dublin process culminates in the third-country national's return, the immigration proceedings shall be terminated at the time of return.**

**(2) The ruling adopted for terminating the procedure may not be appealed.**

**29. 05. 2012.**

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Contact Point of the European Migration Network*

*Government Decree Section 121.*

The Police shall forthwith notify the central data administration agency concerning the exit of a third-country national expelled from the country by a definitive and executable resolution, and shall disclose the data specified in Paragraph a) of Subsection (1) of Section 102 of the RRTN.

*Government Decree Section 121/A*

(1) The procedure laid down in Section 48/A(1) of the RRTN (hereinafter: Dublin procedure) shall include contacting and consulting with the authorities of other states (hereinafter: member state) applying the Dublin procedure; conducting the return and readmission procedure; and returning the applicant (hereinafter collectively referred to as: return).

(2) The start date of the Dublin procedure shall be date when the authority responsible for refugee affairs contacts the authority of another member state. The end date of the Dublin procedure shall be the date on which the authority of another member state readmits the applicant; rejects readmission; or it becomes evident that the return may not be executed.

(3) If the requested member state undertakes to readmit the applicant, the authority responsible for refugee affairs shall be obliged to issue a decree ordering the return of the applicant within eight days following the receipt of the requested member state's response or the deadlines laid down in Article 20(1)b) of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (hereinafter: Dublin II Regulation).

(4) The decree ordering the return of the applicant shall contain the provisions laid down in Article 20(1)e) of the Dublin II Regulation.

*Government Decree Section 121/B*

(1) The applicant shall have to be returned under authority escort. The execution of the return shall be governed by the rules of expulsion laid down in separate legislation.

(2) The authority responsible for refugee affairs shall, upon returning the applicant, see to it that the applicant's travel documents or other documents from which his or her identity and nationality can be ascertained shall be sent to the requested member state.

*Government Decree Section 121/C*

Pursuant to Section 50(2) of the RRTN, prior to returning the applicant, the seizure of money shall be terminated and immediately returned to the applicant for the purpose of purchasing a travel ticket and obtaining travel documents.

## **Enforcement of Expulsion Ordered by the Court**

*RRTN Section 49.*

**(1) Where expulsion is ordered by the court it shall be carried out by the immigration authority by way of a ruling; this measure may be contested.**

**(2) The court or the penal institution shall forthwith notify the immigration authority to carry out the expulsion when it becomes final.**

**(3) The immigration authority, upon receipt of the notice referred to in Subsection (2), shall order the expulsion to be enforced.**

29. 05. 2012.

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Contact Point of the European Migration Network*

## Enforcement of Expulsion Ordered by the Court

*Government Decree Section 122.*

(1) The relevant penal institution shall notify the regional directorate of jurisdiction by reference to the location of the penal institution to make the necessary preparation for the expulsion of a third-country national incarcerated six months prior to the prospective date of release.

(2) The court, or the relevant penal institution in the case of third-country nationals released from imprisonment, shall send the notice referred to in Subsection (2) of Section 49 of the RRTN to the regional directorate of jurisdiction by reference to the location of the court or the penal institution.

(3) In its resolution adopted according to Section 118, the competent regional directorate shall specify the deadline for leaving the territory of Hungary and the country to which the person in question is expelled.

(4) The competent regional directorate shall provide for:

- a) the registration of the exclusion measure;
- b) the withdrawal of the third-country national's right of residence.

## Costs of Expulsions

*RRTN Section 50.*

(1) **The costs associated with expulsion shall be borne by the person expelled or - if lacking the financial means necessary - by his/her host.**

(2) **In order to secure the costs of departure, the competent authority may seize the travel ticket if the third-country national in question has one, or - if sufficient financial means cannot be ensured otherwise - may confiscate his money in the amount as is required to purchase the ticket and to obtain a travel document; these actions may not be contested.**

(3) **Where the expulsion measure cannot be carried out because neither the person being expelled nor his/her host has the financial means necessary, the competent authority shall advance the costs of departure.**

(4) **The costs advanced according to Subsection (3) shall be repaid:**

- a) **by the person expelled;**
- b) **by the host if the person affected was invited;**
- c) **by the employer, if expulsion was ordered under Paragraph c) of Subsection (2) of Section 43;**
- d) **by the research organization if the person affected was admitted for the purposes of carrying out a research project and if expulsion was ordered under Paragraph b) of Subsection (2) of Section 43.**

(5) **The liability of the research organization mentioned in Paragraph d) of Subsection (4) shall remain in effect for six months following termination of the hosting agreement.**



## Costs of Expulsions

### *Government Decree Section 123.*

(1) Expulsion measures shall be carried out with a view to cause the least amount of expenses to the person expelled.

(2) The authority carrying out the expulsion shall provide for the obligation reimbursement specified in Subsection (4) of Section 50 of the RRTN in a ruling. The obligation shall be discharged within three months from the date when ordered. In the event of non-compliance with this deadline, the provisions on administrative enforcement shall apply.

## **Prohibition of Return, and for Ordering and Carrying Out Expulsion Measures**

### *RRTN Section 51.*

(1) **Third-country nationals may not be turned back or expelled to the territory of a country that fails to satisfy the criteria of safe country of origin or safe third country regarding the person in question, in particular where the third-country national is likely to be subjected to persecution on the grounds of his/her race, religion, nationality, social affiliation or political conviction, nor to the territory or the frontier of a country where there is substantial reason to believe that the expelled third-country national is likely to be subjected to the death penalty, torture or any other form of cruel, inhuman or degrading treatment or punishment (non-refoulement).**

(2) **Any third-country national whose application for refugee status is pending may be turned back or expelled only if his application is refused by final and executable decision of the refugee authority.**

### *RRTN Section 52.*

(1) **The immigration authority shall take into account the principle of non-refoulement in the proceedings relating to the ordering and enforcement of expulsion measures.**

(2) **A ban for the enforcement of expulsion measures ordered by the court may be imposed by the sentencing judge.**

(3) **Where Subsection (2) applies, the person expelled may appeal directly to the sentencing judge on one occasion - in connection with the execution of the same judgment - to declare the expulsion non-enforceable. If the person expelled submits his request which was addressed to the sentencing judge to the immigration authority, the immigration authority shall forward it without undue delay to the competent sentencing judge with its opinion attached.**

(4) **The enforcement of expulsion shall be suspended for the duration of the proceeding of the sentencing judge.**

### *RRTN Section 52/A.*

(1) **If there is no safe third country offering refuge to the third-country national affected, if assisted return or expulsion is not an option, the immigration authority shall grant refugee status to the third-country national in question, and shall issue a humanitarian residence permit in accordance with Paragraph *b*) of Subsection (1) of Section 29.**

(2) **When the grounds for refugee status cease to apply, the immigration authority shall withdraw the refugee status.**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**(3) Refugee status shall also have to be withdrawn if the third-country national:**

**a) was granted the right of residence on other grounds, or**

**b) failed to appear before the competent authority in the course of the review of his/her refugee status upon receipt of notice from the immigration authority, within three months from the date of the notice.**

## **Prohibition of Return, and for Ordering and Carrying Out Expulsion Measures (Non-Refoulement)**

*Government Decree Section 124.*

(1) Where a third-country national lodged a request in accordance with Subsection (3) of Section 52 of the RRTN directly to the sentencing judge, the sentencing judge shall contact the refugee authority to request a prompt opinion as to whether the principle of non-refoulement applies.

(2) In the event that there is any doubt as to whether or not the principle of non-refoulement applies as regards the ordering and execution of assisted return, the competent immigration authority shall request the opinion of the refugee authority. The refugee authority shall comply with the above request without delay.

(3) The competent immigration authority shall request the opinion of the refugee authority to determine as to whether the principle of non-refoulement applies as regards the proceedings for ordering expulsion or for carrying out an expulsion measure. The refugee authority shall comply with the above request without delay.

(4) The immigration authority, when carrying out an expulsion measure, shall inform the person affected of his/her right to seek legal advice and representation, or the assistance of a registered legal aid organization.

(5) If there is no safe third country offering refuge to the third-country national affected:

a) if assisted return is not an option, the regional directorate of jurisdiction by reference to the border crossing point,

b) if expulsion is not an option the competent regional directorate

shall adopt a resolution to grant refugee status to the third-country national in question on behalf of Hungary, and shall issue a humanitarian residence permit in accordance with Paragraph b) of Subsection (1) of Section 29 of the RRTN.

(6) When the grounds for refugee status cease to apply, the regional directorate of jurisdiction by reference to the place where the accommodation of the refugee is located shall withdraw the refugee status by way of a resolution.

## **Photographing and Fingerprinting**

*RRTN Section 53.*

**(1) With a view to avoiding any overlap in proceedings and for establishing the identity of third-country nationals, the authority ordering detention prior to expulsion or expulsion under immigration laws, compulsory confinement, detention under immigration laws or carrying out the expulsion ordered by the court shall take the facial image and fingerprint of the third-country national affected.**

**(1a) As regards applications for local border traffic permits, residence permits, EU Blue Cards, interim permanent residence permits, national and EC permanent residence permits, and the issue of humanitarian residence permit under Paragraphs a)-b) and d)-f) of Subsection (1) of Section 29 the immigration authority shall proceed in accordance with Council Regulation (EC) No. 1030/2002 of 13**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**June 2002 laying down a uniform format for residence permits for third-country nationals, and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.**

**(2) The above-specified third-country national shall submit to having his/her fingerprint and a photograph of his/her face taken.**

*Government Decree Section 125.*

The competent regional directorate or the Police shall take the fingerprint and photograph of the persons referred to in Subsection (1) of Section 53 of the RRTN.

## **Detention**

*RRTN Section 54.*

**(1) In order to secure the deportation of a third-country national, or his/her transfer or return under the Dublin process (hereinafter referred to as “transfer”) the immigration authority shall have powers to detain the person in question if:**

***a)* he/she is hiding from the authorities or is obstructing the enforcement of the deportation or transfer in some other way;**

***b)* he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion (risk of absconding);**

***c)* he/she has seriously or repeatedly violated the code of conduct of the place of compulsory confinement;**

***d)* he/she has failed to report as ordered, by means of which to forestall conclusion of the pending immigration procedure or the Dublin process;**

***e)* he/she is released from imprisonment as sentenced for a deliberate crime.**

**(2) Before ordering detention under immigration laws on the basis of Paragraph *a)* or *b)* of Subsection (1), the immigration authority shall consider whether the deportation or transfer can be secured in accordance with Subsection (2) of Section 48 or Subsection (1) of Section 62.**

**(3) Detention under immigration laws shall be ordered by way of a formal resolution, and shall be carried out when communicated.**

**(4) Detention under immigration laws may be ordered for a maximum duration of seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the third-country national’s deportation or transfer , or for maximum thirty days at a time.**

**(5) Detention under immigration laws may be extended - according to Subsection (4) - by up to six additional months on the expiry of a period of six months, if the carrying out the expulsion order takes more than six months, in spite of having taken all necessary measures, due to**

***a)* the failure of the third-country national affected to cooperate with the competent authority, or**

***b)* delays in obtaining the documents required for deportation attributable to the authorities of the third-country national’s country of origin, or another state liable for readmission under readmission agreement or which is otherwise liable to accept him/her.**

**(6) Detention ordered under immigration laws shall be terminated immediately:**

***a)* when the conditions for carrying out the expulsion or transfer are secured;**

***b)* when it becomes evident that the expulsion or transfer cannot be executed;**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**c) after six months from the date when ordered, or twelve months under the conditions referred to in Subsection (5).**

**(7) In the application of Paragraph c) of Subsection (6), the duration of detention prior to expulsion shall be included in the duration of detention.**

**(8) In connection with the termination of detention under Paragraphs b) and c) of Subsection (6), the immigration authority ordering the detention shall designate a compulsory place of confinement for the third-country national affected.**

*RRTN Section 55.*

**(1) The immigration authority may order the detention of the third-country national prior to expulsion in order to secure the conclusion of the immigration proceedings pending, if his/her identity or the legal grounds of his/her residence is not conclusively established, or if the return of the third-country national under the bilateral readmission agreement to another Member State of the European Union is pending.**

**(2) Detention prior to expulsion shall be ordered by way of a formal resolution, and shall be carried out when communicated.**

**(3) Detention prior to expulsion may be ordered for a maximum duration of seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the third-country national's identity or the legal grounds of his/her residence is conclusively established, or for maximum thirty days.**

*RRTN Section 56.*

**(1) The detention of a third-country national under immigration laws or prior to expulsion (hereinafter referred to collectively as "detention") may not be ordered for the sole reason that the third-country national is an applicant for asylum.**

**(2) Subject to the exception set out in Subsection (3), the detention of a third-country national who is a minor may not be ordered.**

**(3) Families with minors shall only be detained as a measure of last resort and for not more than thirty days where the best interests of the child shall be a primary consideration, if the immigration authority is of the opinion that the objective of detention cannot be ensured by the provisions of Subsection (2) of Section 48 or Subsection (1) of Section 62.**

**(4) If a third-country national who was previously detained is placed under immigration proceedings on the basis of new facts, the duration of such previous detention shall not be factored in the duration of detention.**

**(5) Detention shall be terminated immediately when the grounds therefor no longer exist.**

## Detention

*Government Decree Section 126.*

(1) Detention under immigration laws may be ordered by the authority that ordered the expulsion.

(2) Detention prior to expulsion may be ordered:

a) by the Police if the third-country national's identity is not established;

b) by the competent regional directorate if the third-country national's right of residence is uncertain.

(3) The duration of detention - with the exception set out in Subsection (4) - shall be determined in hours.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(4) Any duration of the extension of a detention order by the local court shall be specified in days, with any fraction of a day counted as a whole.

(5) The authority ordering the detention of a third-country national shall strive to keep it as short as possible and shall expedite the expulsion procedure, or the procedure to establish the identity of the third-country national or the legal grounds for the right of residence of the third-country national if detention prior to expulsion is ordered.

(6) The provisions contained in Paragraph b) of Subsection (4) of Section 54 of the RRTN may be applied if there is evidence that the expulsion measure cannot be carried out after six months from the date when detention was ordered, such as:

- a) the conditions for his/her exit cannot be ensured;
- b) the expelled person is to be hospitalized due to his/her health.

## **Complaints**

### *RRTN Section 57.*

**(1) Third-country nationals may not apply for the suspension of proceedings for ordering their detention.**

**(2) The resolution ordering detention may not be appealed.**

**(3) The third-country national placed under detention may lodge a complaint in the event of the immigration authority's failure to comply with its obligations set out under Sections 60-61.**

**(4) The complaint shall be adjudged by the local court of jurisdiction by reference to the place of detention.**

**(5) According to the court's decision any measure that has been omitted must be carried out, and/or any infringement must be remedied.**

**(6) The court shall adopt a decision for such complaints within eight days.**

### *Government Decree Section 127.*

Any complaint lodged by a third-country national verbally or in writing shall be forwarded without delay by the authority ordering or carrying out the detention measure to the competent local court.

## **Extension of the Duration of Detention by Court Order**

### *RRTN Section 58.*

**(1) The immigration authority shall file its request for an extension beyond the seventy-two-hour time limit at the local court within twenty-four hours from the time when ordered.**

**(2) The court may grant an extension of detention under immigration laws for a maximum duration of thirty days at a time. Any additional thirty-day extension of detention under immigration laws may be requested at the court by the immigration authority, where the court must receive the request within eight working days prior to the due date for extension.**

**(3) The immigration authority shall provide an explanation for the aforesaid request.**

### *Government Decree Section 128.*

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(1) The request for the extension of a detention lodged by the authority ordering the detention shall contain the information concerning the measures taken to establish the identity or the legal grounds for the right of residence of the third-country national or the travel arrangements made for the third-country national affected. A copy of the request for extension shall be sent to the legal representative of the third-country national.

(2) The authority ordering detention must attach to its motion for extending detention information regarding the third-country national's failure to cooperate or regarding facts proving the protraction of authority procedures in respect of obtaining documents necessary for expulsion in the third-country national's country of origin, or the state required to admit or readmit him or her, which information must also be sent to the third-country national's legal representative.

*Government Decree Section 128/A*

(1) If upon promulgation of the decision ordering detention a third-country national declares that he or she is a minor, the immigration authority ordering detention shall immediately contact the medical care provider competent according to its seat. If it has been concluded that the detained third-country national is a minor, the detention must be terminated forthwith.

(2) If during detention a third-country national declares that he or she is a minor, the head of the guarded shelter shall immediately notify the immigration authority ordering detention in order for it to contact the medical care provider competent according to the location of detention. If it has been concluded that the detained third-country national is a minor, the detention must be terminated forthwith.

## **Common Provisions for Court Procedures**

*RRTN Section 59.*

**(1) The court shall proceed with a single judge presiding in proceedings concerning complaints and for the extension of detention and shall conclude the case by way of a ruling.**

**(2) If the court has dismissed a complaint or a motion for extension, another request or motion may not be lodged on the same grounds.**

**(3) In the court proceedings representation for the third-country national may only be provided by a legal representative.**

**(4) The court shall appoint a representative ad litem for any third-country national or his/her family member who does not understand the Hungarian language and is unable to contract the services of a legal representative on his/her own.**

**(5) In any case concerning the extension of detention beyond the seventy-two-hour time limit by the court, and in proceedings relating to complaints and further extension of detention the detainee shall be granted a personal hearing upon request.**

**(6) The hearing may be conducted at the place of detention and in the absence of the third-country national's legal representative.**

**(7) The court may disregard the holding of a hearing if the third-country national is unable to attend due to being treated in an in-patient medical institution, or if the complaint or the motion does not originate with a party entitled to do so.**

**(8) The third-country national and the immigration authority shall present their evidence in writing or verbally during the hearing. Parties shall be given the opportunity to study the evidence presented. If the third-country national is not present, or the proponent authority is not represented, but they have submitted their comments in advance in writing, they will be introduced by the court.**

**(9) The court's decision shall be delivered to the third-country national affected, and to the immigration authority. If the third-country national has a legal representative or a representative ad litem, they shall**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

be informed as well. The court decision shall be announced verbally and shall also be delivered in writing without delay.

(10) The court's decision is final.

(11) The court proceedings are exempt from charges.

## **Execution of Detention**

### *RRTN Section 60.*

(1) The third-country national placed under detention shall be informed of his/her rights and obligations in his/her native language or another language he/she understands.

(2) If so requested by the third-country national or if so prescribed by a bilateral consular agreement, the authority ordering detention prior to deportation shall forthwith inform the Hungarian consular or diplomatic mission of the third-country national concerning his/her detention without delay, the obligation of compulsory confinement, and the extension of the duration of detention.

(3) As a provisional measure, the authority ordering the detention shall immediately provide for the placement of dependent family members of the third-country national apprehended, who have remained without supervision, and/or for the safeguarding of his/her valuables which have been left unattended.

### *RRTN Section 61.*

(1) The immigration authority shall carry out the detention in places designated for this purpose.

(2) With the exception of married couples, men placed under detention shall be housed in separate quarters from women, furthermore, families with minors shall be provided with separate accommodation from all other detainees guaranteeing adequate privacy.

(3) Third-country nationals placed under detention shall have the right to:

a) housing and nourishment, have the right to wear their own clothes or shall be provided with seasonal clothing if necessary, and emergency and basic medical care as specified in specific other legislation;

b) consult their legal representative or a member of the consular representation of their host country without any censorship, and to be visited by relatives under censorship;

c) send and receive packages and letters as specified in specific other legislation, and to receive visitors;

d) supplement their diet at their own expense;

e) practice their religion;

f) use the educational and cultural facilities of the institution;

g) make complaints and present any requests, protests or notifications of common interest;

h) spend at least one hour each day outdoors.

i) minors in detention shall have the possibility to engage in leisure activities, including play and recreational activities appropriate to their age;

j) minors in detention shall have, depending on the length of their stay, access to education.

(4) Third-country nationals placed under detention shall have the obligation to:

a) abide by the house rules of the detention facility, and to obey the instructions received in that respect;

b) conduct themselves so as not to injure the rights of other detainees, and not to disturb them;

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- c) **take part in cleaning the areas they use, without any compensation;**
- d) **subject themselves to any examinations, to permit the searching of their clothing, and not obstruct the confiscation of any contrabands.**
- e) **repay the costs of their keep and support and cover the costs of any damage caused willfully.**

*RRTN Section 61/A.*

**(1) Subsection (1) of Section 58 and Subsection (1) of Section 61 shall not apply in situations where an exceptionally large number of third-country nationals to be returned places an unforeseen heavy burden on the capacity of hostels of restricted access, or on the immigration authority itself.**

**(2) In the case defined in Subsection (1), as long as the exceptional situation persists, the immigration authority may decide to appeal to the local court within five days from the date when the detention was ordered to extend the period of detention past seven days.**

**(3) In the case defined in Subsection (1), the immigration authority may carry out the detention at a place other than what is contained in Subsection (1) of Section 61.**

## Requirements for Detention Facilities

*Government Decree Section 129.*

- (1) Hostels of restricted access shall satisfy the following criteria:
  - a) the living quarters of detained third-country nationals must have at least 15 cubic meters of air space and 5 square meters of floor space per person;
  - b) they must have a common area for dining, for recreational purposes and for receiving visitors;
  - c) they must have separate washrooms and showers and toilets for men and women, with hot and cold running water, in sufficient capacity consistent with the number of detainees;
  - d) they must have an infirmary for providing basic medical care;
  - e) they must have a medical examination room and an isolation room;
  - f) they must have sufficient space for outdoor activities;
  - g) they must have lighting sufficient to satisfy the standards laid down in the national requirements concerning regional development and construction;
  - h) they must have an uninterrupted power supply;
  - i) they must have a separate room for receiving visitors;
  - j) they must have telephone facilities;
  - k) they must have natural ventilation in the living quarters of third-country nationals and in the staff rooms, in the medical rooms, in the visitors areas, in the kitchen and in the dining room, and in the common areas.
- (1a) If it is warranted by the duration of detention, the detained minor must be provided education appropriate to his or her age and level of development either at the guarded shelter or in another institution.
- (2) Hostels of restricted access may not be installed in police detention facilities or in penal institutions.



(2a) The provisions laid down in Subsection (2) may be derogated from in an emergency situation as specified in Section 61/A(1) of the RRTN, if accommodation cannot be provided at the guarded shelter.

(3) Men placed under detention shall be housed in separate quarters from women.

(4) The Office and the Police shall forthwith inform the European Commission of the occurrence of the emergency situation defined in Section 61/A(1); the measures applied; and the cessation of the emergency situation, via the minister in charge of immigration and refugee affairs.

## **Compulsory Confinement**

### *RRTN Section 62.*

**(1) The immigration authority shall have powers to order the confinement of a third-country national in a designated place, if the third-country national in question:**

**a) cannot be returned or expelled due to commitments of Hungary conferred upon it in international treaties and conventions;**

**b) is a minor who should be placed under detention;**

**c) should be placed under detention, in consequence of which his/her minor child residing in the territory of Hungary would be left unattended if he/she was to be detained;**

**d) is released from detention, however, there are still grounds for his/her detention;**

**e) has a residence permit granted on humanitarian grounds;**

**f) has been expelled, and is lacking adequate financial resources to support himself and/or does not have adequate dwelling.**

**g) should be placed under detention under immigration laws according to Paragraph a) or b) of Subsection (1) of Section 54, and detention would result in a disproportionate punishment taking into account the state of health and age of the third-country national concerned.**

**(2) The operative section of the resolution shall specify:**

**a) the place of compulsory confinement;**

**b) the code of conduct to be observed;**

**c) the obligation to appear at specific intervals before the authority if the place of confinement is not a community hostel or a refugee center.**

**(3) The compulsory place of confinement shall be designated at a community hostel or a refugee center, if the third-country national is not able to support himself, and has no adequate place of abode, financial resources, income, or host or relative who can be compelled to provide support.**

**(4) The costs of confinement in a community hostel or refugee center shall be borne by the third-country national, unless he is issued a residence permit on humanitarian grounds.**

**(5) Compulsory confinement proceedings may not be suspended upon the third-country national's request.**

**(6) A third-country national placed under compulsory confinement may lodge a complaint - as a form of remedy, on the grounds of an infringement of the law - against the resolution ordering his/her confinement. Such complaints shall be subject to the provisions of Section 57 and Section 59, and may be submitted any time during the term of compulsory confinement.**

**(7) The court shall adopt a decision for such complaints within eight days.**

**RRTN Section 63.**

**(1) If eighteen months have lapsed from the date when compulsory confinement in a community hostel or refugee center was ordered, but the circumstance serving grounds therefor still exists for reasons beyond the control of the third-country national in question, he/she shall be transferred to another place.**

**(2) In the case defined in Subsection (1), the immigration authority may endorse - on humanitarian considerations - the third-country national's request to remain in the community hostel of refugee center.**

**RRTN Section 64.**

**Any third-country national who has been ordered by the immigration authority to remain in a designated place shall be entitled to engage in gainful employment - subject to the immigration authority's consent - if having a valid work permit.**

## Compulsory Confinement

*Government Decree Section 130.*

(1) With the exceptions set out in Subsections (4)-(5), the competent regional directorate may order third-country nationals to remain in the following compulsory places of confinement:

- a) the third-country national's registered place of abode;
- b) the host's permanent or temporary residence in the event that the third-country national was invited, or the accommodation provided by the host;
- c) the place of abode or permanent or temporary residence of the person responsible to provide support for the third-country national;
- d) the accommodation provided by charity organizations;
- e) the medical institution providing care for inpatients for the duration of treatment to prevent severe damage to health, subject to the consent of the government body in charge of the healthcare system; and
- f) social institutions providing personal care to third-country nationals who satisfy the criteria as required by law.

(2) In the absence of the prospects specified in Subsection (1), the third-country national may be placed in a community hostel or a reception center.

(3) Reception centers may be used only for:

- a) exiles, and
- b) minor third-country nationals and their parents with actual custody.

(4) The place designated for an unaccompanied minor for compulsory confinement shall be a reception center for unaccompanied minors; in the absence of this, a children's institution or a commercial or private accommodation maintained under contract. Unaccompanied minors may be placed in private accommodation at relatives other than immediate family members, if the relative undertakes a commitment in writing to provide room and board and support for the minor, and if it is evident that such placement is in the minor's best interest by virtue of the relationship between the minor and said relative.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(5) Third-country nationals who are victims of trafficking in human beings may be placed in a reception center reserved for victims of trafficking in human beings or in other places of accommodation maintained under contract.

(6) A request lodged by a third-country national who is a minor and his/her parent having actual custody under Subsection (2) of Section 63 of the RRTN shall be considered substantiated in all cases.

## Community Hostel

### *Government Decree Section 131.*

(1) Community hostels are maintained by the regional directorates for this particular purpose.

(2) A community hostel shall satisfy the following criteria:

- a) it must have at least fifteen cubic meters of air space and five square meters of floor space per person;
- b) it must have a common area for dining, for recreational purposes and for receiving visitors in addition to the living quarters;
- c) it must have an infirmary for providing basic and emergency medical care;
- d) it must have a medical examination room and an isolation room;
- e) it must have adequate hygienic facilities, including separate washrooms and showers and toilets for men and women, with hot and cold running water, in sufficient capacity consistent with the number of tenants, furthermore, all rooms and areas inhabited by the third-country nationals must have natural ventilation and natural light.

### *Government Decree Section 132.*

The agency responsible to maintain the community hostel shall provide for the third-country nationals:

- a) lodging;
- b) three meals a day;
- c) personal necessities.

### *Government Decree Section 133.*

(1) In community hostels separate living quarters must be provided for men and women. Family members shall be placed in common quarters, unless this is contrary to the interests of the third-country nationals affected.

(2) The number of tenants placed in a community hostel shall not exceed its capacity. Where the provisions set out in Subsection (1) cannot be satisfied with respect to a third-country national, he/she shall be transferred to another community hostel.

### *Government Decree Section 134.*

(1) Meals provided to third-country nationals in a community hostel shall be arranged in due consideration of their religious affiliation.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(2) The personal necessities provided to third-country nationals upon their arrival to the community hostel shall include dinnerware, hygienic supplies and bed-linen. The operator of the community hostel shall provide fresh bed-linen and towels as personal necessities every other week.

*Government Decree Section 135.*

(1) The code of conduct to be observed in a community hostel is laid down in the house rules, as illustrated in Schedule No. V to this Decree.

(2) Third-country nationals placed in community hostels shall:

- a) observe the house rules of the hostel and comply with the pertaining instructions;
- b) keep their surroundings clean;
- c) submit to the necessary medical examinations, medical treatment and disease control measures (including vaccinations);
- d) preserve the equipment, fittings and furniture, refrain from causing damage, and compensate for any willfully caused damage;
- e) notify the competent regional directorate in advance concerning his temporary absence in excess of twenty-four hours but not more than one-hundred-and-twenty hours, and shall disclose the destination and the duration of the absence.

*Government Decree Section 136.*

(1) The costs of services provided in community hostels shall be calculated by the competent regional directorate at the time of leaving the hostel; this provision shall not apply to third-country nationals whose residence permit was granted on humanitarian grounds. The formula for calculating said costs is specified in specific other legislation.

(2) Third-country nationals shall be required to repay the costs of services advanced by the operator of the community hostel after leaving the hostel or exiting the country, in the manner prescribed in specific other legislation.

*Government Decree Section 137.*

(1) Upon ordering a third-country national to stay in a place of compulsory confinement, the ordering authority shall notify the diplomatic mission or consular post of the person in question; this provision shall not apply to third-country nationals whose residence permit was granted on humanitarian grounds. If there is no such diplomatic mission or consular post in Hungary, the notice shall be conveyed via the minister in charge of foreign policies.

(2) As regards third-country nationals holding a humanitarian residence permit, the competent regional directorate shall convey the notice referred to in Subsection (1) without delay at the request of the person affected.

## **Medical Care Provided to Third-Country Nationals Who Are Detainees or Tenants of Community Hostels**

*Government Decree Section 138.*

(1) Any third-country national who is detained or is a tenant in a community hostel, if not covered by any social security system, shall be provided free of charge the health care services specified in Subsection (2) of Section 142 and in Paragraphs e) and i) of Subsection (3) of Section 142 of Act CLIV of 1997 on Health Care.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(1a) If a third-country national detained or placed at a guarded shelter is not covered by social security, in the event of his or her illness he or she shall be entitled to free medical services defined in Section 142(2) and (3)e) and i) of Act CLIV of 1997 on Health.

(2) After placement, the third-country national shall be entitled to receive the vaccinations specified in specific other legislation.

(3) The health care provider shall report the services delivered to the National Health Insurance Fund (hereinafter: OEP) on a form prescribed – by legislation laying down the rules of financing medical services from the National Health Insurance Fund – for reporting and accounting for the particular medical service. Based on the reports, OEP shall send monthly itemised expense claim forms to the authority maintaining the guarded shelter.

(4) The health care provider may reclaim the expenses of the services delivered, in the case of prescription medications, by presenting the prescription including the number of the EEA national's or family member's document proving his or her right to stay and a summary invoice issued to the authority which maintains the guarded shelter as customer and including the name, price and quantity of the medication. The health care provider shall forward the prescription and the invoice to OEP.

*Government Decree Section 139.*

(1) General medical care shall be provided to third-country nationals in the hostel of restricted access or in the community hostels (hereinafter referred to collectively as "alien accommodations center").

(2) Special medical care shall be provided by the health care provider responsible for the region in question.

(3) The authority operating the alien accommodations center shall cover the full costs of medical aids and pharmaceuticals provided by prescription and issued by a doctor who has an official stamp for authorization as laid out in specific other legislation, to prescribe medicinal products.

*Government Decree Section 140.*

(1) The authority operating the alien accommodations center shall reimburse the costs of health care services, other than those described in Section 138, to the health care service provider carrying out the procedure, if Hungary did not agree to compensate such costs under international treaty.

(2) Health-care services may be obtained if having in possession a certificate of eligibility for provisions. Compensation shall be governed by Subsections (5)-(6) of Section 13 of Government Decree 25/1998 (II. 18.)

## **Removal by Deportation**

*RRTN Section 65.*

**(1) A return or expulsion measure ordered by the court or the immigration authority shall be enforced by way of transporting the third-country national affected under official escort (hereinafter referred to as "deportation") if the third-country national:**

**a) is released from imprisonment as sentenced for a deliberate crime;**

**b)**

**c) makes it necessary to supervise his/her exit for national security reasons, if so required by commitment under international treaty, or for the protection of public security or public policy;**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**d) failed to leave the territory of the Member States of the European Union by the day following the deadline prescribed in the resolution for expulsion.**

**(2) Deportation shall be ordered in the resolution ordering expulsion under immigration laws or in the ruling for the enforcement of expulsion if ordered by the court. In all other instances it shall be ordered by specific resolution or ruling.**

**(3) The third-country national affected may lodge a complaint against the specific resolution or ruling ordering the deportation measure. The complaint shall be submitted within twenty-four hours from the time of delivery of the resolution to the same immigration authority that has ordered it.**

**(4) The immigration authority shall forward the complaint, together with the documents of the case, to the authority of competent jurisdiction, that shall render a decision within eight days.**

**(5) The third-country national affected may lodge a complaint against the deportation measure.**

**(6) The third-country national affected may request suspension of the deportation procedure in the complaint submitted against the deportation measure according to Subsection (3).**

**(7) The immigration authority may cooperate in the enforcement of expulsion ordered by a country that is required to apply the provisions of Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.**

**(8) The deportation of a person shall be abandoned if:**

**a) the entry of the person deported to the country of destination is no longer an option;**

**b) the person deported requires urgent medical attention;**

**c) the country from whom permission was requested for using its territory for transit by air in connection with deportation as prescribed in specific other legislation (hereinafter referred to as "requested State") did not grant consent, or revoked its previous consent;**

**d) the person deported entered the territory of the requested State without authorization during transit.**

**(9) The competent public prosecutor shall oversee the deportation procedure in accordance with the relevant regulations.**

## **Removal by Deportation**

*Government Decree Section 141.*

(1) The cooperation referred to in Subsection (6) of Section 65 of the RRTN shall mean the authorization of transit through the territory of Hungary in cases of removal by air of third-country nationals in the enforcement of expulsion ordered by a country that is required to apply the provisions of Council Directive 2003/110/EC of 25 November 2003 (hereinafter referred to as "requesting state"), including any official escort and all other persons required to accompany the third-country nationals in question, such persons liable to provide medical care and interpreters, and assistance with regard to such removals by air.

(2) The Office, upon receipt of a request submitted by the requesting state on a standard form, a model of which is contained in specific other legislation, shall notify the competent authority of the requesting state concerning its approval immediately, within maximum two days. This time limit may be extended in justified cases by forty-eight hours, of which the competent authority of the requesting state shall be promptly notified.

(3) The Office shall promptly notify the Police of its authorization for transit for the purposes of removal by air, with the request submitted on a standard form attached, a model of which is contained in specific other legislation.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(4) The Office shall refuse to authorize transit through the territory of Hungary for the purposes of removal by air, or shall withdraw its authorization if the principle of non-refoulement applies under Section 51 of the RRTN regarding the third-country national.

(5) The Office shall refuse to authorize transit through the territory of Hungary for the purposes of removal by air, or shall withdraw its authorization if:

a) the third-country national affected under Hungarian laws is charged with criminal offences or is wanted for the carrying out of a sentence;

b) transit through other states or admission by the country of destination is not feasible;

c) the removal measure requires a change of airport on the territory of Hungary;

d) the personal and material conditions for the requested assistance specified in specific other legislation are not available, or transit for the purposes of removal by air is impossible at a particular moment for practical reasons;

e) the transit of the third-country national will be a threat to public policy, public security, public health or to the international relations of Hungary.

(6) The competent authority of the requesting state shall be promptly informed when authorization for transit for the purposes of removal by air is revoked, or of any other reason why the transit is not possible, including an explanation of the reasons.

(7) If transit for the purposes of removal by air is authorized, the Police shall provide assistance in accordance with specific other legislation.

*Government Decree Section 142.*

(1) In connection with assisted return deportation shall be ordered by the Police, whereas in connection with an expulsion measure it shall be ordered by the immigration authority ordering the expulsion or by the competent regional directorate carrying out an expulsion measure ordered by the court.

(2) The order of deportation shall contain the grounds for deportation, the date of execution, and shall specify the state to which the person is deported.

(3) A deportation measure that was ordered by another Schengen State may be enforced if the Office finds the requirements set out in Subsection (3) of Section 65 of the RRTN satisfied following consultation with the Schengen State that has issued the order. If the deportation measure is carried out or if it cannot be executed, the competent authority of the Schengen State that has issued the order shall be notified.

(4) Preparations for the enforcement of a deportation measure shall be made by the Police, with the exception set out in Subsection (5).

(5) Where deportation is carried out by removal by air, preparations for the enforcement of such deportation measure shall be made by the Office.

(6) Deportation shall be carried out by the Police.

*Government Decree Section 143.*

(1) The third-country national ordered to be deported shall be escorted to the frontier of Hungary. If allowing the deported person to travel by air transport without safeguards is likely to jeopardize aviation safety or if prescribed under treaty (readmission agreement), the deported person shall be escorted to the country of origin or to another state liable for readmission.



**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(2) The person affected shall be informed - in a language he understands - of the way deportation is to be carried out (hereinafter referred to as "enforcement") and of the opportunity to lodge a complaint. The information shall include:

a) the date of deportation, which is to be conveyed at least thirty-six hours in advance in the case of deportation by air transport;

b) the destination;

c) the means of transport planned to be used and as to whether or not deportation will be carried out under escort.

(3) In the cases described in specific other legislation a psychologist or doctor may be called in to assist in the procedure, if the person affected - due to his/her mental condition or health - is unable to endure the trauma of deportation or he/she requires special assistance during the proceedings.

(4) Deportation may only be carried out in possession of and following the instructions contained in the resolution. Before and after the deportation procedure, the third-country national deported shall be examined for any marks of injury, and, if any, a medical report shall be obtained.

(5) The person affected may lodge a complaint in writing within eight days after detention is carried out against the mode of enforcement, to be sent by mail. The complaint shall be investigated in accordance with the provisions of the Act on the Police.

*Government Decree Section 144.*

(1) Entry of the person deported to the country of destination shall be considered to have failed, and deportation shall be suspended if:

a) the captain of the aircraft refuses to allow the deported person to board the aircraft, or if boarding the aircraft failed for other reasons;

b) admission of the deported person was refused by a transit country or the destination country;

c) the deported person carries marks of injury that were not documented or if the deported person offers resistance of a degree that cannot be overcome by legal means and without jeopardizing or causing any impairment in the deported person's life, physical integrity or health.

(2) Deportation may not be enforced if the person deported requires urgent medical attention, and during deportation the medical or mental condition of the deported person changes to a degree in which deportation, if carried out, is likely to impose a serious threat as to the deported person's life or physical integrity.

(3) A suspended deportation procedure shall be continued when the reasons specified under Subsection (7) of Section 65 of the RRTN no longer exist.

(4) Enforcement of a deportation measure shall be abolished by resolution of the competent authority if it is evident that it cannot be carried out. This resolution cannot be appealed. When the reason or reasons for abolishment cease to exist, deportation may be ordered once again.

(5) The deportation procedure and its circumstances are governed in specific other legislation.

## **Prohibition of Leaving the Country**

### *RRTN Section 66.*

**(1) The immigration authority may prohibit the exit of a third-country national whose travel document is to be confiscated by the immigration authority as requested by the court, the public prosecutor, or the investigation authority.**

**(2) Upon receipt of a request specified in Subsection (1) the immigration authority shall adopt a resolution of prohibition of leaving the country and shall confiscate the third-country national's travel document.**

**(3) The aforesaid resolution may not be appealed.**

**(4) The immigration authority, upon receipt of a notice from the court, the public prosecutor or the investigation authority for lifting the prohibition of leaving the country, shall cancel the prohibition without delay and shall release the third-country national's travel document as well.**

### *Government Decree Section 145.*

The notice mentioned in Subsections (1) and (4) of Section 66 of the RRTN and the travel document shall be sent to the regional directorate of jurisdiction by reference to the place where the restraining measures were carried out against the third-country national in criminal proceedings for taking measures:

- a) concerning the registration and cancellation of the prohibition of leaving the country;
- b) for confiscation or release of the travel document;
- c) for the confiscation of the travel document under Section 86 of the RRTN.

## **Control of Third-Country Nationals**

### *RRTN Section 67.*

**(1) The immigration authority shall have powers to control compliance with and enforce the provisions of this Act.**

**(2) Upon request for checks, third-country nationals shall produce and surrender their travel documents, authority to reside and other personal identification documents.**

**(3) In the event that any travel document is found in the possession of a third-country national that is issued to another person, and is held illegally by the third-country national, it shall be confiscated and - if no criminal charges are filed - sent to the Hungarian mission of the issuing State, or failing this, it shall be returned to the issuing agency via the minister in charge of foreign policies.**

**(4) Any third-country national who is unable to verify his/her lawful residence in Hungary or is unable to produce credible evidence of his/her identity, or who violates the provisions of this Act shall be apprehended and taken into custody by the immigration authority.**

**(4a) The immigration authority shall be empowered to process the personal data of third-country nationals contained in the storage medium of the document evidencing their right of residence including biometric data, obtained by recording the physical attributes (facial image, fingerprint images) of such persons, by way of reading the personal data from the storage medium for the purposes specified in point 4 of Article 1 of Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.**

29. 05. 2012.

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Contact Point of the European Migration Network*

(4b) The immigration authority shall be allowed to process fingerprint images taken for the purposes referred to in Subsection (4a) for verifying the stipulations mentioned in point 4 of Article 1 of Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals, until the verification process is completed, after which the fingerprint images must be deleted immediately.

(5) If the grounds for residence of the third-country national or the identity of the third-country national mentioned above cannot be established while in custody, the third-country national may be kept in custody for an additional period of maximum twelve hours; this action may be contested.

## **Checking Third-Country Nationals in the Visa Information System**

*RRTN Section 67/A.*

(1) The immigration authority shall have powers to take the fingerprints of third-country nationals for the purpose of cross-referencing in the system for the exchange of visa data established under Council Decision 2004/512/EC (hereinafter referred to as “Visa Information System”), and for the purpose of verification under Article 19 and 20 of the VIS Regulation.

(2) The immigration authority shall be authorized to process the fingerprints collected for the purposes mentioned in Subsection (1) for running the search under Articles 19 and 20 of the VIS Regulation, until it is completed, and shall thereafter delete them without delay.

## **Control of Third-Country Nationals**

*Government Decree Section 146.*

(1) In the application of the provisions of Subsection (4) of Section 67 of the RRTN, the police shall take into custody the third-country national:

a) if his/her documents, by which to verify his/her legal status in Hungary, are expired or invalid, or if unable to verify his/her lawful right of residence in Hungary, and shall take him/her:

aa) to the local branch of the Police of jurisdiction by reference to the place where the check was carried out if the Police is vested with authority to order an expulsion measure under Subsection (2) of Section 114;

ab) to the competent regional directorate in other cases;

b) if unable to produce proof of identification, and shall take him/her to the local branch of the Police of jurisdiction by reference to the place where the check was carried out if the person in question cannot be indicted in criminal proceeding by virtue of specific other legislation, or may keep the person under custody.

(2) The duration of custody shall be calculated from the time of commencement of the measure, and it may be imposed for the time necessary, not to exceed eight hours. If taking the person into custody failed to achieve its purpose, it may be extended by order of the head of the body carrying out the custody measure in justified cases on occasion, by maximum four hours. The duration of the custody may not exceed twelve hours commencing from the time when the person in question is released from custody.

(3) Travel documents issued to another person and found unlawfully possessed by a third-country national during inspection shall be seized and, if no offence is suspected, forwarded by the proceeding authority to the issuing state’s foreign mission accredited to Hungary.

## **Warrant of Arrest**

*RRTN Section 68.*

29. 05. 2012.

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**(1) In order to locate a third-country national whose whereabouts are unknown, the immigration authority may issue a warrant if the person in question:**

- a) is subject to any immigration proceeding specified in this Chapter;**
- b) has escaped from detention or is on an unauthorized absence from the place of compulsory confinement in violation of the code of conduct;**
- c) failed to comply with the final decision of expulsion.**

**(2) When the grounds for such a warrant cease to prevail, it shall be withdrawn forthwith.**

## **Warrant of Arrest**

*Government Decree Section 147.*

A warrant of arrest may be issued under Section 68 of the RRTN by:

- a) the immigration authority conducting the immigration proceedings in the case referred to in Paragraph a) of Subsection (1) of Section 68 of the RRTN;
- b) the immigration authority carrying out the detention or ordering compulsory confinement in the case referred to in Paragraph b) of Subsection (1) of Section 68 of the RRTN;
- c) the immigration authority ordering the expulsion or carrying out the expulsion ordered by the court in the case referred to in Paragraph c) of Subsection (1) of Section 68 of the RRTN.

## **Chapter VI**

### **Vested Responsibilities**

*RRTN Section 69.*

**(1) Carriers providing travel accommodations to third-country nationals by means of air, water or scheduled road transport shall be required to check the travel document and visa of their passengers before boarding for travelling to Hungary or to another country through the territory of Hungary to ensure that they have travel documents required for entry or for transit.**

**(2) The carrier transporting any third-country national by means of air, water, road or railway transport shall provide for the return of such third-country national to the country of departure or to the country which is liable to accept him/her:**

- a) if its passenger is refused admission to Hungary for lacking any of the requirements specified by law;**
- b) if its passenger is refused admission to another country and is turned back to Hungary; or**
- c) if the carrier to which the passenger was scheduled to be transferred refused to admit the passenger on his means of transport.**

**(3) If return cannot be promptly executed, the carrier in question shall bear all costs incurred in connection with the stay of the third-country national until his/her return.**

**(4) When a third-country national is refused admission and the carrier disputes its obligation to return the person in question or to finance his/her stay, the immigration authority shall adopt a formal resolution to order the carrier to comply.**

**(5) For any failure to comply with the obligation specified in Subsection (1) as set out in specific other legislation, a penalty for the protection of public policy shall be imposed upon the carrier in question.**

29. 05. 2012.

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Contact Point of the European Migration Network*

**(6) A carrier shall be exempted from the payment of penalty for the protection of public policy if able to verify of having proceeded with due care and diligence to ensure compliance with the obligation of control specified in Subsection (1).**

## Chapter VI

### Vested Responsibilities

#### *Government Decree Section 148.*

(1) Where the Police levies a penalty on a carrier in connection with Section 69 of the RRTN it shall be issued by resolution; liability of a carrier to return or finance the stay of its non-admitted passenger shall also be issued by resolution, and shall be executable with immediate effect.

(2) If a carrier fails to fulfill its liability to return a non-admitted passenger within the deadline specified in Subsection (1) of Section 41 of the RRTN, the Police shall advance the costs of the return of such person and shall execute it by way of another carrier.

(3) If the carrier responsible refuses to repay the costs advanced by the Police, the Police shall seek recourse to recover such expenses under civil law.

(4) The obligation to return a non-admitted passenger may not be enforced if the third-country national applies for asylum or for any subsidiary form of protection or temporary protection.

#### *Government Decree Section 149.*

(1) In the event of non-compliance with the control obligation referred to in Subsection (1) of Section 69 of the RRTN, a penalty for the protection of public policy shall be imposed upon the carrier in question for the forint equivalent of between 3000 and 5000 euro per person.

(2) The aforesaid penalty shall be imposed by the local branch of the Police at the place where entry to the territory of Hungary was attempted.

#### *RRTN Section 70.*

**(1) The authority carrying out border checks shall impose a penalty - specified under specific other legislation - for the protection of public policy upon any air carrier who fails to supply information - in violation of the provisions set out in specific other legislation - on passengers it transports from outside of any Member State of the European Union or from outside of the territory of any Schengen State into the territory of Hungary.**

**(2) The provisions laid down in Subsection (1) shall also apply where the information the air carrier has supplied is incomplete or untrue stemming from its failure to exercise due care and diligence.**

#### *Government Decree Section 150.*

(1) The penalty for the protection of public policy to be imposed under Section 70 of the RRTN shall be in the amount of the forint equivalent of between 3000 and 5000 euro for each journey for which passenger data were not communicated or were communicated incorrectly.

(2) The aforesaid penalty shall be imposed upon the defaulting carrier by the local branch of the Police at the place where entry to the territory of Hungary was attempted.

#### *RRTN Section 71.*

29. 05. 2012.

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**(1) Employers shall be required to ascertain on or before the first day of employment of a third-country national that the third-country national affected has a valid residence permit or some other form of authorization for stay, or has a permit prescribed in this Act for engaging in gainful employment.**

**(2) Employers are required to keep a copy of the valid residence permit or other form of authorization presented by the third-country national affected for the entire duration of employment.**

**(3) Employers shall be required to notify the immigration authority of the start of employment of third-country nationals within five days.**

**(4) Employers shall be required to notify the immigration authority within five days if the third-country national failed to report for work as authorized, or if his/her employment is terminated before the expiration of the validity period of his/her work permit.**

**(5) Any employer who fails to satisfy the obligations defined in Subsections (1)-(4) shall be subject to a penalty - specified under specific other legislation -, which shall increase in amount according to the number of employed third-country nationals, for the protection of public policy levied by the immigration authority.**

**(6) An employer shall be exempted from the payment of penalty for the protection of public policy if able to verify of having satisfied the obligations of notification and control specified in Subsections (1)-(4), except if the document presented as a residence permit or other form of authorization turned out to be untrue, of which the employer had been aware, or should have been aware given reasonable care.**

**(7) The employer's main contractor and the employer shall be jointly and severally liable for payment of the penalty for the protection of public policy, where they knew or should have been aware given reasonable care that the employing subcontractor employed third-country nationals without a valid residence permit or other form of authorization, or without a permit prescribed by this Act for the purpose of gainful employment.**

*Government Decree Section 151.*

(1) The regional directorate of jurisdiction by reference to the place where the employer's registered office is located shall impose a penalty for the protection of public policy upon the employers who fail to satisfy the obligation defined in Subsection (1) of Section 71 of the RRTN in the amount of up to five hundred thousand forints per employee.

(2) The regional directorate shall not be authorized to impose the aforesaid penalty after one year following gaining knowledge of the event referred to in Subsection (1).

*Government Decree Section 152.*

(1) The amount of the penalties imposed under Sections 149-151 shall be determined having regard to all prevailing circumstances, such as any recidivism, where applicable.

(2) The proceedings for the collection of the penalties imposed under Sections 149-151 shall be governed by the provisions on administrative enforcement.

(3) Appeals against the sanctions imposed under Sections 149-151 shall be adjudged by the Office, and appeals against the sanction imposed under Section 151 shall be adjudged by the National Police Headquarters.

*RRTN Section 72.*

**Hosts shall be held liable for damages they cause to others resulting from any infringement of their obligations.**

## **Chapter VII**

### **Notification Requirements**

#### **Obligation of Third-Country Nationals to Register their Place of Accommodation**

*RRTN Section 73.*

**(1) Third-country nationals shall be required to register their place of accommodation and shall simultaneously disclose the following information to the immigration authority:**

- a) the natural identification data specified in Section 94;**
- b) particulars of the travel document;**
- c) address of place of accommodation;**
- d) date of arrival to and estimated departure from the place of accommodation;**
- e) serial number of visa or residence permit; and**
- f) date and place of entering the country.**

**(2) Operators of commercial lodgings and other hotel establishments of legal persons shall keep records (guest books) on the prescribed forms of the information of their guests who are third-country nationals as defined in Subsection (1).**

## **Chapter VII**

### **Provisions Governing the Obligation of Third-Country Nationals to Register their Place of Accommodation**

#### **Obligation of Third-Country Nationals to Register their Place of Accommodation**

*Government Decree Section 153.*

(1) Commercial lodgings (hotels, pensions, camping sites, resort facilities, tourist lodges, youth hostels), private accommodations (private lodgings and rural accommodations) and other non-commercial establishments of the like which are subject to keeping guest books (hereinafter referred to collectively as "commercial lodging") under Subsection (2) of Section 73 of the RRTN shall keep the guest book either manually (in a conventional ledger) or in a computerized format. The particulars of third-country nationals shall be recorded in a separate guest book.

(2) The format of the guest book shall be selected by the operator of the commercial lodging.

*Government Decree Section 154.*

Obtaining the guest book and keeping records of all guests shall be the responsibility of the operator of the commercial lodging as well as having it submitted to the competent regional directorate by 31 March of the year following the year to which it pertains.

**29. 05. 2012.**

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*Government Decree Section 155.*

(1) The third-country nationals staying at facilities other than the commercial lodgings required to keep guest books shall be required to register such accommodation if they plan to remain in Hungary for over thirty days from the date of entry.

(2) Registration shall be submitted on a standard form within three days from the date of entry, a model of which is contained in specific other legislation (hereinafter referred to as "registration form") to the regional directorate of jurisdiction by reference to the place where the accommodation is located.

(3) The registration form shall contain the particulars of the travel document, and shall be signed by both the person registering and by the keeper of the lodging.

(4) Third-country nationals shall present their travel documents at the competent regional directorate when registering. The competent regional directorate shall be entitled to consult the register of personal data and address records to verify the address registered.

(5) Third-country nationals shall retain the duplicate copy of the registration form in proof of compliance with the registration requirement.

*Government Decree Section 156.*

(1) When relocating, third-country nationals shall - within three days - notify the regional directorate of jurisdiction by reference to the place where the new place of abode is located.

(2) The requirement for notification of relocating shall not apply to any registered place of abode to which the third-country national holding a long-term visa or residence permit returns after a temporary absence. If the place of temporary absence is a lodging that is required to keep a guest book, it shall be recorded in the guest book also indicating the third-country national's registered place of abode.

## **Registration of Birth**

*RRTN Section 74.*

**Third-country nationals holding a visa for a validity period not exceeding three months, or a visa for a validity period of longer than three months, a residence permit, and third-country nationals with immigrant or permanent resident status shall report the birth of a child in the territory of Hungary and shall simultaneously supply the following information:**

- a) the natural identification data of the child as specified in Section 94;**
- b) particulars of the child's travel document;**
- c) address of the child's place of accommodation or home address.**

## **Notification Obligation of Educational Institutions**

*RRTN Section 74/A.*

**Educational institutions are required to notify the competent immigration authority within eight working days in connection with students who are foreign nationals, concerning the taking up, pursuit and suspension of their studies, including those who failed to comply with the obligation of enrollment, and whose student status has been terminated.**



## Registration of Birth

*Government Decree Section 157.*

(1) Third-country nationals shall report their giving birth to a child to the regional directorate of jurisdiction by reference to the place where the parent's place of residence or place of abode is located, submitted on a standard form, a model of which is contained in specific other legislation, and shall present the child's birth certificate within three months from the date of birth.

(2) If both parents are residing in Hungary and they have joint custody, however their legal status in Hungary differ, the child's entitlement to stay in the country shall be determined on the basis of the parents' joint statement. If the parents fail to agree on a joint statement, the child shall be given the right of residence that is more beneficial.

## **Reporting Obligations and Regulatory Measures in Connection with the Personal Documents of Third-Country Nationals**

*RRTN Section 75.*

(1) **Third-country nationals shall promptly notify the immigration authority if their travel document or residence permit is lost, stolen or destroyed. The immigration authority shall confirm receipt of such notification in writing.**

(2) **The immigration authority shall be immediately notified in the event that a travel document, which was presumed lost and reported as such, is found subsequently.**

(3)

(4) **Unless otherwise stipulated by international agreement, third-country nationals whose travel document is lost, stolen, destroyed or has expired shall obtain a replacement travel document. Such third-country nationals shall be allowed to leave the country only in possession of the new travel document and a certificate of the notification referred to in Subsection (1), or in possession of the expired travel document.**

(5) **The immigration authority shall provide for the forwarding of any travel documents found via the minister in charge of foreign policies to the foreign representation of the State having jurisdiction at the place of issue.**

## **The reporting obligation of third-country EU Blue Card holders**

*RRTN Section 75/A.*

**Third-country nationals holding an EU Blue Card shall notify the immigration authority concerning the termination of their contracts for employment relationship, of entering into another similar contract subsequently, within five days from the date of commencement and termination of such contracts.**

## Reporting Obligations and Regulatory Measures in Connection with the Personal Documents of Third-Country Nationals

*Government Decree Section 158.*

**29. 05. 2012.**

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(1) The third-country nationals whose travel document, personal identification document, or residence card is lost, stolen, destroyed or has expired shall report it to the competent regional directorate or the Police. The competent regional directorate or the Police shall provide a certificate to the reporting third-country national to confirm receipt of such notification.

(2) When a document that was reported lost or destroyed is found by its rightful holder, and the replacement travel document or document evidencing right of residence is not yet issued, the person in question shall return the temporary certificate of right of residence to the authority where it was issued.

(3) If a document that was reported lost or destroyed is found by its rightful holder, and the replacement document is already issued, the person in question shall surrender the found document to the authority where it was issued.

(4) The authority to which a found travel document was surrendered shall forward it to the Office.

(4a) The Office must ensure that lost and found travel documents are sent to the foreign mission accredited to Hungary of the state with jurisdiction over the location of issuance.

(5) The Office shall keep individual records on the blank forms of travel documents described in Subsection (1) and which can be issued in immigration proceedings, and on the blank forms of documents evidencing right of residence. These records shall contain the type and particulars, and the number, series and validity period of travel documents and documents evidencing right of residence.

(6) The Office shall issue a warrant to locate the blank form of travel documents and documents evidencing right of residence which may be issued in immigration proceedings, if the whereabouts of such document is unknown.

## The reporting obligation of third-country EU Blue Card holders

*Government Decree Section 158/A*

Third-country nationals in possession of EU Blue Cards shall fulfil their reporting obligation defined in Section 75/A of the RRTN at the regional directorate competent according to their place of residence. The regional directorate shall notify the Labour Centre of the fact of such reporting.

## Chapter VIII

### Stateless Status and Issuing Travel Documents to Third-Country Nationals

#### Proceedings for the Recognition of Stateless Status

*RRTN Section 76.*

**(1) Proceedings for the recognition of stateless status are opened upon the submission of a request to the immigration authority for stateless status by a person who lawfully resides in the territory of Hungary (hereinafter referred to as "petitioner"), which is to be presented verbally or in writing.**

**(2) Any request submitted verbally shall be recorded in writing by the immigration authority.**

**(3) Upon submitting the petition the immigration authority shall inform the petitioner concerning his/her rights and obligations in the proceedings, the legal consequences of any breach of such obligations and of the designated place of accommodation.**

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**(4) Acknowledgment of the information shall be recorded in writing.**

## Chapter VIII

### Stateless Status and Issuing Travel Documents to Third-Country Nationals

#### Opening Proceedings for the Recognition of Stateless Status

*Government Decree Section 159.*

(1) A petition for the recognition of stateless status shall be submitted in person, verbally or in writing, at the regional directorate of jurisdiction by reference to petitioner's permanent or temporary residence. The proceedings for the recognition of stateless status are exempt from charges.

(2) The petition submitted in writing shall be signed by the petitioner. Where the petition is submitted verbally on account of the petitioner being illiterate, it shall be so stated in a report.

(3) If the petition is submitted verbally and the petitioner cannot speak Hungarian, the competent regional directorate shall provide an interpreter who speaks a language he understands. An interpreter may not be required if the officer in charge of the case speaks the petitioner's native language or another language he/she understands, and if the petitioner so agrees in writing.

(4) The date of submission of a written petition is the day when it is received by the competent regional directorate. The date of submission of a verbal petition is the day when the relevant report is dated.

#### Petitioner's Rights and Obligations

*Government Decree Section 160.*

(1) Where under the proceedings governed by the RRTN there is any possibility that a third-country national should be declared stateless, the immigration authority shall inform the person in question concerning his/her option to request stateless status, about the procedures involved, and about the rights and obligations of stateless status. The providing and acknowledgment of the aforesaid information shall be recorded in writing.

(2) The petitioner shall be required to cooperate with the competent regional directorate in all stages of the proceedings, of which he/she shall be apprised in writing with the acknowledgment of such information also recorded in writing.

(3) A petition for the recognition of stateless status shall have attached the petitioner's foreign documents evidencing his/her identity, his/her travel documents, and all other documents that may be admissible to support the petitioner's statements.

(4) Subsection (5) notwithstanding, the aforesaid enclosures shall be returned to the petitioner when the resolution adopted in conclusion of the case becomes final and operative.

*RRTN Section 77.*

**(1) The petitioner shall attend the proceedings in person and shall be interviewed.**

**(2) The petitioner may use his/her native language or a language he/she understands for verbal and written communication during the proceedings.**

**(3) The petitioner shall be provided access to legal counseling.**

## Preliminary Hearing

### *Government Decree Section 161.*

(1) Following the submission of a petition, or upon drawing the report if the petition is submitted verbally, the competent regional directorate shall conduct a preliminary hearing.

(2) During the preliminary hearing the competent regional directorate shall draw up a report to record:

a) that the information required under Subsection (3) of Section 76 of the RRTN was in fact provided and acknowledged;

b) the following if they were not supplied in the petition:

ba) the petitioner's personal identification data (surname and forename, any previous name, surname and forename at birth, previous nationality, sex, place and date of birth, mother's birth name);

bb) personal data available and particulars from any travel documents (mark of the document and serial number, validity period, place and date of issue, name of issuing authority);

c) marital status, date of marriage;

d) occupation and education;

e) permanent or temporary residence in the country of customary residence;

f) permanent or temporary residence or place of accommodation in Hungary.

(3) The report shall be signed by the petitioner and also by the interpreter, if applicable, and by the representative ad litem appointed for an unaccompanied minor.

## Hearing

### *Government Decree Section 162.*

(1) Following the preliminary hearing the competent regional directorate shall conduct a full hearing.

(2) In this hearing the petitioner shall present his/her reasons for lodging the petition, and shall present any evidence to support his/her case that has not yet been presented. The petitioner shall be apprised of this obligation at the time of opening the proceedings.

(3) If the representative ad litem appointed to represent an unaccompanied minor fails to appear in the hearing in spite of being duly summoned, the hearing shall be rescheduled, of which the guardian authority that has appointed the representative ad litem shall also be notified.

## Representation of the Petitioner

### *Government Decree Section 163.*

**29. 05. 2012.**

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(1) Apart from the petitioner his/her legal representative and/or another duly authorized person may also be involved in the case on the petitioner's behalf, subject to providing proof of their power of representation or written authorization. An appointed representative ad litem shall proceed on behalf of an unaccompanied minor.

(2) Persons with limited capacity shall also have the right to participate in such proceedings as parties.

(3) The petitioner's representative and an officer - subject to the petitioner's consent - of the Budapest Regional Branch of the Office of the United Nations High Commissioner for Refugees (hereinafter referred to as "UN Office") may attend the hearing of the petitioner. The competent regional directorate shall inform the petitioner's representative and the UN Office at least three working days in advance concerning the scheduled date of the hearing.

***RRTN Section 78.***

**(1) A petition for stateless status shall be refused by way of a formal resolution if the petitioner:**

**a) falls within the scope of Paragraph 2 of Article 1 of the United Nations Convention relating to the Status of Stateless Persons signed in New York on 28 September 1954, promulgated by Act II of 2002; or**

**b) terminated his/her nationality deliberately, with a view to obtaining stateless status.**

**(2) The immigration authority shall terminate the proceedings:**

**a) if the petitioner dies;**

**b) if the petitioner withdraws his/her petition in writing;**

**c) if the petitioner fails to appear in the interview in person in spite of repeated written notices and is unable to justify his/her absence;**

**d) if the proceeding cannot continue for the petitioner's whereabouts is unknown.**

***RRTN Section 79.***

**(1) In the proceedings for the recognition of stateless status the petitioner is required to prove or substantiate his/her stateless status, with particular regard to the State:**

**a) where his/her place of birth is located;**

**b) where his/her previous permanent or habitual residence is located; and**

**c) of the nationality of his/her family members and parents.**

**(2) In the proceedings referred to in Subsection (1) the immigration authority shall - upon request - provide administrative help via the Hungarian foreign missions.**

## Verification

***Government Decree Section 164.***

(1) The competent regional directorate shall establish, relying on the national laws of the states referred to in Subsection (1) of Section 79 of the RRTN on citizenship and on their records, such as in particular the opinion of the Office of the United Nations High Commissioner for Refugees and the information received from Hungarian foreign missions and from foreign authorities, furthermore, on the means of proof supplied by the petitioner, that the petitioner is not recognized as a citizen by any state under the national laws of his/her country of origin.

**29. 05. 2012.**

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Contact Point of the European Migration Network*

(2) In proceedings for the recognition of stateless status the competent regional directorate may admit any foreign document enclosed by the petitioner that was made out abroad, as a substantiating document in the absence of the requirements set out in the Act on the General Rules of Administrative Proceedings and Services.

(3) The competent regional directorate, upon request, shall contact the relevant Hungarian foreign missions within the framework of administrative assistance with a view to obtain the documents to support the petition.

(4) The UN Office may, subject to the petitioner's consent:

a) provide administrative assistance;

b) review the documents of proceedings for the recognition of stateless status, and may make copies of these documents.

## Proceedings of the National Security Agency

*Government Decree Section 165.*

(1) A competent regional directorate may request an official assessment from the National Security Agency. The request of the competent regional directorate shall contain the following data:

a) the petitioner's personal identification data (surname and forename, any previous name, surname and forename at birth, previous nationality, sex, place and date of birth, mother's birth name);

b) the petitioner's personal data and particulars from his/her travel document (mark of the document and serial number, validity period, place and date of issue, name of issuing authority);

c) the petitioner's permanent or temporary residence or place of accommodation in Hungary, if a private accommodation the name of the host as well.

(2) The National Security Agency may interview the petitioner.

(3) The deadline for submission of the aforesaid official assessment is fifteen days from the date of the request, unless the National Security Agency requests an additional fifteen days.

## The Resolution

*Government Decree Section 166.*

(1) The competent regional directorate shall adopt a resolution in conclusion of its proceedings for the recognition of stateless status.

(2) The resolution shall be adopted within sixty days following the date of submission of the petition.

(3) The resolution concerning the recognition of stateless status shall be entered on the case file as well.

(4) A copy of the resolution shall be sent to the UN Office and the National Security Agency.

(5) As regards the recognition of stateless status of an unaccompanied minor, a copy of the relevant resolution shall be sent to the guardian authority of jurisdiction by reference to the place where the permanent or temporary residence, or accommodation of the minor is located with a view to the protection of the rights of the stateless minor, and for providing and monitoring care for them.

***RRTN Section 80.***

29. 05. 2012.

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(1) A resolutions adopted in proceedings for the recognition of stateless status may not be appealed.

(2) A petition for the judicial review of such resolutions shall be submitted to the immigration authority within fifteen days from the date when the decision was communicated. The immigration authority shall forward the petition without delay to the competent court together with the documents of the case and any cross-complaint attached.

(3) The Municipal Court of Budapest - having exclusive jurisdiction in such cases - shall adopt a decision within ninety days of receipt of the petition. In the hearing the petitioner shall be interviewed in person. Personal hearing is not required if the petitioner cannot be reached at the address on record or if moved to a place unknown. The court may overturn the resolution.

(4) The proceedings for the recognition of stateless status are exempt from charges.

*RRTN Section 81.*

The representative of the Office of the United Nations High Commissioner for Refugees may participate in any stage of the proceedings for the recognition of stateless status, and:

- a) he may be present when the petitioner is interviewed;
- b) he may provide administrative assistance to the petitioner;
- c) he may gain access to the documents of the proceedings and make copies thereof;
- d) the immigration authority shall send the administrative resolution or court decision to him.

## **Issuing Travel Documents to Third-Country Nationals**

*RRTN Section 82.*

The foreign representation of Hungary shall issue a single-entry travel document to a third-country national who has been granted treatment as a stateless person by Hungary, and to third-country nationals with immigrant or permanent resident status, if his/her travel document was lost or destroyed abroad and cannot be replaced abroad or it would entail unreasonable difficulties, and thus he/she is unable to return to the territory of Hungary.

*RRTN Section 83.*

(1) The immigration authority shall issue a travel document for the purpose of traveling abroad, permitting reentry to the territory of Hungary if requested by a third-country national with immigrant or permanent resident status, if he/she does not have a valid travel document from his/her country of origin and if such cannot be replaced for reasons beyond his/her control.

(2) The above-specified travel document shall be valid for one year from the date of issue.

*RRTN Section 84.*

The immigration authority may issue a travel document for a single occasion to a third-country national for the purpose of return to the country of his/her permanent residence, if the travel document of such person was lost or destroyed and cannot be replaced.

*RRTN Section 85.*

(1) The immigration authority may issue a travel document - upon request - to a stateless person residing in the territory of Hungary for the purpose of reentry to the territory of Hungary, within the period of validity, from his/her travel abroad.

(2) The above-specified travel document shall be valid for one year from the date of issue.



29. 05. 2012.

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Contact Point of the European Migration Network*

**RRTN Section 86.**

**If the travel document issued by the immigration authority to a third-country national or to a stateless person residing in the territory of Hungary is confiscated by the court, the public prosecutor or the investigation authority in the course of criminal proceedings, or if they contacted the immigration authority to confiscate such travel document, the immigration authority shall withdraw the travel document in question.**

## Issuing Travel Documents to Third-Country Nationals

*Government Decree Section 167.*

(1) Applications for the travel documents specified in Sections 82-85 of the RRTN shall be submitted in person on a standard form, a model of which is contained in specific other legislation, with the exceptions set out in Subsection (2):

a) to the competent consulate officer if the application pertains to the travel document referred to in Section 82 of the RRTN;

b) to the regional directorate of jurisdiction by reference to the applicant's permanent or temporary residence, or accommodation if the application pertains to the travel documents referred to in Sections 83-85 of the RRTN.

(2) The applications of minors and persons placed under guardianship may be submitted by the parent or guardian.

(3) The application may be submitted by an authorized agent if the applicant cannot appear in person due to health reasons, which is to be substantiated in writing by his physician.

(4) Applications for travel documents shall have attached the applicant's previous travel document, if it is in his/her possession, and two facial photographs suitable to identify the applicant.

(5) With the application of minors and third-country nationals placed under guardianship, the consent of the parents (legal representatives) made before a notary public, the guardian authority or the competent regional directorate concerning the travel document, or the copy of a definitive court ruling on the termination or suspension of parental custody, must be attached.

## Issue and Replacement of Travel Documents

*Government Decree Section 168.*

(1) The travel documents issued to third-country nationals with immigrant or permanent resident status shall contain the indication "immigrant", or "permanent resident".

(2) Stateless persons residing in Hungary shall have issued a bilingual document entitled "Utazási igazolvány hontalan személy részére/Travel document for Stateless Person" made out in Hungarian and English, containing the indication specified in Paragraph 1 of Article 1 of the Appendix of the United Nations Convention relating to the Status of Stateless Persons signed in New York on 28 September 1954, promulgated by Act II of 2002. The validity period of the travel documents of stateless persons may be extended once, by six months.

(3) A replacement travel document shall be requested if:

a) the particulars of the third-country national contained in the travel document have changed;

b) the travel document is full; or

c) the travel document is damaged, or no longer suitable for identification purposes for other reasons.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(4) Applications for replacement travel documents shall have attached two facial photographs suitable to identify the applicant.

## Special Provisions Concerning the Travel Documents of Stateless Persons

*Government Decree Section 169.*

(1) The competent regional directorate shall confiscate the previous travel document issued to the stateless person by the competent authority of another state, and shall return it to the issuing authority via the diplomatic mission or consular post of the country in question.

(2) If a stateless person is granted citizenship, his/her travel document must be surrendered within fifteen days at the regional directorate of jurisdiction by reference to the place where his/her permanent or temporary residence or accommodation is located.

## Chapter IX

### Common Provisions

*RRTN Section 87.*

(1) Upon receipt of a visa application the competent authority shall issue the visa or shall reject the application by way of a resolution.

(2) A visa may be issued in expedited proceedings to a minor if the verifiable purpose of entry is the minor's medical treatment.

(3) In visa proceedings the competent authority shall hear the applicant if he/she is a minor with limited legal capacity or if incompetent. Such hearing shall be attended by the minor's legal representative or by a person of legal age with legal capacity who has been duly authorized by the legal representative.

*RRTN Section 88.*

(1) In the proceedings launched upon request in accordance with this Act the client shall submit his/her request in person. The competent authority may not require an applicant to appear in person who is unable to do so due to health reasons.

(2) In the proceedings referred to in Subsection (1), with the exception of visa applications, if the request the client has submitted is incomplete, the competent authority shall promptly make out a notice for requesting the missing information.

(3) In those proceedings where the applicant is required to appear in person, the client shall not be authorized to communicate with the authority by way of electronic means.

*RRTN Section 89.*

(1) Subject to the exceptions set out in Subsections (2)-(4), the decisions adopted in proceedings falling within the scope of this Act shall be delivered by service of process.

(2) The following shall also be conveyed verbally to the client attending in his/her native language or in another language he/she understands:

a) resolutions;

b) the court's decision adopted in the judicial review of a resolution;

c) the court's decision adopted in connection with the extension of such detention.

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) The fact and time of conveyance shall be recorded in a protocol and it must be signed by the client.

(4) If the client's whereabouts is unknown, the resolution or ruling shall be conveyed by way of a posted notice, with the exception set out in Subsection (5). An administrator for service of process shall not be appointed.

(5) The operative part of a resolution ordering exclusion independently shall be displayed on a website specified in specific other legislation. The resolution on exclusion ordered independently under Paragraphs *a)-b)* of Subsection (1) of Section 43 shall be considered delivered on the day of publication.

*RRTN Section 90.*

(1) Where no appeal is permitted under this Act, reopening the case may not be requested.

(2) In the proceedings governed in this Act, the rulings adopted in the first instance by the authority of the second instance may not be appealed.

*RRTN Section 91.*

(1) In visa proceedings the costs of translation and interpreting services, and the fees of a sign language interpreter (hereinafter referred to as "costs of language services") shall be borne by the applicant.

(2) In addition to what is contained in Subsection (1), in the proceedings launched upon request under this Act the costs of delivery of the decision and the costs of language services shall be covered by the competent authority, whereas the costs of language services in other proceedings shall be borne by the applicant.

(3) In proceedings launched ex officio under this Act, the costs of language services shall be borne by the competent authority.

*RRTN Section 92.*

In proceedings launched ex officio under this Act, in cases of emergency the competent authority may use an interpreter in the absence of an order of appointment subject to a contract between the authority and the interpreter.

*RRTN Section 92/A.*

In immigration proceedings relating to expulsion third-country nationals shall have the opportunity to use the legal counsel of his choice and expense, to hire a legal counsel, or to accept the legal aid offered by any registered non-governmental organization providing legal protection on a regular basis. In connection with the legal aid offered by a registered non-governmental organization providing legal protection, the authority shall provide assistance, where deemed necessary, by means of providing an interpreter.

*RRTN Section 92/B.*

Third-country nationals shall have access to free legal assistance - upon request - covered by specific other legislation in connection with the judicial review of a resolution containing the order of expulsion.

## **Chapter X**

### **Regulations Relating to the Processing of the Data of Third-Country Nationals**

*RRTN Section 93.*

The immigration authority shall process the personal data of third-country nationals obtained within the framework of this Act in the central immigration register for the purpose of establishing their identity,

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

for checking the authenticity of documents, to determine the duration of lawful residence and to avoid any overlap in procedures.

*RRTN Section 93/A.*

The immigration authority shall entrust the data processing duties related to the central immigration register exclusively to government agencies, the bureau of forensic records specified in the Act on the Penal Register or business associations owned by the State exclusively.

*RRTN Section 94.*

The central immigration register shall contain the following natural identification data of the persons falling within the scope of immigration sub-registers (hereinafter referred to as "natural identification data"):

- a) surname and forename (names);
- b) surname and forename (names) at birth;
- c) any previous surname and forename (names);
- d) place and date of birth;
- e) sex;
- f) mother's surname and forename (names) at birth;
- g) nationality (nationalities) or stateless status.

## Chapter IX

### Regulations Relating to the Processing of the Data of Third-Country Nationals

#### Data Administration Agency

*Government Decree Section 170.*

The Office shall function as the body operating the central immigration register (for the purposes of this Chapter hereinafter referred to as "central data administration agency").

#### Immigration Sub-Registers

*RRTN Section 95.*

(1) The immigration authority shall process the following data of third-country nationals in connection with visa applications and the visa issued, or document in place of visas (in this Section hereinafter referred to collectively as "visa"):

- a) natural identification data;
- b) facial photograph;
- c) travel document particulars;
- d) the purpose of entry and the planned duration of stay, and the country of previous usual residence;
- e) particulars of the documents provided in support of the conditions required for entry and stay;

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**f) the fact and reasons for the refusal of a new visa or for the renewal of an existing one, and for the withdrawal of a visa;**

**g) the number and validity period of the visa issued (extended) and information relating to restricted territorial access;**

**h) the date and place of entry and exit, and the country of next usual residence;**

**i) address of the place of accommodation.**

**(2) The immigration authority shall process the data referred to in Subsection (1) for five years in connection with the refusal of a visa application from the date when refused, in connection with a visa issued (extended) from the date of expiry or the date of withdrawal.**

**(3) In connection with visa applications submitted at any land, air or water border crossing points of Hungary under Chapter VI of the Visa Code, the competent immigration authority shall take the applicant's fingerprint and shall forward it to the immigration authority in charge for the assessment of visa applications for having the immigration authority in charge for the assessment of visa applications to enter the data in the Visa Information System in accordance with Article 9 of the VIS Regulation.**

**(4) The immigration authority having collected the fingerprint shall be authorized to process such fingerprint data until it is forwarded to the immigration authority in charge for the assessment of visa applications. Thereafter the fingerprint data must be deleted without delay.**

**(5) The immigration authority in charge for the assessment of visa applications shall be authorized to process the fingerprint data until it is entered in the Visa Information System. Thereafter the fingerprint data must be deleted without delay.**

## Detailed Provisions Relating to Immigration Sub-Registers

### *Government Decree Section 171.*

**(1) The visa issuing authority and the consular officer issuing the local border traffic permit, the Police and the regional directorates shall forward the data specified, respectively, in Subsection (1) of Section 95 of the RRTN, Paragraph h) of Subsection (1) of Section 95 of the RRTN and in Paragraph i) of Subsection (1) of Section 95 of the RRTN to the central data administration agency.**

**(2) In respect of facial image and fingerprint data captured pursuant to Section 96/A(1j) and Section 96/A of the RRTN, the data processing agency shall be the central data management agency.**

### *RRTN Section 96.*

**(1) The immigration authority shall process the following data of third-country nationals in connection with applications for residence permits and the residence permits issued:**

**a) natural identification data;**

**b) facial photograph;**

**c) travel document particulars;**

**d) the purpose of entry and the planned duration of stay, and the country of previous usual residence.**

**e) particulars of the documents provided in support of the conditions required for entry and stay;**

**f) the fact and reasons for the refusal of a new residence permit or for the extension of an existing one, and for the withdrawal of a residence permit;**

**g) the number, serial number and validity period of the residence permit issued (extended);**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**h) the date of first entry and final exit, and the country of next usual residence.**

**i) address of the place of accommodation.**

**j) facial images and fingerprint images taken in accordance with Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.**

**(2) The immigration authority shall process the data referred to in Paragraphs a)-i) of Subsection (1) for five years in connection with the refusal of an application for residence permit from the date when refused, in connection with a residence permit issued (extended) from the date of expiry, or from the date of withdrawal.**

**(3) The immigration authority shall be allowed to process the data referred to in Paragraph j) of Subsection (1) insofar as the binding and enforceable decision is adopted relating to the application for residence permit, or until the humanitarian residence permit specified in Paragraphs a)-b) and d)-f) of Subsection (1) of Section 29 is issued, after which the data in question must be deleted immediately.**

*RRTN Section 96/A.*

**The immigration authority shall be allowed to process the facial images and fingerprint images taken for the purposes of local border traffic permits in accordance with Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals insofar as the binding and enforceable decision is adopted relating to the application for local border traffic permit, after which the data in question must be deleted immediately.**

*Government Decree Section 172.*

The minister in charge of foreign policies and the regional directorates, and the Police shall forward the data specified, respectively, in Subsection (1) of Section 96 of the RRTN and Paragraph h) of Subsection (1) of Section 96 to the central data administration agency.

*RRTN Section 97.*

**(1) The immigration authority shall process the following data of the host and the invited third-country national:**

**a) the natural identification data of the host, if a natural person, or the corporate name of the host if a legal person or business association lacking the legal status of a legal person;**

**b) the host's home address if a natural person, or the host's registered office (place of business) if a legal person or business association lacking the legal status of a legal person;**

**c) the natural identification data of the invited third-country national;**

**d) the duration of commitment;**

**e) the serial number of the letter of invitation with an official certificate affixed;**

**f) if the official certificate is refused, the reasons therefor.**

**(2) The immigration authority shall process the data referred to in Subsection (1) for five years following the expiration of the commitment.**

*Government Decree Section 173.*

29. 05. 2012.

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Contact Point of the European Migration Network*

A regional directorates shall forward the data specified in Subsection (1) of Section 97 of the RRTN to the central data administration agency.

***RRTN Section 98.***

**(1) The immigration authority shall process the following data of third-country nationals in connection with certificates of temporary residence:**

- a) natural identification data;**
- b) facial photograph;**
- c) travel document particulars;**
- d) the reason for the issue of the certificate of temporary residence;**
- e) any extension of the certificate of temporary residence, and its withdrawal including the fact and reasons therefor;**
- f) the number, serial number and validity period of the certificate of temporary residence issued (extended);**
- g) address of the place of accommodation.**

**(2) The immigration authority shall process the data referred to in Subsection (1) for five years in connection with the certificate of temporary residence issued (extended) from the date of expiry, or from the date of withdrawal.**

*Government Decree Section 174.*

The regional directorates and the Police shall forward the data specified in Subsection (1) of Section 98 of the RRTN to the central data administration agency.

***RRTN Section 99.***

**(1) The immigration authority shall process the following data of third-country nationals in connection with applications for immigration permits and permanent residence permits, interim permanent residence permits, national permanent residence permits or EC permanent residence permits, and the interim permanent residence permits, national permanent residence permits or EC permanent residence permits issued:**

- a) natural identification data;**
- b) facial photograph;**
- c) travel document particulars;**
- d) particulars of the documents provided in support of the conditions required for these permits;**
- e) the fact and reasons for the refusal of these permits or for the extension of existing ones, and for the withdrawal of these permits;**
- f) the number, serial number and validity period of the permits issued (extended);**
- g) the date of first entry and final exit, the country of previous usual residence and the country of next usual residence.**
- h) home address;**
- i) personal identification number;**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**j) number of personal identification document.**

**k) facial images and fingerprint images taken in accordance with Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.**

**(2) The immigration authority shall process the data referred to in Paragraph a)-j) of Subsection (1) for twenty years in connection with the refusal of an application for these permits from the date when refused, or from the date of termination of the legal status in question.**

**(3) The immigration authority shall be allowed to process the data referred to in Paragraph k) of Subsection (1) insofar as the binding and enforceable decision is adopted relating to the application for the permit aforementioned, after which the data in question must be deleted immediately.**

*Government Decree Section 175.*

**(1) The regional directorates shall forward the data specified in Subsection (1) of Section 99 of the RRTN to the central data administration agency.**

**(2) In respect of facial image and fingerprint data captured pursuant to Section 99(1) of the RRTN, the data processing agency shall be the central data management agency.**

*RRTN Section 100.*

**(1) The immigration authority shall process the following data of third-country nationals whose travel document was reported lost, stolen or destroyed:**

**a) natural identification data;**

**b) type of travel document or residence permit reported lost, stolen or destroyed, and its particulars, and an indication if an alert has been issued in the Schengen Information System;**

**c) the date and time when reported;**

**d) place and date of first entry;**

**e) address of the place of accommodation, home address;**

**f) name of the authority to which the report was filed;**

**g) the number and validity of the certificate evidencing residence and the name of the issuing authority;**

**h) the type, number and validity of the new travel document.**

**(2) The immigration authority shall process the data referred to in Subsection (1) until the travel document is found, or for a period of five years from the date when reported lost, stolen or destroyed.**

*Government Decree Section 176.*

The regional directorates shall forward the data specified in Subsection (1) of Section 100 of the RRTN to the central data administration agency.

*RRTN Section 101.*

**(1) The immigration authority shall process the following data of third-country nationals in connection with the registration of their place of accommodation or place of abode:**

**a) natural identification data;**



29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

- b) the date of entry (arrival);
- c) address of the place of accommodation, home address.

**(2) The immigration authority shall process the data referred to in Subsection (1) for five years following the date of registration of the place of accommodation or place of abode, of from the date when the guestbook is surrendered.**

*Government Decree Section 177.*

The regional directorates shall forward the data specified in Subsection (1) of Section 101 of the RRTN to the central data administration agency.

*RRTN Section 102.*

**(1) The immigration authority shall process the following data of a third-country national who has been ordered to leave the territory of Hungary, or who is subject to compulsory confinement, expulsion ordered under immigration laws, expulsion by court order, exclusion or detention under immigration laws:**

- a) natural identification data;
- b) facial photograph and fingerprint;
- c) name of the ordering authority and the number of the relevant resolution;
- d) the legal grounds for the measure, order or resolution, and the related deadline or duration;
- e) the fingerprint of the persons subject to expulsion under immigration laws or by court order.

**(2) The immigration authority shall process the following data of third-country nationals in connection with requesting assistance relating to or the authorization of transit for the purposes of expulsion by air:**

- a) natural identification data;
- b) the type, number and validity of the travel document;
- c) particulars of direct flight or flights used for the purpose of expulsion (flight number, place of departure and arrival, time of departure and arrival);
- d) the reasons for official escort, if any;
- e) information relating to medical treatment and to contagious diseases that can be identified;
- f) information concerning any previous failed attempt for expulsion.

**(3) The immigration authority shall process the data specified in Subsection (1) for five years after the expulsion or exclusion is lifted.**

**(4) The immigration authority shall process the data specified in Subsection (2) for five years following the date when the request for transit was received.**

*Government Decree Section 178.*

The regional directorates and the Police, and the Office shall forward the data specified, respectively, in Subsection (1) of Section 102 of the RRTN and in Subsection (2) of Section 102 of the RRTN to the central data administration agency.

29. 05. 2012.

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Contact Point of the European Migration Network*

***RRTN Section 103.***

**(1) The immigration authority shall process the following data of third-country nationals subject to prohibition of leaving the country:**

- a) natural identification data;**
- b) name of the authority ordering the prohibition of leaving the country.**

**(2) The immigration authority shall process the data specified in Subsection (1) until the prohibition is lifted.**

*Government Decree Section 179.*

The regional directorates shall forward the data specified in Subsection (1) of Section 103 of the RRTN to the central data administration agency.

***RRTN Section 104.***

**(1) In conjunction with commitments of Hungary conferred in international treaties and conventions, the immigration authority shall process the following data of third-country nationals detained, arrested or taken into custody in Hungary, or affected by some extraordinary event (i.e. death, accident resulting in serious injury, etc.):**

- a) natural identification data;**
- b) address of the place of accommodation, home address;**
- c) information on the criminal proceedings (degree and description of the crime), name of the acting authority and the case number;**
- d) information on the extraordinary event, name of the acting authority and the case number.**

**(2) The immigration authority shall process the data specified in Subsection (1) for three years after the information obligation is discharged.**

*Government Decree Section 180.*

The regional directorates shall forward the data:

a) specified in Paragraphs a)-c) of Subsection (1) of Section 104 of the RRTN upon being notified by the competent investigating authority or law enforcement agency;

b) specified in Paragraphs a)-b) and d) of Subsection (1) of Section 104 of the RRTN upon being notified by the Police;

to the central data administration agency.

***RRTN Section 105.***

**The immigration authority shall process the data specified in Article 8 (1) of Council Regulation 2725/2000/EC of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention.**

*Government Decree Section 181.*

29. 05. 2012.

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Contact Point of the European Migration Network*

The regional directorates shall forward the data specified in Subsection (1) of Section 105 of the RRTN to the central data administration agency to have them transmitted to the central unit of Eurodac.

## Immigration authorities having access to the Visa Information System

*Government Decree Section 181/A*

(1) The Government shall assign the Office in charge of the record-keeping system pursuant to Article 34; as the national authority allowing access thereto pursuant to Article 28(4)c); and as data manager pursuant to Article 41(4) of the VIS Regulation.

(2) In respect of access to data stored in the Visa Information System established by Council Decision 2004/512/EC,

- a) the visa authority pursuant to Article 15 of the VIS Regulation shall be the authority specified in Section 7, and shall be the Police in the procedures laid down in Section 10(4) and Section 20(2);
- b) the central visa authority pursuant to Article 16 of the VIS Regulation shall be the Office;
- c) the visa authority pursuant to Article 17 of the VIS Regulation shall be the authority specified in Section 7;
- d) the verifying authorities pursuant to Articles 19 and 20 of the VIS Regulation shall be the Police, the Office and the Regional Directorate.

## The rules of handling biometric data

*Government Decree Section 181/B*

(1) In the case of submission of an application for a local border traffic permit, biometric identifiers defined in Section 96/A of the Act shall be captured by the consular official.

(2) In the event of application for a residence permit, biometric identifiers defined in Section 96(1)j) of the Act shall be captured by the consular officer if the application is submitted to a foreign mission, and by the regional directorate if the application is submitted in Hungary.

(3) The Government shall assign the Office to carry out the tasks of the national Document Signing Authority, the Country Signing Certificate Authority, the Country Verifying Certificate Authority and the national Document Verification Authority.

(4) In accepting applications for the replacement or reissuance of border traffic permits, residence permits, interim permanent residence permits, national permanent residence permits, EC permanent residence permits and immigration and permanent residence permits, the biometric identifiers laid down in Article 99(1) k) of the RRTN shall be captured by the regional directorate.

(5) In relation to the replacement or reissuance of local border traffic permits, residence permits, interim permanent residence permits, national permanent residence permits, EC permanent residence permits and immigration and permanent residence permits, the Office shall

- a) populate the storage elements personalising local border traffic permits, residence permits, interim permanent residence permits, national permanent residence permits, EC permanent residence permits and immigration and permanent residence permits and containing biometric identifiers (hereinafter: storage element) with data;
- b) fulfils the tasks of the national Document Signing Authority, the Country Signing Certificate Authority;
- c) fulfils the tasks of the Country Verifying Certificate Authority and the national Document Verification Authority.

(6) In its capacity as national Document Signing Authority, the Office shall establish a Document Signing Certificate and place it in the storage element.

(7) In its capacity as Country Signing Certificate Authority, the Office shall

- a) issue the certificate pursuant to Subsection (6),
- b) establish and handle a certificate containing the certificates and revocation lists of the national document signing authorities of all member countries of the International Civil Aviation Organisation (ICAO) together with a database of revocation lists, for the purpose of verifying local border traffic permits, residence permits,

interim permanent residence permits, national permanent residence permits, EC permanent residence permits and immigration and residence permits containing a storage element with biometric identifiers.,

c) send, via the minister in charge of foreign policy, certificates which it has issued and related revocation lists in electronic document file format to the country signing certificate authorities of ICAO member countries.

(8) In its capacity as Country Verifying Certificate Authority, the Office

a) shall issue certificates to the national Document Verification Authority;

b) issue certificates to foreign document verification authorities issuing certificates for the verification equipment of foreign authorities which are authorised to read data protected by extended access control.

(9) In its capacity as national Document Verification Authority, the Office shall ensure the issuance of certificates to provide access for the verification equipment of Hungarian authorities which are authorised to read data stored electronically, and are protected by extended access control, in the storage elements of local border traffic permits, residence permits, interim permanent residence permits, national permanent residence permits, EC permanent residence permits and immigration and permanent residence permits..

(10) A third-country national holding a local border traffic permit, a residence permit, an interim permanent residence permit, a national permanent residence permit, an EC permanent residence permit, and immigration or permanent residence permit may at any time file a request with the regional directorate for verification of data stored in the storage element containing biometric data.

#### ***RRTN Section 106.***

**(1) The immigration authority may disclose data of the type of data specified by law from the immigration sub-registers to the following bodies to the extent required to discharge their duties conferred upon them by legal regulation:**

**a) law enforcement agencies;**

**b) investigation authorities;**

**c) national security services;**

**d) the refugee authority;**

**e) tax authorities;**

**f) the authorities participating in immigration proceedings;**

**g) the customs authority;**

**h) the authority handling citizenship-related duties;**

**i) the body operating the register of personal data and address records of citizens;**

**j) the employment and labor authority;**

**k) the occupational safety authority; and**

**l) the public health authority.**

**m) the pension insurance administration agency;**

**n) the bodies of municipal governments vested with regulatory capacity; and**

**o) document bureaus.**

**(2) The immigration authority shall maintain data transfer records on the disclosures of data specified in Subsection (1), indicating the body to which the data was disclosed and for what purpose. The immigration authority shall process the data contained in the data transfer records for five years following the time of transfer.**

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

(3) If justified on the grounds of national security or criminal investigation, the immigration authority may refuse to disclose any information from the data transfer records.

(4) The immigration authority may request data in connection with its proceedings conducted under this Act from the following:

- a) the register of personal data and address records of citizens;
- b) the register of convicted criminals, the register of persons incarcerated and the register of individuals indicted under criminal charges;
- c) the watch list;
- d) the register of persons with work permits;
- e) the register of companies;
- f) the register of private entrepreneurs; and
- g) the public health authority.

(5) Where a third-country national has acquired Hungarian citizenship, the data relating to him or her shall be deleted without delay from the immigration sub-registers.

*RRTN Section 107.*

(1) The immigration authority may disclose data from the immigration sub-registers to foreign law enforcement agencies, border authorities, immigration and law enforcement authorities, international organizations, to Community bodies established on the strength of directly applicable Community legislation pursuant to directly applicable Community legislation or international agreement, to the extent specified therein.

(2) The immigration authority may receive data from the bodies and organizations specified in Subsection (1) pursuant to directly applicable Community legislation or international agreement, to the extent specified therein.

(3) The immigration authorities defined in specific other legislation shall have access to the Visa Information System for the purposes referred to in Articles 15-20 of the VIS Regulation.

(4) The immigration authority can obtain personal information of a third-country national specified in Section 94 and further information regarding their recognition as refugees or the existence of subsidiary protection pursuant to the requests during the process of issuing interim permanent residence permits or EC residence permits and expulsion ordered under immigration laws in line with Subsection (9)-(10) of Section 34 and Subsection (2b) of Section 45.

*RRTN Section 108.*

(1) The data processed on the basis of this Act may be used for statistical purposes and such data may be supplied by the body operating the central immigration register for statistical purposes, in a manner so as not to allow the identification of specific individuals.

(2) Data may be released from sub-registers specified in Subsection (1) of Section 95, Subsection (1) of Section 96, Subsection (1) of Section 98, and Subsection (1) of Section 99 for the Központi Statisztikai Hivatal (*Central Statistics Office*) for statistical purposes in a manner allowing for the identification of individuals.

## **Chapter XI**

### **Closing Provisions**

#### **Entry into Force**

##### *RRTN Section 109.*

(1) This Act - subject to the exceptions set out in Subsections (2)-(5) - shall enter into force on 1 July 2007.

(2) The following provisions of this Act shall enter into force on the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full:

- a) Paragraph j) of Section 2,
- b) Subsections (4)-(5) and (7) of Section 9,
- c) Sections 10-12,
- d) Paragraph i) of Subsection (1) of Section 13,
- e) in Subsection (1) of Section 16 the passage "in possession of a long-term visa or a residence permit",
- f) Subsection (2) of Section 18,
- g) in Paragraph c) of Subsection (2) of Section 33 the passage "or for whom an alert has been issued in the SIS for the purposes of refusing entry",
- h) in Paragraph a) of Subsection (4) of Section 42 the passage "or for whom an alert has been issued in the SIS for the purposes of refusing entry",
- i) Subsection (3) of Section 65, and
- j) in Paragraph g) of Subsection (1) of Section 95 the passage "and information relating to restricted territorial access".

(3) On the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full:

- a) the following provision shall replace Paragraph a) of Subsection (1) of Section 14 of this Act:
  - a) visa for entitlement to receive a residence permit, for single entry into the territory of Hungary for the purpose of collecting the residence permit and for stay for a period not to exceed thirty days;"
- b) the following provisions shall replace Section 15 of this Act:

Section 15 (1) Visas for entitlement to receive a residence permit may be granted to third-country nationals who have been authorized to receive a residence permit.

(2) The visa for entitlement to receive a residence permit shall be cancelled if the underlying residence permit had been or should be withdrawn.

(3) Seasonal employment visas or national visas may be granted to third-country nationals who satisfy the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13.

(4) Seasonal employment visas and national visas shall be refused, or shall be withdrawn if already issued from the third-country nationals:

- a) who fail to comply with either of the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13;

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

b) who have disclosed false information or untrue facts to the competent authority in the interest of obtaining the right of residence.

(5) The resolution adopted in connection with applications for seasonal employment visas and national visas, or for the cancellation of such visas may not be appealed.";

c) the following provisions shall replace Section 17 of this Act:

Section 17 (1) Unless otherwise prescribed in this Act, residence permits may be issued to third-country nationals who satisfy the requirements set out in Paragraphs a), c)-i) of Subsection (1) of Section 13, and

a) have a valid national visa if applying for a national residence permit, or

b) have a valid residence permit in the case of applications for the extension of residence permits.";

d) the following provision shall replace Subsection (3) of Section 26 of this Act:

(3) A residence permit issued for the purpose of voluntary service activities may not be extended."

(4) On the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full:

a) in Subsection (1) of Section 9 of this Act the passage "a), c) and e)" shall be replaced by "a) and c)-e)"

b) in Paragraph a) of Subsection (3) of Section 9 of this Act the passage "a), c) or e)" shall be replaced by "a) or c)-e)";

c) in Paragraph a) of Subsection (1) of Section 18 of this Act the passage "c)-h)" shall be replaced by "c)-i)";

d) in Subsection (1) of Section 26 of this Act the passage "Long-term visa" shall be replaced by "A residence permit";

e) in Subsection (2) of Section 26 of this Act the passage "long-term visa" shall be replaced by "residence permit";

f) in Subsection (1) of Section 28 of this Act the passage "c)-h)" shall be replaced by "c)-i)".

(5) Effective as of the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full the following provisions of this Act shall be repealed:

a) Subsection (2) of Section 9;

b) in Subsection (1) of Section 19 the passage "long-term visa or a", and the passage "long-term visa,";

c) in Subsections (2), (4), (5) and (6) of Section 19 the passage "a long-term visa or";

d) in Subsection (8) of Section 19 the passage "long-term visa,";

e) in Subsection (10) of Section 19 the passage "long-term visa or" in both instances;

f) in Subsection (1) of Section 20, Subsection (1) of Section 21, Subsection (1) of Section 22, Subsection (1) of Section 23, Subsection (1) of Section 24, Subsection (1) of Section 25, and in Subsection (1) of Section 28 the passage "long-term visa or";

g) in Subsection (2) of Section 20 the passage "long-term visa or a";

h) in Subsection (3) of Section 20 the passage "long-term visa or";

i) in Subsection (5) of Section 20 the passage "a long-term visa or";

j) in Paragraph a) of Subsection (1) of Section 30 the passage "long-term visa,";

k) in Paragraph b) of Subsection (1) of Section 30 the passage "long-term visa";

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

l) in Subsection (3) of Section 30 the passage "long-term visa or";

m) and in Subsection (1) of Section 35 the passage "long-term visa,".

(6) Simultaneously with this Act entering into force the following provisions shall be repealed:

a) Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals;

b)

c) Sections 57-80 of Act XXIX of 2004 on Amendments and Repeals of Legal Regulations and other Legislative Changes Related to Hungary's Accession to the European Union, the preceding title "CHAPTER EIGHT" and the title "on the Amendment of Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals", furthermore, Section 145;

d)

e) Sections 10-31, Paragraphs a)-f) of Section 32, and in the introductory sentence to Subsection (1) of Section 32 of Act XLVI of 2005 on the Amendment of Act LV of 1993 on Hungarian Citizenship and Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals the passage "Simultaneously:";

f)

## **Transitional Provisions**

### *RRTN Section 110.*

(1) The visas, residence permits, certificate of temporary residences issued before the time of this Act entering into force shall constitute the right of stay contained therein within their period of validity.

(2) The immigration permits and permanent residence permits issued before the time of this Act entering into force shall constitute the right of stay contained therein within their period of validity.

(3) The applications for visas and residence permits submitted before the time of this Act entering into force, and still pending, shall be assessed based on the provisions of this Act, with the exception that the applications submitted by third-country nationals for residence permits shall be treated - relying on their statements - as if they were submitted for interim permanent residence permits.

(4) The applications submitted for permanent residency before the time of this Act entering into force, and still pending, shall be assessed based on the provisions of this Act pertaining to national residence permits and EC residence permits, relying on the applicants' statements.

(5) The detention of third-country nationals prior to expulsion ordered before the time of this Act entering into force shall be governed by the provisions of this Act pertaining to detention subject to expulsion, and the detention prior to removal and detention under immigration laws ordered before the time of this Act entering into force shall be governed by the provisions of this Act pertaining to detention under immigration laws.

## **Authorizations**

### *RRTN Section 111.*

(1) The Government is hereby authorized to decree:

a) the authorities vested with competence in connection with immigration proceedings, with the registration of accommodations and home addresses, and the data of third-country nationals that may be processed on the strength of this Act, their scope of jurisdiction and the detailed regulations for their proceedings;



29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

b) the immigration related tasks and duties and the powers and authorizations of visa authorities, the detailed regulations for the issue of visas, the type of documents evidencing the right of entry and residence without a visa, and the prescribed form of visas;

c) the conditions for issuing residence permits, certificates of temporary residence, interim permanent residence permits, national residence permits, EC residence permits and EU Blue Cards, and the formal requirements for these documents;

d) the travel documents recognized;

e) the detailed regulations concerning the issue, renewal and withdrawal of residence permits granted on humanitarian grounds, and the detailed regulations for cooperation between the immigration, national security and law enforcement agencies;

f) the conditions for providing official certificates for letters of invitation, and the detailed regulations for such proceedings;

g) the regulations concerning detention prior to expulsion or ordered under immigration laws, and for setting up and the designation of a compulsory place of confinement, and the detailed regulations for the provision of healthcare services and other assistance to third-country nationals in detention;

h) the detailed public health regulations pertaining to the entry and residence of third-country nationals in Hungary, and the financial requirements for health care services and the means of certification;

i) the amount limits of the financial penalties to be imposed on carriers and employers under this Act, and the procedure for levying them;

j) the rules of conduct for persons placed under compulsory confinement;

k) the regulations for the provisions to third-country nationals ordered to stay in the airport transit zone;

l) the regulations for the provisions and support granted to exiles and persons residing in community hostels and refugee centers, and to third-country nationals who are victims of trafficking in human beings;

m) the requirements set out for community hostels and the house rules of community hostels;

n) the detailed regulations for the entry and stay in Hungary of civilian personnel under the NATO-SOFA Agreement and of the relatives of such personnel;

o) the detailed regulations for recognition and enforcement of expulsion orders adopted by Member States;

p) the detailed regulations concerning the proceedings for the recognition of stateless status;

q) the detailed regulations for the issue of travel documents to third-country nationals.

r) the designation of the law enforcement agencies vested with powers to initiate exclusion independently and to make recommendations as to the duration of exclusions.

(1a) The Government is hereby authorized to designate the authorities appointed to carry out the authentication of storage mediums containing the biometric data of documents evidencing right of residence issued under Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals, as well as the law enforcement agencies acting as special authorities in immigration proceedings.

(2) The minister in charge of immigration is hereby authorized to decree, in agreement with the ministers concerned:

a) the content specifications and enclosures of the forms and documents prescribed by this Act;

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

b) the fees for the procedures relating to the entry, exit and residence of third-country nationals, and for the procedures relating to the issue of travel documents to third-country nationals;

c) the financial resources deemed adequate for entry and residence;

d) the rules for covering the costs of immigration related procedures;

e) the form of travel documents issued to third-country nationals.

(3) The minister in charge of foreign policies is hereby authorized to decree, in agreement with the minister in charge of immigration, the detailed regulations concerning the entry and exit and the right of residence of persons enjoying diplomatic or other type of immunity.

(4) The minister in charge of immigration and the minister in charge of the judicial system are hereby authorized to decree, in agreement with the ministers concerned, the regulations for the execution of detention and deportation by order of the immigration authority.

(5) The minister in charge of the healthcare system is hereby authorized to decree, in agreement with the minister in charge of immigration, the types of diseases which are potentially dangerous to public health.

(6) The minister in charge of immigration is hereby authorized to decree - in agreement with the minister in charge of foreign policies, the minister in charge of supervising the national security services and the minister overseeing civil intelligence activities - the cases where, for reasons of public security and national security:

a) the consent of the central visa authority is required for the issue of a visa for a validity period not exceeding three months; and

b) the central visa authority is required to consult with the central authorities of other Schengen States requesting consultation prior to granting consent for the issue of a visa for a validity period not exceeding three months.

(7) The minister in charge of immigration is hereby authorized to decree, in agreement with the minister in charge of foreign policies, the minister in charge of supervising the national security services, and the minister overseeing civil intelligence activities, the list of third countries whose nationals are required to hold airport transit visas in accordance with Article 3(2) of the Visa Code.

(8) The minister in charge of immigration is hereby authorized to decree - in agreement with the minister in charge of foreign policies, the minister in charge of supervising the national security services and the minister overseeing civil intelligence activities - the list of third countries, where the central visa authority is to request information of visas issued to the nationals of such third countries in accordance with Article 31(1) of the Visa Code.

*RRTN Section 112.*

*RRTN Section 113.*

*RRTN Section 114.*

*RRTN Sections 115-119.*

## **Compliance with the Acquis**

*RRTN Section 120.*

(1) This Act serves the purpose of partial compliance with the following legislation of the Communities:

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

a) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985;

b) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;

c) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;

d) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air;

e) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

f) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data;

g) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service;

h) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research;

i) Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K. 3 (2) of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State;

j) Council Resolution of 30 November 1994 relating to the limitations on the admission of third-country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons;

k) Council Recommendation of 22 December 1995 on harmonizing means of combating illegal immigration and illegal employment and improving the relevant means of control;

l) Council Recommendation of 4 March 1996 relating to a common position in connection with airport transit zone measures;

m) Council Recommendation of 4 March 1996 relating to local consular cooperation regarding visas;

n) Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries;

o) Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience.

p) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

q) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment;

r) Council Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals.

s) In respect of the extension of the scope of Council Directive 2003/109/EC to beneficiaries of international protection, Directive 2011/51/EU of the European Parliament and of the Council of 16 December 2008 [Section 5, Subsection (5) of Section 32, Subsections (9)-(10) of Section 34, Paragraphs d), f) and g) of Subsection (2) of Section 38, Subsection (5a) of Section 38, Subsection (1a) of Section 39, Subsections (2a)-(2e) of Section 45 and Subsection (4) of Section 107] amending the Council Directive.

(2) This Act contains provisions for the implementation of the following legislation of the Communities:

29. 05. 2012.

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

**a) Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders [Sections 6 and 40];**

**b) Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals (Sections 53, 67, 96, 99 and 111);**

**c) Articles 6, 9, 19 and 20 of Regulation (EC) No. 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) [Sections 67/A and 95];**

**d) Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) [Sections 2, 8, 9, 12 and 111].**

**e) Regulation (EC) No. 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection.**

## Chapter X

### CLOSING PROVISIONS

#### Entry into Force

*Government Decree Section 182.*

(1) This Decree - with the exceptions set out in Subsection (2) - shall enter into force on 1 July 2007.

(2) Of this Decree,

a) Subsection (2) of Section 4;

b) Subsections (2)-(4) of Section 8;

c) Subsection (6) of Section 10;

d) in Subsection (1) of Section 11 and the introductory sentence to Subsection (2) of Section 11 the passage ", at the foreign mission of any Schengen State that is authorized under international agreement to issue visas in the name and on behalf of Hungary";

e) in Paragraph a) of Subsection (2) of Section 11 the passage ", foreign mission of any Schengen State that is authorized under international agreement to issue visas in the name and on behalf of Hungary";

f) Paragraph e) of Subsection (5) of Section 12;

g) Subsection (6) of Section 12;

h) in Paragraph a) of Section 19 the passage "or the territory of the Schengen States" and the passage "or in any Schengen State";

i) in Paragraph f) of Section 19 the passage "residence permit,";

j) Subsection (3) of Section 20;

k) Section 22 and Section 23;

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

l) in Subsection (1) of Section 24 the passage "and before the reply made upon consultation as specified in the relevant decree adopted according to Subsection (6) of Section 111 of the RRTN";

m) Sections 25-28;

n) Section 33:

o) Section 49:

p) Section 54:

q) Paragraph a) of Subsection (2) of Section 118, and in Subsection (3) the passage "a) and";

r) Subsection (3) of Section 142

shall enter into force on the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full.

(3)-(6)

## Compliance with the Acquis

### *Government Decree Section 183.*

(1) This Decree - in conjunction with Act II of 2007 on the Admission and Residence of Third-Country Nationals - serves the purpose of compliance with the following legislation of the Communities:

a) Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals;

b) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985;

c) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;

d) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;

e) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air;

f) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

g) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data;

h) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service;

i) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research;

j) Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3 (2) of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State.

**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

k) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, by Sections 47(8), 51(3), 72/A, 72/B, 89, 118, 158/A and Point 2 of Schedule II;

l) Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals, by Sections 70(1) and (3), 151 and 152.

(2) This Decree contains provisions for the implementation of:

a) Council Regulation (EC) No. 1683/95 of 29 May 1995 laying down a uniform format for visas;

b) Council Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement;

c) Council Regulation (EC) No. 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognized by the Member State drawing up the form;

d) Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals;

e) Council Regulation (EC) No. 415/2003 of 27 February 2003 on the issue of visas at the border, including the issue of such visas to seamen in transit;

f) Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders.

g) Regulation (EC) No. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention

h) Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation);

i) Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code)

*Schedule No. I to Government Decree 114/2007 (V. 24.)*

### **Countries subject to airport transit visa requirement**

Philippines

Guinea

Cameroon

Lebanon

Liberia

Rwanda

**29. 05. 2012.**

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Contact Point of the European Migration Network*

Sierra Leone

Senegal

Syria

Sudan

*Schedule No. II to Government Decree 114/2007 (V. 24.)*

### Visa documents

1) 'Visa document' shall mean a document made out in the form and with the contents specified in Council Regulation (EC) No. 1683/95 of 29 May 1995 laying down a uniform format for visas.

2) 'Form for affixing a visa' shall mean a document made out in the form and with the contents specified in Council Regulation (EC) No. 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognized by the Member State drawing up the form.

### Local border traffic permit document

3) 'Local border traffic permit' shall mean a document made out in the form specified in Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

Document format: sticker.

Comment: issued for use in local border traffic.

*Schedule No. III to Government Decree 114/2007 (V. 24.)*

### Residence permit documents

1) 'Residence permit document' shall mean a document made out in the form and with the contents specified in Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

Document format: sticker

2) 'Humanitarian residence permit document' shall mean a document made out in the form and with the contents specified in Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

Document format: ID-2 card

Remarks: "residence permit granted on humanitarian grounds;

3) Humanitarian residence permit to asylum seekers

Name of document: humanitarian residence permit to asylum seekers

Document format: ID-2 card

The document contains the following information:

29. 05. 2012.

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Contact Point of the European Migration Network*

- 1) serial number
- 2) name - surname and forename(s)
- 3) nationality (stateless status)
- 4) sex
- 5) facial photograph
- 6) date and place of issue
- 7) validity period
- 8) purpose of residence
- 9) place and date of birth
- 10) address
- 11) signature
- 12) remarks

*Schedule No. IV to Government Decree 114/2007 (V. 24.)*

**Documents evidencing immigrant status and permanent resident status**

A document made out in the form and with the contents specified in Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

Document format: sticker

Remarks:

- 1) In the case of immigration permits: "immigration permit;
- 2) In the case of permanent residence permits: "permanent residence permit;
- 3) In the case of interim permanent residence permit: "interim permanent residence permit;
- 4) In the case of national permanent residence permits: "national permanent residence permit;
- 5) In the case of EC permanent residence permits: "EC residence permit certifying long-term residence status;

*Schedule No. V to Government Decree 114/2007 (V. 24.)*

**Community hostel house rules**

1) Upon arrival, new tenants shall present their residence document and the resolution ordering compulsory confinement upon arrival for admission at the hostel.

2) New tenants shall be subject to medical examination and shall have their clothing and other belongings searched.



**29. 05. 2012.**

*Unofficial translation by the Ministry of Interior / Hungarian National  
Contact Point of the European Migration Network*

3) Third-country nationals admitted into the community hostel (hereinafter referred to as 'hostel residents') may deposit their money and valuables for safe keeping when admitted, or may keep them in their possession at their own risk.

4) Hostel residents may not keep objects with which they might endanger their own or other persons' life or physical integrity (weapons; hitting, cutting, and piercing devices; gas spray, drugs, alcohol etc.).

5) When leaving the community hostel residents must return all of the inventory items they have received.

6) Hostel residents are to use the home's premises, furniture and equipment in accordance with their designated purpose. Residents shall refrain from littering and causing any damage to property, and shall keep their environment clean.

7) Hostel residents shall be provided with medical services. The office hours of the physician on duty shall be posted on the daily schedule.

8) Hostel residents are entitled to receive visitors at the times indicated on the daily schedule in the area designated for this purpose. They may use the telephone, send and receive letters at their own cost.

9) Hostel residents may exercise their religion individually or in groups without any restrictions. Religious activities shall not violate the hostel's operating order.

10) Hostel residents may move about freely in designated areas of the hostel and shall have free access to entertainment and sports facilities and other available equipment.

11) Hostel residents shall not engage in any conduct that violates the rights of other residents or causes any disturbance.

*Schedule No. VI to Government Decree 114/2007 (V. 24.)*

Financial and income statement of exiles and third-country nationals who are  
victims of trafficking in human beings

STATEMENT

on the financial standing and income situation of exiles and third-country nationals who are victims of  
trafficking in human beings, and on any changes therein

A) Personal data

Declarant's

Name: .....

Place of birth: .....

Address (place of accommodation or place of domicile):.....

Residence permit number: .....

B) Financial information

At the time of this statement I have - do not have - the following assets in my possession and control in Hungary:

1) Real estate:

yes - no,

Market value: ..... Forints

(Real estate other than the declarant's residence)

2) Automobile:

yes - no,

Market value: ..... Forints

3) Motorized production or work equipment:

yes - no,

Market value: ..... Forints

4) Cash:

yes - no,

Amount: ..... Forints

5) Savings account:

yes - no,

29. 05. 2012.

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Contact Point of the European Migration Network

Amount: ..... Forints

6) Securities:

yes - no,

Value: ..... Forints

7) Rights in immovables (long-term land lease, land use, beneficial ownership and use and similar rights, right of foreigners to use real property etc.):

yes - no,

Value: ..... Forints

8) Total assets (1-7)

Amount: ..... Forints

C) Income information

At the time of this statement I have - do not have - the following income in Hungary:

1) Monthly income from employment:

yes - no,

Amount: ..... Forints

2) Income from other gainful activity:

yes - no,

Amount: ..... Forints

3) Income from the sale of assets:

yes - no,

Amount: ..... Forints

4) Other income:

yes - no,

Amount: ..... Forints

5) Total income (1-4)

Amount: ..... Forints

At the time of this statement the combined monthly income of my family as distributed equally among all family members living under the same roof (spouse, domestic partner, brother, sister and next of kin) is:  
..... Forints

D) Notification requirement

Applicants and exiles shall notify the Office of Immigration and Nationality (hereinafter referred to as "Office") forthwith within fifteen days,

29. 05. 2012.

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when the market value (amount) of any of his assets has reached ..... Forints, or the total market value (amount) of all his assets has reached ..... Forints

if his monthly income is above the current mandatory old age pension (.....Forints in 200.....).

Declaration

I hereby declare that all data and information contained in this statement is true and correct. I understand that:

a) I am required to cover the costs of provisions received under the scope of personal care if the forint value (amount) of my assets and holdings or my monthly income is above the value (amount) specified in point D) of this Statement;

b) If I receive any non-repayable aid or support, the Office may request another financial and income statement which I am to provide within fifteen days;

c) The Office has powers to check and verify the data and information contained in this Statement;

d) The Office has the right to discontinue to provide aid and financial support should I fail to notify any changes in my financial and income situation under point D) of this Statement, until my compliance with said notification requirement;

e) The Office may decline to provide any aid and support should any of the data or information contained in my financial and income statement or in my notification of changes prove to be false.

Date: ....., ..... day ..... month ..... year

.....

Signature of declarant (legal representative)

Received on:

Date: ....., ..... day ..... month ..... year

.....

Signature of representative of the Office

Each petitioner and exile (accompanying spouse, legal guardian in the name of minors) shall fill out a separate statement.

The statement shall be completed using block letters.

29. 05. 2012.

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Contact Point of the European Migration Network*

*Schedule No. VII to Government Decree 114/2007 (V. 24.)*

**Certificate of eligibility for provisions for exiles and third-country nationals who  
are victims of trafficking in human beings**

Data content of document:

- 1) Surname and forename
- 2) Date of birth
- 3) Place of birth
- 4) Residence permit number
- 5) Residence permit validity period
- 6) Remarks
- 7) Serial number
- 8) Issuing authority