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Part I.

4.

Regulation of the Slovak Republic Minister of Interior

of 14 January 2003

on procedures of the Migration Office of the Slovak Republic Ministry of Interior and Police Force departments in respect of execution of the law no. 480/2002 on asylum and amendments to particular laws

In order to ensure application of uniform procedures in execution of actions under the law no. 480/2002 on asylum and amendments to particular laws (hereinafter "Asylum Act") **I hereby stipulate the following:**

Section 1

Initial Provision

Departments of the Slovak Republic Ministry of Interior involved in execution of the Asylum Act are the Migration Office of the Slovak Republic Ministry of Interior (hereinafter "Migration Office"), border control departments of the Police Forces, aliens police departments of Border and Aliens Police divisions, and aliens police departments in facilities for foreigners¹ of the Border and Aliens Police Office of the Bratislava Police Force (hereinafter "the Department").

¹ Section 1, subs. (1) (g) of the law no. 48/2002 on residence of foreigners and amendments to particular laws.

Section 2 Commencement of Procedure

- (1) The asylum procedure is commenced by the foreigner declaring his/her request for asylum
 - a) when entering the territory of the Slovak Republic, before the Department operating at the border-crossing point,
 - b) after entering the territory of the Slovak Republic, before the Department operating in the locality of foreigner's residence, or
 - c) in case the foreigner enters the territory of the Slovak Republic by aircraft, and does not meet the conditions for entering the Slovak Republic, before the Department operating in the transit zone of the international airport.
- (2) If a foreigner applies for asylum before any Police Force department other than the Department, the respective Police Force department shall arrange transportation of the foreigner to the nearest relevant Department pursuant to the above subsection 1.
- (3) The Department shall
 - a) exercise all necessary measures to determine the foreigner's identity, i.e. ascertain his/her name, family name, date and place of birth, citizenship, nationality, number and validity term of the travel document or any other identity document,
 - b) organise participation of an interpreter, where necessary,
 - c) accept the declaration of the foreigner requesting asylum in the territory of the Slovak Republic, and complete the relevant declaration form as per the specimen contained in Annex 1 to Asylum Act (hereinafter "the Declaration"),
 - d) execute inspection of the applicant and his/her baggage and vehicle, if any of the events described in Section 3 (5) of Asylum Act or the specific regulation² occurs,
 - e) make a written Record of the explanation given by the applicant, which Record must contain applicant's personal data, data on his/her travel documents or any other identity documents produced thereby, description of reasons for the asylum request, description of the journey, and information on persons who organised the applicant's entry into the Slovak Republic territory,
 - f) immediately send the Declaration and the Record by fax to the Migration Office,
 - g) examine records and information systems of the Police Forces, and AFIS for existence of a record of the applicant,
 - h) take from the applicant his/her travel document or any other identity document, and issue a confirmation thereof to the applicant; such documents together with the original Declaration and a copy of the Record shall be immediately sent to the Migration Office,
 - i) organise taking the applicant's dactyloscopic fingerprints, and send the same to the Forensic Science Institute of the Police Forces (hereinafter "Forensic Science Institute"),
 - j) issue a foreigner temporary identity card (with 24 hours' validity) to the applicant as a substitute identity document for the purpose of transportation thereof to the detention camp; a specimen of the foreigner temporary identity card is enclosed as Annex 1 hereto,
 - k) issue a transportation document entitling the applicant to transportation to the detention camp, indicating the determined route and means of transport; the transportation document shall constitute an integral part of the temporary identity card,
 - l) organise accompaniment of the applicant to the detention camp by a police officer,² particularly in cases where this is necessary due to the applicant's health state, or if it is reasonably expectable that he/she would not appear in the detention camp within the specified period of time.

² Act of the Slovak Republic National Council no. 171/1993 on Police Forces, as later amended.

- (4) In the case of a foreigner referred to in subsection (1)(c), the department shall follow the procedures set forth in subsections (3)(a) to (3)(g), and (3)(i); the original Declaration and a copy of the record shall be immediately sent to the Migration Office, and the applicant placed in the Reception Centre.
- (5) If the event described in Section 4(3) of Asylum Act occurs, the Department shall follow subsections (3)(h), (3)(j) and (3)(l).
- (6) Substantial reasons which might hamper an applicant from appearing in the detention camp in a period of 24 hours from giving the declaration include i.a. sudden hospitalisation of the applicant, or exceptionally adverse weather conditions.

Section 3

- (1) Upon arrival of the applicant to the detention camp, an appointed Migration Office officer shall:
 - a) take from the applicant his/her temporary identity card (Section 2, subs. (3)(j)) and transportation document,
 - b) organise taking and producing a photo of the applicant,
 - c) enter applicant's data contained in the identity card into the information system;
 - d) deliver to the applicant a comprehensive information of his/her rights and duties in respect of the asylum procedure; the information must be provided in a language understandable to the applicant, which shall be confirmed by the applicant's signature.
- (2) An appointed officer of the procedural department of the Migration Office shall ensure that the applicant completes the Asylum-Seeker Questionnaire according to the specimen contained in Annex 2 to Asylum Act.
- (3) The head of the detention camp, or an officer appointed thereby shall issue an asylum-seeker card as per Annex 2 hereto, as an identity card to be valid during the term of the asylum procedure:-
 - a) to any applicant over 15 years of age; the card shall contain data on the applicant's children below 15 insofar as they are also asylum-seekers;
 - b) to any applicant below 15 years of age, insofar as he/she is not accompanied by its legal representative in the territory of the Slovak Republic.

The head of the detention camp, or an officer appointed thereby shall ensure that the applicant confirms the receipt of the card by his/her signature.

Section 4

The Migration Office as the first instance asylum procedure authority shall ensure that the asylum application is considered in an unbiased manner. To this end, an appointed officer of the procedural department of the Migration Office shall:

- a) examine details of the asylum-seeker's application, collect all available information on the applicant and his/her country of origin, and evaluate data contained in the Asylum-Seeker Questionnaire, a specimen whereof is contained in Annex 2 to Asylum Act,
- b) interview the applicant, under the presence of an interpreter insofar as appropriate; the interview may be attended by a representative of the applicant, a representative of UNHCR; if the applicant is minor, the interview shall be attended by his/her legal representative or guardian,

- c) verify prior to the interview whether the applicant has been informed of his/her rights and duties in respect of the asylum procedure, and understood the aforesaid information,
- d) arrange, based on reasons requiring special regard, and subject to resources of the Migration Office, interviewing the applicant and interpretation by persons of the same gender as the applicant,
- e) regard the age and level of the applicant's mental and psychical maturity when interviewing a minor applicant,
- f) verify the data declared in such a manner that life and health security of the applicant is not jeopardised;
- g) conduct the interview repeatedly, where circumstances of the case require so,
- h) evaluate the interview, and applicant's behaviour during the interview, and any other facts related to the application for asylum;
- i) produce the decision in the case, which shall be signed by Director of the Migration Office based on recommendations of the director of the procedural department.

Section 5
Rejection of an Application as Inadmissible

- (1) The Migration Office must first consider whether the application for asylum can or can not be rejected as inadmissible pursuant to Section 11 subs. (1)(b) of Asylum Act. Where the Migration Office makes its decision under the preceding sentence, it shall issue a declaration to the applicant as per the specimen contained in Annex 3 hereto. The Migration Office shall arrange issuance of the declaration in the language of the country where the asylum-seeker is to be returned.
- (2) If the Migration Office does not proceed pursuant to subsection (1) hereof, it must consider whether the application of asylum is or is not inadmissible pursuant to Section 11, subs. (1) (a) of Asylum Act.

Section 6
Rejection of an Application as Manifestly Unfounded

An application for asylum can be rejected by the Migration Office as manifestly unfounded on the grounds stipulated in Section 12, subsections (1) and (2) of Asylum Act.

Section 7
Granting Asylum

- (1) The Migration Office shall grant asylum to an applicant if he/she satisfies any of the reasons stipulated in Section 8 or 10 of Asylum Act.
- (2) Humanitarian reasons based on which the Migration Office shall grant asylum include particularly cases of unsuccessful asylum-seekers who are aged, traumatised, or suffering from a serious disease, where repatriation to the country of origin might cause significant physical or mental suffering, or even death.

Section 8
Non-granting Asylum

- (1) The Migration Office shall not grant asylum to any applicant who does not satisfy the conditions stipulated in Section 8 of Asylum Act.
- (2) Where the applicant is subject to Section 13 of Asylum Act, the Migration Office shall not grant asylum thereto even if reasons for granting asylum pursuant to Section 8 or 10 of Asylum Act do exist.

Section 9
Revocation of Asylum

- (1) The Migration Office shall revoke asylum if the events specified in Section 15, subsections (2) and (3) of Asylum Act occur.
- (2) The Migration Office may revoke asylum on the grounds stipulated in Section 15 (4) of Asylum Act.
- (3) Issuance of the asylum revocation decision is subject to Section 11.

Section 10
Suspension of Asylum Procedure

- (1) The Migration Office shall suspend the asylum procedure if the events referred to in Section 19(1) of Asylum Act occur.
- (2) The Migration Office shall not issue the asylum procedure suspension decision in cases referred to in Section 19(1), subsections (e) to (g); grounds for the suspension shall only be stated in the relevant file, with the date and signature of the appointed officer of the acting procedural department of the Migration Office, and seal of the Migration Office.

Section 11
First Instance Asylum Procedure Decisions

- (1) Any decision made in the asylum procedure must contain the following data and information:
 - a) name and address of the issuing department, number and date of decision;
 - b) applicant's name and family name, date of birth, citizenship, nationality, religion, country of origin or residence, and accurate address of the place of residence in the Slovak Republic;
 - c) award statement specifying the decision with references to applicable provisions of Asylum Act; if the decision to reject the application as manifestly unfounded, or not to grant asylum, or revoke asylum is made, the award must indicate whether deportation or repatriation impediments pursuant to Section 47 of Asylum Act apply to the foreigner concerned;
 - d) reasoning giving the facts considered and constituting the grounds for the decision;

- e) instruction including the information on available remedies, the appellate term (30 days from the date of delivery of the decision on non-granting or revocation of asylum, or 7 days from the date of delivery of the decision on rejection of the application as manifestly unfounded, or in the case of appeal against a decision on non-granting asylum issued during the term of placement of the applicant in the reception centre of the international airport transit zone), and address of the relevant appellate institution (Bratislava or Košice Regional Court);
 - f) title, name and family name of the person making the decision, and the seal of the Migration Office with the national emblem,
 - g) distribution list.
- (2) Any decision made within the first instance procedure shall be signed by Director of the Migration Office, based on recommendations of the director of the procedural department thereof; the preceding sentence shall not apply to decisions on suspension of the procedure, or appointment of a guardian, in which case the decision shall be signed by an appointed officer of the acting procedural department of the Migration Office.
 - (3) Any asylum procedure decision must be made in 90 days from the receipt of Declaration. In justified cases the superior of the acting officer may prolong the decision-making term; this applies to cases e.g. when obtaining relevant supporting documentation from the applicant's country of origin is impossible, or number of applicants is exceptionally high. In such case the appointed Migration Office officer shall notify the applicant of such prolongation in writing.
 - (4) The decision made in respect of the application for asylum shall be delivered to the applicant to the place and on the date as specified in the written call to receive the decision. The applicant must be informed about the decision in the language he/she understands. The applicant shall confirm delivery of the decision by signing the delivery receipt.
 - (5) The Migration Office shall deliver the decision made in the asylum procedure also to the applicant's representative or guardian; the asylum facility where the asylum-seeker is placed, UNHCR Office and the department which is competent pursuant to location of the asylum facility where the asylum-seeker is placed, or the place of his/her last residence in the Slovak Republic shall only be informed of the decision by the Migration Office. One copy of the decision shall be retained by the Migration Office.
 - (6) Particularities in respect of delivery to the applicant of the decision made in the asylum procedure, and notification of the applicant of the decision in a language he/she understands shall be governed by a guideline to be issued by Director of the Migration Office.

Section 12 Temporary Refuge

- (1) The Department may accept from a foreigner a declaration of his/her request for temporary refuge only provided that the Slovak Republic Government decree stipulating conditions and commencement of granting temporary refuge to foreigners from a particular country has been issued.
- (2) A foreigner seeking temporary refuge shall make the declaration thereof:

- a) when entering the territory of the Slovak Republic, before the Department operating at the border-crossing point,
 - b) after entering the territory of the Slovak Republic, before the Department operating in the locality of the foreigner's stay.
- (3) If a foreigner applies for temporary refuge before any Police Force department other than the Department, the respective Police Force department shall arrange transportation of the foreigner to the nearest relevant Department.
- (4) When accepting the foreigner's declaration under subsection (1), the Department shall appropriately proceed pursuant to Section 2(3).
- (5) The head of the detention camp, or an officer appointed thereby shall issue to the applicant for temporary refuge other than foreigner referred to in Section 12, (6), subs. (a) a temporary refuge seeker card as per the specimen contained in Annex 4 hereto; provisions of Section 3(3) shall apply appropriately. The Department shall inform the Migration Office of whether the arrival of the foreigner to the Slovak Republic territory has been arranged by UNHCR or other international organisation.
- (6) The Department shall issue to the foreigner a document permitting tolerated residence thereof in the Slovak Republic, bearing the "LEAVER" indication:-
- a) if the foreigner's arrival to the Slovak Republic has been arranged through UNHCR, or any other international organisation,
 - b) if the event described in Section 31(7) of Asylum Act occurs.
- (7) The Migration Office shall notify the relevant Department of the event pursuant to Section 31(7) of Asylum Act in writing.
- (8) If the event pursuant to Section 31(5) of Asylum Act occurs, the Migration Office shall suspend the temporary refuge process.
- (9) The Migration Office shall reject the temporary refuge application, if the foreigner does not satisfy the conditions set forth by a decree of the Slovak Republic Government in respect of granting temporary refuge.
- (10) The Migration Office shall revoke the temporary refuge on the grounds stipulated in Section 33 of Asylum Act.
- (11) Section 11 hereof shall apply to issuance of the decision on rejection of a temporary refuge application to an appropriate extent.

Section 13 Asylum Facilities

- (1) The Migration Office shall provide to foreigners placed in asylum facilities such as detention camp, residential camp, humanitarian centre and reception centre the following:
- a) free accommodation and basic sanitary facilities,
 - b) free boarding or subsistence allowances,
 - c) free basic health care,

- d) pocket money.
- (2) Particularities in respect of provision of free accommodation and basic sanitary facilities, free boarding or subsistence allowances, and pocket money shall subject to a guideline to be issued by Director of the Migration Office.
- (3) The Migration Office shall set forth particular conditions for foreigners to stay in asylum facilities by the Internal Rules, the same to be issued by Director of the Migration Office; in particular, such Rules shall determine:-
 - a) boarding schedule,
 - b) the manner and extent of providing the basic health care,
 - c) pocket money payment schedule,
 - d) schedule of delivery and distribution of documents,
 - e) conditions for leaving the asylum facility,
 - f) conditions for third parties to enter asylum facilities.

Section 14 Record-keeping

- (1) The Migration Office shall maintain an information system containing:-
 - a) personal data of, and information on applicants,
 - b) personal data of, and information on asylum-seekers,
 - c) personal data of, and information on foreigners seeking temporary refuge,
 - d) personal data of, and information on leavers,
 - e) images and records of persons referred to in above subsections a) to d).
- (2) The Department shall maintain an information system containing:-
 - a) records of places of residence of applicants to whom residence outside the residence camp has been permitted by the Migration Office,
 - b) records of asylum-seekers' places of residence,
 - c) records of places of residence of those leavers to whom residence outside the humanitarian centre has been permitted by the Migration Office.
- (3) The Forensic Science Institute shall maintain an information system containing:-
 - a) records of applicants' dactyloscopic fingerprints,
 - b) records of dactyloscopic fingerprints of foreigners seeking temporary refuge.
- (4) Personal data as per subsections (1) to (3) shall be maintained to the extent of Annexes 1 and 2 to Asylum Act.
- (5) The Forensic Science Institute shall immediately notify the Department of any findings detected in its database in respect of applicants.
- (6) The Department shall immediately provide any information obtained under subsection (5) hereof to the Migration Office.

Section 15
Residence Permit to a Foreigner with Asylum Permit in the Slovak Republic

- (1) If a foreigner is granted asylum, the Department shall proceed pursuant to the internal rule.³
- (2) The Department shall keep records, and collect information of an asylum-seeker, evaluate the same intermediately, and if any legal grounds for revocation of asylum are determined, submit such findings to the Migration Office.
- (3) Records of asylum-seekers are kept separately from those of foreigners having the permit for temporary or permanent residence in the Slovak Republic.

Section 16
Travel Documents for Foreigners

- (1) If an asylum-seeker applies to the Department for a foreigner travel document, the Department shall proceed pursuant to the internal rule.⁴
- (2) When issuing a travel document, the Department shall notify the foreigner of his/her duty to obtain the visa of the target country, if the Slovak Republic subjects to visa requirements of that country.
- (3) The Department shall inform the asylum-seeker of his/her duty to promptly notify the nearest Department in the case of loss or theft of the travel document.
- (4) Validity of such foreigner travel documents is two years.

Section 17
Rejection of Issuance, Retention or Deprivation of Foreigner Travel Document

- (1) Issuance of a foreigner travel document to an asylum-seeker shall be rejected, or such travel document shall be retained, or an asylum-seeker shall be deprived of his/her foreigner travel document by the Department only in cases stipulated in the specific law.⁵
- (2) Where grounds for rejection of issuance, retention or deprivation of a foreigner travel document pursuant to subsection (1) hereof do exist, the Department shall proceed according to the internal rule.⁶

³ Sections 74 and 75 of the Police Force President regulation no. 17/2002 on procedures in respect of entry and residence of foreigners in the Slovak Republic territory.

⁴ Sections 77 and 78 of the Police Force President regulation no. 17/2002.

⁵ Sections 19 to 22 of the law no. 381/1997 on travel documents, as amended by the law no. 441/2001.

⁶ Police Force President regulation no. 31/1997 on travel document issuance procedures, and Annex 1 to the Guideline of Director of the Border and Foreigner Police Office of the Police Force Presidium no. 3/2002 on procedures of Border Police and Passport Service departments in respect of issuance of travel documents to Slovak Republic citizens.

Section 18 Temporary Provision

- (1) Where the refugee status procedure has been not lawfully concluded till 31 December 2002, such procedure shall be considered asylum procedure, and subject to Asylum Act.
- (2) Where the terms “applicant“ and “applicant for refugee status “ are used in internal rules, they shall be understood as “applicant“.
- (3) Where the term “refugee“ is used in internal rules, it shall be understood as “asylum-seeker“.
- (4) Any permit for permanent residence in the Slovak Republic bearing the “REFUGEE“ indication, issued under the former regulations, shall be deemed permit for permanent residence in the Slovak Republic with “ASYLUM-SEEKER“ indication of the purpose of residence, and the validity term indicated therein shall apply.
- (5) Any refugee card issued under the former regulations to a foreigner seeking refugee status shall be deemed asylum-seeker card pursuant to Asylum Act.

Final Provisions

Section 19

The regulation of the Slovak Republic Minister of Interior no. 4/1996 governing procedures of the Police Force departments and the Slovak Republic Ministry of Interior Migration Office departments in respect of execution of the law of the Slovak Republic National Council no. 283/1995 on refugees, as amended by the regulations of the Slovak Republic Minister of Interior no. 20/1996 and no. 48/2000, are hereby cancelled.

Section 20

The present regulation shall come into force and effect as of the date of publication, save that the provision of Section 5(2) shall come into force and effect as of the effective date of the Agreement on Accession of the Slovak Republic to European Communities.

Ref. no.: MU-572/2002

**Minister
Vladimír PALKO**

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