

Government Decree No. 24/1998 (II.18.)

on the Detailed Rules Applicable to Asylum Proceedings, furthermore, on the Documents of Applicants, Temporarily Protected Persons and Persons Authorized to Stay

Based on the authorization granted in Article 60 (1) a) and c) of Act CXXXIX of 1997 on Asylum (hereinafter: AA), the Government hereby orders the following:

Article 1

(1) This Decree shall establish the detailed rules of asylum proceedings applicable to the recognition as refugee, temporarily protected person and person authorized to stay.

(2) This Decree shall define the types and data contents of documents of

a) foreigners seeking recognition as refugees or temporarily protected persons (hereinafter jointly: applicants), certifying their right to stay in Hungary and to care/maintenance,

b) temporarily protected persons and persons authorized to stay, certifying their right to stay in Hungary and to care/maintenance.

Acting authority

Article 2

The proceedings aimed at the recognition as refugees, temporarily protected persons and persons authorized to stay shall fall within the competence of the Refugee and Migration Office (hereinafter: Office).

*Asylum proceedings
Institution of the proceedings*

Article 3

(1) The application may be submitted verbally and in writing to the Office.

(2) If the written application of the applicant has been forwarded to the refugee authority by the alien policing authority or directly by the applicant, the date of submission of the application shall be the date when the application arrived at the Office.

(3) If the alien policing authority designates a compulsory place of stay for a foreigner, or orders his aliens regulatory custody as indicated in the contents of a separate Act, the Office shall hear the applicant at the designated place of stay or in the custody in the interest of the submission of the application. Hearing shall be performed within 5 working days of the day when sending the statement of the foreigner containing his intent to seek refuge by the alien policing authority to the Office.

(4) The date of submission of a verbal application shall be the date of the minutes.

Article 4

(1) If an application is submitted verbally, and the applicant does not speak Hungarian, the Office shall provide for him an interpreter speaking his mother tongue or another language which the applicant understands. The appointment of an interpreter may be disregarded, if the acting officer speaks the mother tongue of the applicant or another language which he understands.

(2) An interpreter and an officer of the same sex as of the applicant shall be appointed upon the request of the applicant, if this does not hinder the conducting of the proceedings.

(3) An officer of the same sex as of the applicant shall proceed when inspecting the clothes of the applicant.

Article 5

(1) Refugees and temporarily protected persons may submit the application for recognition of their children born in Hungary within 30 days following the birth of the child.

(2) Persons authorized to stay shall report the birth of their children in Hungary to the Office, within 30 days following the birth.

Article 6

(1) Minutes shall be drawn up on applications submitted verbally, which, in addition to the information of the rights and obligations due in the course of the proceedings shall also contain the following details of the applicant:

a) identification details (name, former name, pseudonyms, present and former citizenship, sex, place and date of birth, mother's name);

b) reasons resulting in his escape, furthermore, details relating to national and nationality affiliation and religious conviction, if he refers to such details in the reasons of the application;

c) details of identification and travel documents (identification mark and number of the document, period of validity, place and date of issue and name of the issuing authority);

d) family status, occupation, education;

e) place of accommodation or place of stay in Hungary;

f) address according to citizenship, or regular place of residence in the case of a stateless person;

g) statement on income and property situation;

h) route to Hungary, place and date of crossing the frontier;

i) statement whether he suffers from an illness specified in Article 10 (1), or whether he carries the germ of any infectious disease in his organism, as defined therein.

(2) If an applicant seeking recognition as refugee arrives at the territory of the country together with his immediate family member and the application also extends to immediate family member, the minutes shall also contain the details indicated in (1) in respect of immediate family members.

(3) The minutes shall be signed by the applicant, and in the case of the participation of an interpreter, by the interpreter, too.

Article 7

(1) If no alien policing proceedings were instituted prior to the submission of the application or no measures by the alien policing authorities were instituted to this end, the Office shall take measures, upon the submission of the application, for taking the face photograph, and if the applicant completed an age of 14 years, the fingerprints of the applicant.

(2) The Office shall forward the fingerprints to the data handling agency defined in a separate legal rule, without delay.

Rights and obligations of the applicant

Article 8

(1) The place of accommodation of the applicant shall be permitted by the Office as of the date of submission of the application.

(2) The following may be places of accommodation:

- a) reception center,
- b) place of accommodation maintained on the basis of a contract,
- c) compulsory place of stay ordered by the alien policing authority,
- d) place of aliens regulatory custody.

(3) With the exception of the contents of (4), a private accommodation may also be permitted as place of accommodation, upon the request of the person concerned.

(4) No other place of accommodation may be permitted for applicants in aliens regulatory custody.

Article 9

(1) Applicants shall cooperate with the refugee authority during the period of time of the proceedings and shall observe the rules of behaviour in force at the permitted place of accommodation. Applicants shall be warned thereof in writing.

(2) The rules of stay in the nature of existence at a place of accommodation defined in Article 8 (2) a) and b) and in Article 8 (3) are violated by persons who leave the place of accommodation for a period of time exceeding 24 hours in a way that they fail to report this fact to the head of the place of accommodation, or to the Office in the case of a private place of accommodation.

Article 10

(1) Applicants shall be separated for public hygiene interests until the certificate issued by the county (metropolitan) institute of the National Public Health and Medical Officer Service competent at the designated place of accommodation (hereinafter: Institute) certifies - on the basis of the examinations

conducted and symptoms observed - that the applicant does not suffer from AIDS, tuberculosis and leprosy, acute infectious disease, phthiriasis, scabbiness, and is not virulent, or does not carry the germs thereof.

(2) The Institute shall establish to which missing compulsory immunization the applicant shall submit himself.

(3) The medical examination and the missing immunization required for the issue of the certificate shall be performed in the health care institute designated by the Institute. The occurrence of immunization shall be recorded on the certificate.

(4) If an applicant suffers from a disease defined in (1) or is virulent or carry the germs thereof, the Institute shall take the necessary measures of public hygiene.

Article 11

(1) The applicant shall deposit his documents certifying identity, travel documents, health care certificate, furthermore, all documents which contain details to which the applicant has referred in his application, at the Office.

(2) The deposited documents, with the exception contained in (3), shall be returned to the applicant on the date of becoming final of the in-merit decision.

(3) False or forged documents shall be sent to the National Police Headquarters and the authority conducting the aliens policing procedure shall be informed thereof.

Article 12

(1) If an applicant possesses a document issued by the alien policing authority, authorizing him to stay in Hungary, he shall deposit it at the Office until the completion of the proceedings.

(2) If the applicant is recognized as refugee, temporarily protected person or person authorized to stay by the Office, the document defined in (1) shall be sent back to the issuing authority on the day of becoming final of the recognition decision. If the recognition is rejected or the procedure instituted ex officio to authorize someone to stay is discontinued due to lack of preconditions, the documents shall be returned to the applicant.

Article 13

(1) Besides the Office of the United Nations High Commissioner for Refugees, applicants are also entitled to take advantage of the participation of the representative of a non-governmental organization registered in Hungary and promoting the legal protection of refugees, according to their choice.

(2) The Office shall make possible for the representative defined in (1) to have access to the files, with the exception of documents containing state or service secret, if the applicant authorized the representative thereto in writing. The authorized representative may be present in the course of the hearing of the applicant, of which he shall be notified by the Office, with the exception of the first hearing, at least 3 calendar days prior to the date of the hearing.

Participation of applicants in the proceedings
The proxy

Article 14

- (1) Together with applicants, their representatives-by-force-of-law and proxy may also participate in the proceedings, who shall verify their right for representation/participation.
- (2) If an applicant did not complete an age of 18, and has no representative-by-force-of-law, the Office shall take measures for appointing a guardian immediately following the submission of the application. The appointment of a guardian shall also be requested, if the representative-by-force-of-law may not be present in the course of the hearing of a minor, because his presence would hinder the clarification of the statement of facts.
- (3) Representatives or proxies may not proceed in the proceedings instead of the applicant.
- (4) The documents shall be communicated to the representative-by-force-of-law simultaneously with the applicant.

Clarification of the facts
The statement

Article 15

- (1) The Office shall hold a hearing within 5 days following the submission of the written application.
- (2) In the course of the hearing, the applicant shall make a statement on the reasons for the submission of the application, the circumstances of his arrival at Hungary, and shall deliver the evidence available to him, which supports the application, but has not been submitted yet. The applicant shall be warned of these obligations upon the commencement of the hearing.
- (3) Applicants who are minors, arriving together with their immediate, adult family members may be heard, if they completed 14 years of age, and on the basis of the details of the proceedings their hearing is indispensable for the purpose of clarifying the facts.

Evidence

Article 16

- (1) The following measures shall be taken in particular in the course of evidence:
 - a) it shall be substantiated that the reasons motivating the escape exist in respect of the applicant;
 - b) the existence of any reason for excluding or restricting recognition shall be established.
- (2) In the case of a person seeking recognition as a temporarily protected person, in addition to the contents of (1) a) and b), it shall be examined whether the applicant meets the contents of the decision of the Government providing for admission.

Article 17

(1) If no reason for excluding the recognition of the applicant as a refugee exists and the Minister of the Interior exercised equitable treatment exceptionally, evidence shall not be continued.

(2) If in the course of the proceedings, the person seeking recognition as temporarily protected person continues to seek his recognition as a refugee, the proceedings shall be pursued in accordance with the general rules. The date of instituting the proceedings aimed at recognition as a refugee shall be the date of submission of the original application.

Article 18

(1) The Office may request information, with the exception of the identification details of the applicant, from the Ministry of Foreign Affairs, the national security services, and the court, if it is required for clarifying circumstances being essential from the respect of the assessment of the application.

(2) The Office may request the information defined in (1) from the representative of the United Nations High Commissioner for Refugees, domestic and international organizations, and refugee organizations of other countries.

Article 19

In the course of the proceedings, the Office may not contact the country of origin of the applicant, or a country of which it can be assumed that it forwards information to the country of origin.

Participation of a specialized authority

Article 20

(1) The Office shall contact the National Security Office following the hearing of the applicant. The request shall contain the details contained in Article 6 (1) a), and c) to h).

(2) The National Security Office may hear the applicant.

(3) The time limit for expressing the opinion of the specialized authority shall be 30 days of the date of the request, unless the National Security Office requests 15 more days for making a statement.

Special procedural rules

Article 21

The general rules of proceedings shall apply with the differences contained in Articles 22 to 26 with regard to airport and accelerated proceedings.

Proceedings at the airport

Article 22

(1) In the case defined in Article 42 (1) of AA, the alien policing authority operating at the International Airport as frontier crossing point, shall make foreigners intending to cross the Hungarian state frontier declare the reasons for their escape without letting them enter the country, and shall simultaneously notify the Office thereof.

(2) Following the notice, the Office shall interview the applicant without delay.

(3) The alien policing authority defined in (1) shall attend to the placement of the foreigner until the Office makes a decision.

(4) If the applicant failed to certify his identity, and the Office established that the applicant arrived from a safe third country, and this presumption has not been rebutted, the Office shall make a decision on the refusal of the application without delay, and shall notify the participating alien policing authority accordingly.

(5) If an in-merit decision may not be made either immediately, or in accelerated proceedings, the Office shall initiate the entry of the applicant across the state frontier and shall conduct the refugee proceedings in accordance with the general rules.

Article 23

(1) The applicant shall deliver the false or forged travel document used by him in the course of travel, to the Office.

(2) Applicants who fail to meet their obligations defined in (1), or insist on the untrue contents of their false or forged travel documents in the course of submitting the verbal application, violate their obligation of cooperation.

Accelerated proceedings

Article 24

Upon the submission of the application, the applicant shall be informed of the fact that the Office will assess the application in accelerated proceedings.

Article 25

Applicants may substantiate until the making of an in-merit decision that their applications are not manifestly unfounded. Accordingly, applicants may in particular

- a) authentically verify their identity;
- b) submit evidence supporting their persecution or well-founded fear thereof.

Article 26

In the course of accelerated proceedings, the National Security Office shall express its opinion as specialized authority within 5 days of the date of the request.

The participation of the Office as specialized authority in the course of the alien policing procedure

Article 27

(1) If, in the course of its proceedings, the alien policing authority establishes that the return or expulsion of a foreigner may violate the prohibition contained in Article 32 (1) of Act LXXXVI of 1993 on the Entry, Stay in Hungary and Immigration of Foreigners, it shall initiate a request submitted to the Office to examine whether the prohibition actually applies.

(2) The request shall contain the following details of the foreigner:

- a) identification details;
- b) details of his identification and travel documents;
- c) identification details of his immediate family members arriving together with him;
- d) name of the country of his citizenship, or usual place of residence in the case of stateless persons;
- e) address of his last place of residence in the country indicated in paragraph b).

(3) The copies of the minutes drawn up in the course of the alien policing proceedings and the evidence offered by the foreigner shall be attached to the request.

Article 28

(1) The Office may hear the foreigner.

(2) In the case of a request related to the return of a foreigner, the Office shall express its opinion within 3 working days.

(3) In the case of a request related to the expulsion of a foreigner, the time limit for expressing opinion shall be 15 days.

Proceedings aimed at recognition as persons authorized to stay

Article 29

(1) If the Office in the course of its participation as specialized authority establishes that the prohibition of return or expulsion actually applies, it may conduct evidence according to the general rules in order to find out whether the foreigner with clarified identity, can be recognized as person authorized to stay.

(2) If the Office in the course of the evidence establishes that the foreigner cannot be recognized as person authorized to stay, the proceedings shall be discontinued.

The decision

Article 30

(1) The Office shall make a decision with regard to the application, or in the proceedings instituted ex officio, as follows:

- a) approves the application and recognizes the applicant as refugee;
- b) refuses the recognition of the applicant as refugee;

- c) recognizes the applicant as a temporarily protected person;
- d) refuses the recognition of the applicant as a temporarily protected person;
- e) refuses the recognition of the applicant as refugee, but recognizes the foreigner as a person authorized to stay;
- f) recognizes the foreigner as a person authorized to stay;
- g) withdraws the recognition as refugee, temporary protected person or person authorized to stay.

(2) The decision on recognition as temporarily protected person and person authorized to stay shall be recorded in the file.

Article 31

(1) The proceedings with regard to the withdrawal of the recognition as a refugee, temporarily protected person or person authorized to stay shall be instituted, or may be conducted ex officio, with the exception of the case contained in Article 6 (1) d) of AA.

(2) In the case defined in Article 6 (1) c) of AA, the proceedings shall be instituted by the National Security Office.

Communication of the decision

Article 32

(1) The decision shall be communicated in the form of an announcement in the mother tongue of the applicant or in another language which he understands.

(2) The decision on the recognition as refugee, furthermore, the decision defined in Article 30 (1) b), d) to f), drawn up in Hungarian shall be delivered to the applicant simultaneously with the announcement.

(3) If the applicant stays at an unknown place, the decision may not be communicated by making it public. In this case the date of its becoming final is the date of the decision.

Article 33

The decision shall be sent to

- a) the alien policing authority competent at the place of accommodation of the applicant;
- b) the alien policing authority contained in Article 27;
- c) the National Security Office;
- d) the acting alien policing authority, if alien policing proceedings were in progress upon the submission of the application;
- e) Budapest Branch Office of the Office of the United Nations High Commissioner for Refugees, if the decision has been taken in the course of a procedure to determine refugee status.

Documents of persons seeking recognition as refugees or temporarily protected persons, and of temporary protected persons and persons authorized to stay

Article 34

(1) The Office is entitled to issue the documents defined in this Decree to applicants, temporarily protected persons and persons authorized to stay, and to enter any changes therein.

(2) With the exception of the travel document defined in (3), the documents issued shall verify

- a) the identity,
- b) the right to stay in the territory of the country and at the designated place of accommodation, and to use the care/maintenance defined in separate legal rules.

of applicants, temporarily protected persons and persons authorized to stay.

(3) The Office shall issue a document authorizing to single exit and return, as indicated in a separate legal rule, to temporarily protected persons and persons authorized to stay, if they are not in possession of the valid travel document of their country of origin.

Article 35

(1) The period of validity of the document defined in Articles 41-42 and 45-46 may not exceed one year of the date of issue. The period of validity of documents may be extended.

(2) The expiry of the period of validity of documents issued shall be established by identifying the calendar year, month, day.

Article 36

(1) The document issued shall become invalid prior to the expiry of its period of validity, if

- a) the data indicated therein become irrerecognizable due to damage, injury or for any other reason;
- b) the holder died;
- c) the legal title/basis of issue has terminated.

(2) The lost document shall cease to be valid on the date of issue of the document issued for the purpose of its replacement.

Article 37

The Office shall withdraw the invalid document.

Article 38

(1) The holder shall keep the document with himself, it must not be transferred and no entries shall be made therein with the exception of the authorized agency.

(2) The holder of the document shall report the loss or the becoming invalid of the document to the Office without delay.

Article 39

(1) Upon the request of the holder of the document, the Office shall replace the invalid, damaged or injured document provided that the reason for issue still exists.

(2) The holder of the document shall attach 2 face photographs to the application for the replacement of the document.

Article 40

The Office shall notify the police station competent at the address of the holder of the document, and the agency disbursing regular pecuniary benefit to the holder of the document of the document becoming invalid due to loss, simultaneously with the issue of the new document.

Documents of persons seeking recognition as refugee

Article 41

(1) The Office shall issue a card to persons seeking recognition as refugees on the occasion of their first hearing, the data contents of which shall be as follows:

- a) surname and given name of the applicant;
- b) place and date of birth;
- c) citizenship;
- d) face photograph;
- e) signature of the holder of the card;
- f) place of residence;
- g) name and date of birth of immediate family members of the applicant younger than 14 years of age;
- h) serial number of the card;
- i) place and date of issue of the card;
- j) period of validity of the card;
- k) signature of the officer of the issuing agency;
- l) stamp impression of the issuing agency.

(2) In the proceedings referred to in Article 22 of the Decree, the card indicated in (1) shall be issued following the crossing of the state frontier by the applicant.

Documents of persons seeking recognition as temporarily protected persons, and of temporarily protected persons

Article 42

The Office shall issue a card to the person seeking recognition as temporarily protected person on the occasion of his first hearing, the data contents of which shall be as follows:

- a) surname and given name of the holder of the card;
- b) place and date of birth;
- c) citizenship;
- d) face photograph;
- e) signature of the holder of the card;
- f) place of residence;
- g) name and date of birth of his immediate family members younger than 14 years of age;
- h) serial number of the card;
- i) place and date of issue of the card;
- j) period of validity of the card;
- k) signature of the officer of the issuing agency;
- l) stamp impression of the issuing agency;
- m) legal title/basis of issue;
- n) column certifying the use of regular pecuniary benefit.

Article 43

(1) Following the recognition of the applicant as temporarily protected person, the Office shall enter the changes in the legal title/basis of issue in the document defined in Article 42.

(2) The employment of the holder of the card without a separate licence may take place following the entry indicated in (1).

Article 44

The agency disbursing the regular pecuniary benefit established in a separate legal rule shall enter the occurrence of payment in the card.

Documents of persons authorized to stay

Article 45

The Office shall issue a card to a person authorized to stay upon the announcement of the decision on recognition, the data contents of which shall be as follows:

- a) surname and given name of the person authorized to stay;
- b) place and date of birth;
- c) citizenship;
- d) face photograph;

- e) signature of the holder of the card;
- f) address of the designated place of accommodation;
- g) name and date of birth of his immediate family members younger than 14 years of age;
- h) place and date of issue of the card;
- i) serial number of the card;
- j) period of validity of the card;
- k) signature of the officer of the issuing agency;
- l) stamp impression of the issuing agency.

Travel document

Article 46

(1) The data contents of the travel document contained in Article 34 (3) shall be as follows:

- a) legal status, surname and given name, maiden surname and given name, place and date of birth, sex, citizenship, face photograph and signature of the holder of the document;
- b) number, period of validity, place and date of issue of the travel document, name and stamp impression of the issuing authority.

(2) The travel document may only be used for travelling and for returning to the territory of the Republic of Hungary within its period of validity.

Closing provisions

Article 47

(1) This Decree - with the exception of Articles 41(2), 42, 45-46 - shall come into force on 1 March 1998; its provisions shall also apply to pending matters.

(2) Articles 41(2), 42, 45-46 shall come into force on 1 September 1998.

(3) Government Decree No. 101/1989 (IX.28.) On recognition as refugee shall cease to be in force simultaneously with the coming into force of this Decree.