

Act LXXX of 2007 on Asylum²

For the protection of the human rights and fundamental freedoms of those compelled to leave their countries, with regard to the international obligations of Hungary and the generally recognised basic principles of international law,

bearing in mind the European Union's refugee policy and the interest in the creation of an area of freedom, security and justice,

respecting the national traditions of migration and the spirit of inclusion/integration of the international community,

recognising and supporting the activities of the associations which play a part in assisting those benefiting from protection,

the Parliament hereby adopts the following Act on Asylum.

Chapter I

GENERAL PROVISIONS

Scope of Act

1 §

(1) The present Act stipulates the content of the asylum granted by Hungary, the criteria of recognition as a refugee, a beneficiary of subsidiary and temporary protection and a person with tolerated stay (hereinafter referred to as "recognition") and the procedure aimed at expulsion ordered by the refugee authority, as well as the recognition and the revocation thereof.

(2) The provisions of this Act shall apply to foreigners who are subject to the Dublin procedure, have submitted applications for recognition or who enjoy asylum.

Definitions

2 §

¹ Translation: Afford Fordító- és Tolmácsiroda Kft., proofreading: UNHCR Hungary Unit

² The Act was adopted by the National Assembly on 25 June 2007 (date of promulgation: 29 June 2007), with entry into force 1 January 2008. The Act was subject to multiple amendments since, the last being Act XCIV of 2016 adopted by the National Assembly on 13 June 2016 (date of promulgation: 27 June 2016) with entry into force on 5 July 2016. The current text reflects this state of affairs.

For the purposes of the present Act,

a) *foreigner*: a non-Hungarian citizen and a stateless person;

b) *stateless person*: a person who is not recognised by any state as its citizen under the operation of its own law;

c) *asylum*: legal grounds for staying in the territory of Hungary and simultaneous protection against refoulement, expulsion and extradition;

d) *subsidiary protection*: the totality of the rights due to and the obligations lying with a beneficiary of subsidiary protection;

e) *temporary protection*: the totality of the rights due to and the obligations lying with a beneficiary of temporary protection;

f) *unaccompanied minor*: a foreigner not having completed the age of 18 years who entered the territory of Hungary without the company of an adult responsible for his/her supervision on the basis of law or custom, or remained without supervision following entry; as long as s/he is not transferred under the supervision of such a person;

g) *country of origin*: the country or countries of nationality or for a stateless person, the country of habitual residence;

h) *safe country of origin*: the country included in the shared minimum list of third countries regarded as safe countries of origin approved by the Council of the European Union or in the national list stipulated by a Government Decree or part of these countries; the presence of the country of origin on any of such lists is a rebuttable presumption with regard to the applicant according to which no persecution is experienced in general and systematically in that country or in a part of that country, there is no threat of generalised violence in the context of international or national conflict situations, no torture, cruel, inhuman or degrading treatment or punishment is applied, and an efficient system of legal remedy is in place to address any injury of such rights or freedoms.

i) *safe third country*: a country in connection to which the refugee authority has ascertained that the applicant is treated in line with the following principles:

ia) his/her life and liberty are not jeopardised for racial or religious reasons or on account of his/her ethnicity/nationality, membership of a social group or political conviction and the applicant is not exposed to the risk of serious harm;

ib) the principle of *non-refoulement* is observed in accordance with the Geneva Convention;

ic) the rule of international law, according to which the applicant may not be expelled to the territory of a country where s/he would be exposed to treatment/behaviour stipulated by Article XIV(2) of the Fundamental Law, and

id) the option to apply for recognition as a refugee is ensured, and in the event of recognition as a refugee, protection in conformity with the Geneva Convention is guaranteed.

j) family member: a foreigner's

ja) minor child (including adopted and foster child),

jb) parent, or a foreign person arriving with the foreigner, who, under Hungarian law, is responsible for the foreigner, if the person seeking recognition or enjoying international protection is a minor,

jc) spouse, if the family relation was already existent before arriving in Hungary.

k) person in need of special treatment: the unaccompanied minor or a vulnerable person, in particular, a minor, elderly or disabled person, pregnant woman, single parent raising a minor child and a person who has suffered from torture, rape or any other grave form of psychological, physical or sexual violence, found, after proper individual assessment, to have special needs because of his/her individual situation.

l) measure securing availability: a measure, by which the refugee authority orders

la) the regular reporting of the person seeking recognition before the refugee authority,

lb) a designated place of residence: private accommodation, reception centre, community shelter or the area of a designated county, or

lc) the deposit of asylum bail.

m) Dublin procedure shall mean a procedure to determine the Member State applying Regulation (EU) No. 604/2013 of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and Commission Implementing Regulation (EU) No. 118/2014 of 30 January 2014 amending Commission Regulation (EC) No. 1560/2003 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 (hereinafter collectively referred to as the "Dublin Regulations") and the transfer of the applicant.

Basic Principles

3 §

(1) The provisions of the present Act shall be applied in compliance with the Convention relating to the Status of Refugees of 28 July 1951 and by the Protocol of 31 January 1967 (hereinafter referred to as the "Geneva Convention") as well as with the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, Rome.

(2) A person recognised by Hungary as a refugee, a beneficiary of subsidiary or temporary protection shall enjoy asylum.

4 §

(1) When implementing the provisions of the present Act, the best interests and rights of the child shall be a primary consideration.

(2) When implementing the provisions of the present Act, the principle of the unity of the family shall be borne in mind.

(3) The provisions of the present Act shall be applied to persons in need of special treatment with due consideration of the specific needs arising from their situation.

Chapter II

LEGAL STATUS OF PERSONS SEEKING RECOGNITION

5 §

(1) A person seeking recognition shall be entitled to

a) stay in the territory of Hungary under the conditions set forth in the present Act and to a permit authorising stay in the territory of Hungary as defined in separate legal rule;

b) the provisions, benefits and accommodation under the conditions determined in the present Act and in separate legal rule;

c) work in the reception centre within nine months of the submission of the application for recognition, or at a workplace determined by the public employer, and beyond according to the general rules applicable to foreigners thereafter;

d) enter into and maintain contact with the United Nations High Commissioner for Refugees (hereinafter: UNHCR) and other international or non-governmental organisations during the term of the asylum procedure.

(2) A person seeking recognition shall be obliged to

a) cooperate with the refugee authority, in particular to reveal the circumstances of his/her flight, to communicate his/her personal data and to facilitate the clarification of his/her identity, to hand over his/her documents;

b) issue a declaration with respect to his/her property and income;

c) stay as a habitual residence at the place of accommodation designated by the refugee authority for him/her according to the present Act and observe the rules of conduct governing residence at the designated place of accommodation;

d) subject him/herself to health tests, medical treatment prescribed as mandatory by law or required by the health authority and to subject him/herself to the replacement of any missing vaccinations prescribed as mandatory by law and/or required by the health authority in the case of the danger of disease.

(3) The person seeking recognition in the absence of authentic documents suitable for identification shall be required to make best efforts for the clarification of his/her identity, thus, in particular, to contact his/her family members, relatives, legal representative, and – in the event of non-state or non-state linked actors of persecution – with the authorities of his/her country of origin.

(4) The person seeking recognition shall not be required to contact the person specified in Section (3), if that person is the persecutor.

Chapter III

REFUGEES

6 §

(1) Hungary shall recognise as refugee a foreigner who complies with the requirements stipulated by Article XIV(3) of the Fundamental Law.

(2) The well-founded fear of being persecuted may also be based on events which occurred following the foreigner's departure from his/her country of origin or on the activities of the foreigner which s/he was engaging in following departure from his/her country of origin.

(3) An applicant who files a subsequent application cannot be recognised as a refugee, if the risk of persecution is based on circumstances which the applicant has created following departure of the country of origin and the refusal of the application is in compliance with the Geneva Convention.

Criteria of recognition as refugee

7 §

(1) Except as set out in Section 8 (1), the refugee authority shall recognise as refugee a foreigner who verifies or substantiates that the criteria determined in Section 6 (1), in compliance with Article 1 of the Geneva Convention, exist in respect of his/her person.

(2) Except as set out in Section 8 (1), for the purpose of maintaining family unity, upon application, the family members of a foreigner recognised as a refugee on the basis of Subsection (1) shall be recognised as refugees.

(3) If a child is born in the territory of Hungary to a foreigner recognised as refugee, upon application, the child shall be recognised as refugee.

(4) In the absence of the criteria of recognition as a refugee, the minister responsible for alien policing and refugee affairs (hereinafter: “Minister”) may, out of special consideration, recognise as refugee a foreigner whose recognition is warranted by humanitarian reasons, provided that no reason for exclusion from the recognition of the foreigner as refugee exists.

(5) The Minister may recognise as a refugee a foreigner who had been recognised by the authorities of another state or by the United Nations High Commissioner for Refugees as refugee, in respect of whom the refugee authority established the applicability of the Geneva Convention.

Section 7/A

(1) The refugee authority shall review the existence of the criteria for recognition as a refugee at least every three years following recognition.

(2) The refugee authority shall review the existence of the criteria for recognition as a refugee if extradition of the refugee has been requested.

Reasons for Exclusion from Recognition as Refugee

8 §

(1) A foreigner shall not be recognised as refugee in respect of whom any of the exclusion clauses stipulated in Article 1 D, E or F of the Geneva Convention prevails.

(2) In the course of the application of Article 1 F b) of the Geneva Convention, an act shall qualify as a serious non-political criminal act upon the commission of which, with regard to the totality of the circumstances, including the objective intended to be attained through the crime, the motivation of the crime, the method of commission and the means used or intended to be used, the ordinary legal aspect of the crime dominates over the political aspect and it is punishable by a term of five or more years imprisonment according to the relevant Hungarian rules of law.

(3) In the application of Article 1 F c) of the Geneva Convention, the following in particular shall be contrary to the purposes and principles of the United Nations

a) acts of terrorism,

b) financing terrorism, and

c) incitement to the acts in points a) and b).

(4) No refugee status shall be granted to a foreigner whose stay in Hungary is a risk to national security.

Refugees from safe countries of origin

9 §

If the country of origin of the person seeking recognition is on the list of safe countries of origin of the European Union or on such national list, it is up to the person seeking recognition to prove that with regard to him/her that the very country is not complying with the criteria set for safe countries of origin.

Legal Status of Refugees

10 §

(1) Unless a rule of law or government decree expressly provides otherwise, a refugee shall have the rights and obligations of a Hungarian citizen with exceptions set out in Subsections (2) and (3).

(2) A refugee

a) shall have no suffrage except for elections of local municipality representatives, majors, and local referenda;

b) may not fulfil a job or responsibility and may not hold an office, the fulfilment or holding of which is tied by law to Hungarian nationality.

(3) A refugee shall be entitled to

a) an identity card determined in separate legal rule and a bilingual travel document specified by the Geneva Convention, insofar as no reasons of national security or public order bar the issue of such a document;

b) provisions, benefits and accommodation under the conditions determined in the present Act and in separate legal rule.

(4) A refugee shall be obliged to

a) cooperate with the refugee authority;

b) subject him/herself to health tests, medical treatment prescribed as mandatory by law or required by the health authority and to subject him/herself to the replacement of any missing vaccinations prescribed as mandatory by law and/or required by the health authority in the case of the danger of disease;

c) respect the laws and regulations of Hungary;

d) report the loss, theft or destruction of her/his travel document or identity card immediately to the refugee authority.

(5) A court review of a decision rejecting the issue of a bilingual travel document for the refugee may be requested.

(6) The request for review shall be submitted to the refugee authority within three days of the communication of the decision. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay.

(7) The court shall decide on the request for review in a non-litigious procedure within eight days of receipt of the application for review on the basis of the available documents.

(8) The court may alter the decision of the refugee authority. No legal remedy shall lie against the decision of the court.

Cessation of Refugee Status

11 §

(1) The refugee status shall cease if

- a) the refugee acquires Hungarian nationality;
- b) recognition as refugee is revoked by the refugee authority.

(2) Recognition as refugee shall be revoked if

- a) the refugee has voluntarily re-availed himself/herself of the protection of the country of his/her nationality;
- b) the refugee has voluntarily re-acquired his/her lost nationality;
- c) the refugee has acquired new nationality and enjoys the protection of the country of his/her new nationality;
- d) the refugee has voluntarily re-established him/herself in the country which s/he had left or outside which s/he had remained owing to fear of persecution;
- e) the circumstances in connection with which s/he has been recognised as a refugee have ceased to exist;
- f) the refugee waives the legal status of refugee in writing;
- g) the refugee was recognised in spite of the existence of the reasons for exclusion referred to in Section 8(1) or such a reason for exclusion prevails in respect of his/her person;
- h) the conditions for recognition did not exist at the time of the adoption of the decision on his/her recognition;
- i) the refugee concealed a material fact or facts in the course of the procedure or issued an untrue declaration in respect of such a fact or facts or used false or forged documents, provided that this was decisive for his/her recognition as a refugee.

(3) The refugee authority shall revoke the recognition as a refugee if a court with a final and absolute decision sentences the refugee for having committed a crime which is according to law punishable by five years or longer term imprisonment.

(4) Subsection (2)e) shall not apply to a refugee who is able to cite a well-founded reason arising from his/her former persecution for refusing the protection of his/her country of origin.

Chapter IV

BENEFICIARIES OF SUBSIDIARY PROTECTION

12 §

(1) Hungary shall grant subsidiary protection to a foreigner who does not satisfy the criteria of recognition as a refugee but there is a risk that, in the event of his/her return to his/her country of origin, s/he would be exposed to serious harm and s/he is unable or, owing to fear of such risk, unwilling to avail himself/herself of the protection of his/her country of origin.

(2) The fear of serious harm or of the risk of harm may also be based on events which occurred following the foreigner's departure from his/her country of origin or on the activities of the foreigner which s/he was engaging in following departure from his/her country of origin.

Criteria for Recognition as Beneficiary of Subsidiary Protection

13 §

(1) Except as set out in Section 15, the refugee authority shall recognise as beneficiary of subsidiary protection a foreigner who verifies or substantiates that the conditions set forth in Section 12 (1) exist in respect of his/her person.

(2) Except as set out in Section 15, for the purpose of maintaining family unity, upon application, the family members of a foreigner recognised as a beneficiary of subsidiary protection on the basis of Subsection (1) shall also be recognised as beneficiaries of subsidiary protection if

a) the application for recognition has been jointly submitted, or

b) the family member submitted the application for recognition with the consent of the foreigner recognized as a beneficiary of subsidiary protection before the decision on the primary applicant's subsidiary protection status has been made.

(3) If a child is born in the territory of Hungary to a foreigner recognised as beneficiary of subsidiary protection, upon application, his/her child shall be recognised as beneficiary for subsidiary protection.

14 §

(1) The refugee authority shall review the existence of the criteria for subsidiary protection at least every three years following recognition.

(2) The refugee authority shall review the existence of the criteria for subsidiary protection if extradition of the beneficiary of subsidiary protection has been requested.

Reasons for Exclusion from Subsidiary Protection

15 §

No subsidiary protection shall be granted to a foreigner,

a) in whose case there is good reason to assume that

aa) s/he committed a crime against peace, a war crime or a crime against humanity as defined in international instruments;

ab) s/he committed a crime, which is punishable by a term of five or more years imprisonment under the relevant Hungarian law;

ac) s/he committed a crime contrary to the purposes and principles of the United Nations;

b) his/her stay in the territory of Hungary violates national security.

Beneficiaries of subsidiary protection from safe countries of origin and safe third countries

16 §

(1) If the country of origin of the person seeking recognition is on the list of safe countries of origin of the European Union or on such national list, it is up to the person seeking recognition to prove that with regard to him/her the very country is not complying with the criteria set for safe countries of origin.

(2) If the person seeking recognition stayed or travelled through prior to his/her arrival in the territory of Hungary in a safe third country, it is the person seeking recognition who has to prove that s/he had no opportunity for effective protection according to Section 2 i) in that country.

Legal Status of Beneficiaries of Subsidiary Protection

17 §

(1) Except as set out in Subsections (2) - (4), unless a law or government decree expressly provides otherwise, a beneficiary of subsidiary protection shall have the rights and obligations of a refugee.

(2) Contrary to Section 10 (3) a), a beneficiary of subsidiary protection shall be entitled to a travel document determined in a separate legal rule. For reasons of national security or public order the issue of such a document can be refused.

(2a) A court review of a decision rejecting the issue of a travel document for the beneficiary of subsidiary protection may be requested, in accordance with Section 10 (6) - (8).

(3) A beneficiary of subsidiary protection shall have no suffrage.

(4) Beneficiaries of subsidiary protection shall not be entitled to the preferential conditions applicable to refugees with regard to nationalisation.

Cessation of Subsidiary Protection Status

18 §

(1) The legal status of subsidiary protection shall cease if

- a) the beneficiary of subsidiary protection acquires Hungarian nationality;
- b) the beneficiary of subsidiary protection is being recognised by the refugee authority as refugee;
- c) the refugee authority revokes the status of subsidiary protection.

(2) Subsidiary protection shall be revoked if

- a) the beneficiary of subsidiary protection has repeatedly and voluntarily re-availed himself/herself of the protection of the country of his/her nationality;
- b) the beneficiary of subsidiary protection has voluntarily re-acquired his/her lost nationality;
- c) the beneficiary of subsidiary protection has acquired a new nationality and enjoys the protection of the country of his/her new nationality;
- d) the beneficiary of subsidiary protection has voluntarily re-established him/herself in the country which s/he had left or outside which s/he had remained owing to fear of serious harm or the risk of such harm;
- e) the circumstances on the basis of which s/he was recognised as a beneficiary of subsidiary protection have ceased to exist;
- f) the beneficiary of subsidiary protection waives the legal status of subsidiary protection in writing;
- g) the beneficiary of subsidiary protection was recognised in spite of the existence of reasons for exclusion stipulated by Section 15 or such reason for exclusion prevails in respect of his/her person;
- h) the conditions for recognition did not exist at the time of the adoption of the decision on his/her recognition;
- i) the beneficiary of subsidiary protection concealed a material fact or facts in the course of the procedure or issued an untrue declaration in respect of such a fact or facts or used false or forged documents, provided that this was decisive for his/her recognition as beneficiary of subsidiary protection.

(3) Subsection (2) e) is not applicable to a beneficiary of subsidiary protection who is able to cite a well-founded reason arising from the former serious harm that affected him/her for refusing the protection of his/her country of origin.

Chapter V

BENEFICIARIES OF TEMPORARY PROTECTION

19 §

Hungary shall grant temporary protection to a foreigner who belongs to a group of displaced persons arriving in the territory of Hungary *en masse* which was recognised

a) by the Council of the European Union as eligible for temporary protection under the procedure determined in Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof (hereinafter: Directive 2001/55/EC), or

b) by the Government as eligible for temporary protection as the persons belonging to the group had been forced to leave their country due to an armed conflict, civil war or ethnic clashes or the general, systematic or gross violation of human rights, in particular, torture, cruel, inhuman or degrading treatment.

Criteria of Recognition as Beneficiary of Temporary Protection

20 §

(1) Except as set out in Section 21 (1), the refugee authority shall recognise as beneficiary of temporary protection a foreigner who verifies or substantiates that the criteria set forth in Section 19 a) or b) prevail in respect of his/her person.

(2) Except as set out in Section 21 (1), for the purpose of maintaining family unity, upon application, the family members of a foreigner recognised as beneficiary of temporary protection on the basis of Subsection (1), who are under the temporary protection of another member state of the European Union, shall be recognised as beneficiaries of temporary protection, provided that the foreigner recognised as a beneficiary of temporary protection agrees with such recognition.

Reasons for Exclusion from Temporary Protection

21 §

- (1) No temporary protection shall be granted to a foreigner,
- a) in whose case there is good reason to assume that
 - aa) s/he committed a crime against peace, a war crime or a crime against humanity as defined in international instruments;
 - ab) s/he committed a serious, non-political criminal act outside the territory of Hungary prior to the submission of the application for recognition as a beneficiary of temporary protection;
 - ac) s/he committed a crime contrary to the purposes and principles of the United Nations;
 - b) whose stay in the territory of Hungary violates the interest of national security;
 - c) in whose case a final and absolute court judgment established that s/he had committed a crime which is punishable by a term of five or more years imprisonment under the relevant Hungarian rules of law.
- (2) In the course of applying Subsection (1) ab), an act qualifies as a serious, non-political criminal act upon the commission of which, with regard to the totality of the circumstances, including the objective intended to be attained through the crime, the motivation of the crime, the method of commission and the means used or intended to be used, the ordinary legal aspect of the crime dominates over the political aspect and it is punishable by an imprisonment of five year or longer term according to Hungarian law.

Legal Status of Beneficiaries of Temporary Protection

22 §

- (1) A beneficiary of temporary protection shall be entitled to
- a) a document verifying his/her identity;
 - b) a travel document, as determined in separate legal rule, authorising a single exit and return, if s/he has no valid travel document from his/her country of origin;
 - c) provisions, benefits and accommodation under the conditions determined in the present Act and in separate legal rule;
 - d) employment according to general rules applicable to foreigners.
- (2) A temporarily protected person is obliged to
- a) report his/her place of accommodation and any change therein to the refugee authority;
 - b) cooperate with the refugee authority;
 - c) subject him/herself to health tests, medical treatment prescribed as mandatory by law and/or required by the health authority and to subject him/herself to the replacement of any missing vaccinations prescribed as mandatory by law and/or required by the health authority in the case of the danger of disease;
 - d) respect the laws and regulations of Hungary;

e) report the loss, theft or destruction of her/his travel documents, identity card or the document certifying the legality of stay in Hungary immediately to the refugee authority.

(3) Documents stipulated in Subsection (1) a) are compliant with requirements stipulated by Council Regulation 1030/2002 EC of 13 June 2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation 380/2008 EC of 18 April 2008 amending Regulation 1030/2002 EC laying down a uniform format for residence permits for third-country nationals.

Term of Temporary Protection

23 §

(1) The term of temporary protection based on Section 19 a) shall be one year.

(2) If the Council of the European Union decides on the maintenance of the recognition of eligibility for temporary protection following the expiry of the term determined in Subsection (1), the term of temporary protection shall be extended by the term set forth in the decision of the Council.

24 §

(1) Temporary protection based on Section 19 b) shall exist until the expiry of the term or the occurrence of the fact stated in the normative decision of the Government.

(2) Should the Government decide on the maintenance of the recognition of eligibility for temporary protection following the expiry of the term or the occurrence of the fact determined in Subsection (1), the term of temporary protection shall be extended by the term set forth in the normative decision of the Government.

Cessation of Legal Status of Temporary Protection

25 §

(1) The legal status of temporary protection shall cease if

a) the term of temporary protection expires or, in the case of recognition based on Section 19 b), the fact determined by the Government occurs;

b) the Council of the European Union revokes recognition under Section 19 a);

c) the beneficiary of temporary protection acquires the legal status of settled (*letelepedett*) in Hungary;

d) the beneficiary of temporary protection is being recognised by the refugee authority as a refugee or a beneficiary of subsidiary protection;

e) the refugee authority revokes the recognition as a beneficiary temporary protection.

(2) Recognition as a beneficiary of temporary protection shall be revoked if

- a) the foreigner recognised as a beneficiary of temporary protection receives temporary protection, with his/her consent, from another state applying Directive 2001/55/EC;
- b) the beneficiary of temporary protection was recognised in spite of the existence of reasons for exclusion referred to in Section 21 (1) or such a reason for exclusion prevails in respect of the beneficiary of temporary protection;
- c) the beneficiary of temporary protection waives the legal status of subsidiary protection in writing;
- d) the conditions of recognition did not exist at the time of the adoption of the decision on his/her recognition.

Chapter V/A

PERSON WITH TOLERATED STAY

25/A §

Hungary shall grant protection in the form of tolerated stay (*befogadott*) to a foreigner not complying with the criteria for recognition as refugee or beneficiary of subsidiary protection but, in the event of his/her return to the country of origin, s/he would be exposed to a risk of persecution for reasons of race, religion, ethnicity, membership of a particular social group or a political opinion or to behaviour as specified in Article XIV (2) of the Fundamental Law, and there is no safe third country to admit him/her.

25/B §

(1) The refugee authority shall recognise as a person with tolerated stay the individual with regard to whom it

- a) established the prohibition of refoulement in the alien policing procedures, or
- b) rejected the application for asylum, parallel with the establishment of the prohibition of refoulement.

(2) The refugee authority shall review the criteria for recognition as person with tolerated stay on an annual basis.

The status of tolerated stay

25/C §

Persons with tolerated stay are entitled to the rights afforded to residence permit holders and to persons with tolerated stay by an Act of Parliament. The person with tolerated stay is obliged to assist in having his/her

identity established, but failure to establish the identity shall not justify the refusal of a residence permit. The person with tolerated stay shall be entitled to benefits, support and accommodation as specified by law.

Termination of the status of tolerated stay

25/D §

(1) The status of tolerated stay shall cease if

- a) the person with tolerated stay acquired the right to stay under any other title, or
- b) recognition as a person with tolerated stay is revoked by the refugee authority.

(2) Recognition as person with tolerated stay shall be revoked if the person with tolerated stay

- a) has acquired a new nationality and enjoys the protection of the country of the new nationality;
 - b) has voluntarily re-established him/herself in the country which s/he left or outside which s/he had remained;
 - c) the circumstances in connection with which s/he had been recognised as a person with tolerated stay have ceased to exist;
 - d) the conditions of recognition did not exist at the time of the adoption of the decision on recognition, or
 - e) during the procedure to review the tolerated stay status, s/he fails to appear at the acting refugee authority upon its notice – within three months of that notice.
- (3) Section (2) c) is not applicable to a person with tolerated stay who is able to cite a well-founded reason for refusing the protection of his/her country of origin.

Chapter VI

***CONDITIONS OF RECEPTION, ASYLUM DETENTION;
PROVISIONS AND BENEFITS OF REFUGEES, BENEFICIARIES OF SUBSIDIARY AND
TEMPORARY PROTECTION AND PERSONS WITH TOLERATED STAY***

Conditions of Reception

26 §

(1) The conditions of reception include the material conditions of reception and all rights and measures determined in the present Act and in the Government Decree in connection with the freedom of movement, health care, social care and education of persons seeking recognition.

(2) A person seeking recognition – in case of need as determined by a Government Decree (hereinafter: needy) – shall be entitled to free of charge provision of reception conditions stipulated in this Act and the separate relevant legal regulations.

(3) If the person seeking recognition does not qualify as needy – in particular if s/he has permanent employment – the refugee authority may, in whole or in part, require the reimbursement of the material conditions of reception and the costs of health-care services.

(4) If it is shown that the person seeking recognition had sufficient funds for the material conditions of reception and/or for the health care services, while the same were provided to him/her by the refugee authority pursuant to Subsection (2), the refugee authority may order the person seeking recognition to reimburse these costs.

(5) Benefits and services used under this Act without eligibility shall qualify as debt to the state that shall be reimbursed/collected as tax. In order to ensure the repayment of benefits and services provided under this Act without eligibility, if there is no voluntary payment then the refugee authority shall order the collection of the repayable amount.

27 §

Unless a rule of law or government decree provides otherwise, a person seeking recognition shall be entitled to those material conditions of reception and other forms of assistance corresponding to his/her health conditions and satisfying his/her basic needs that are determined in this Act and in the Government Decree, following the submission of the application for recognition, until the final and effective conclusion of the refugee procedure.

28 §

The material conditions of reception shall also be provided to persons seeking recognition who are held in asylum detention.

29 §

During the provision of the conditions of reception, due attention shall be paid to the particular needs of any person in need of special treatment.

29/A §

The person seeking recognition shall be entitled to basic healthcare under the Act on Basic Healthcare, while healthcare under separate legislation shall be provided to them according to the provisions of this Act and the Government Decree.

Limitation or Withdrawal of Reception Conditions

30 §

(1) The conditions of reception provided for a person seeking recognition may be limited and/or - in exceptional and duly justified cases - withdrawn if the person seeking recognition

- a)³
- b) has departed from the private housing authorized for him/her for an unknown destination and a period of fifteen days has elapsed since his/her departure;
- c) repeatedly submits an application for recognition on factual grounds unchanged;
- d) does not comply with his/her reporting obligation relating to the asylum procedure, does not supply the required data or information or fails to appear at personal hearings, or
- e) has concealed the fact that s/he has sufficient funds, which means that s/he has used the material conditions of reception unlawfully.

(2) The refugee authority may consider sanctions in designating a place of accommodation if the person seeking recognition

- a) grossly violates the rules of conduct in force at the designated place of accommodation; or
- b) manifests seriously violent behavior.

(3) When making a decision of reduction or withdrawal, the refugee authority shall consider

- a) the individual situation of the person seeking recognition, with particular attention to persons in need of special treatment, and
- b) the reduction or withdrawal shall be proportionate to the violation of rules committed.

(4) Emergency health care services shall be provided even in the event of the limitation or withdrawal of reception conditions referred to in Subsection (1). If the refugee authority has withdrawn the entitlement for placement of a person in need of special treatment according to Subsection (1), the refugee authority shall dispose another form of placement of the asylum-seeker in the framework of the social structure.

(5) The refugee authority shall decide on the limitation or withdrawal of the reception conditions and the legal consequences stipulated by Subsection (2) in a decision (*határozat*).

³ Provision discontinued

(6) When making a decision based on Subsections (1)-(2), the refugee authority shall in particular consider the weight of the limitation or withdrawal and/or the act serving as the basis of the decision in terms of Subsection (2), and any damage caused by the given act, too.

(7) If the causes underlying the limitation or withdrawal have been eliminated, after the consideration of the individual situation of the person seeking recognition, the refugee authority may order the resumption of the initial reception conditions that were reduced or withdrawn.

31 §

(1) If the refugee authority has limited or withdrawn the material reception conditions according to Section 30 (1), or decided based on Section 30 (2), the decision thereon may be subjected to judicial review.

(2) The request for judicial review shall be submitted to the refugee authority within three days of the communication of the decision. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay. The submission of the request for review shall not have a suspensive effect on the execution of the decision.

(3) The court shall decide on the request for review in a non-litigious procedure within six working days of the receipt of the request for review on the basis of the available documents. In case of need, there shall be a hearing in the procedure.

(4) The court may alter the resolution of the refugee authority. No legal remedy shall lie against the decision of the court.

Asylum detention

31/A §

(1) The refugee authority can, in order to conduct the asylum procedure and to secure the Dublin transfer – taking the restriction laid down in Section 31/B into account – take the person seeking recognition into asylum detention if his/her entitlement to stay is exclusively based on the submission of an application for recognition where

- a)* the identity or citizenship of the person seeking recognition is unclear, in order to establish them,
- b)* a procedure is ongoing for the expulsion of a person seeking recognition and it can be proven on the basis of objective criteria – inclusive of the fact that the applicant has had the opportunity beforehand to submit application of asylum - or there is a well-founded reason to presume that the person seeking recognition is applying for asylum exclusively to delay or frustrate the performance of the expulsion,

c) facts and circumstances underpinning the application for asylum need to be established and where these facts or circumstances cannot be established in the absence of detention, in particular when there is a risk of escape by the applicant,

d) the detention of the person seeking recognition is necessary for the protection of national security or public order,

e) the application was submitted in an airport procedure, or

f) it is necessary to guarantee Dublin transfer procedures and there is a serious risk of escape.

(1a) In order to carry out the Dublin transfer, the refugee authority may take into asylum detention a foreigner who failed to submit an application for asylum in Hungary and the Dublin handover can take place in his/her case.

(1b) The rules applicable to applicants in asylum detention shall apply *mutatis mutandis* to a foreigner detained under Subsection (1a) for the duration of the asylum detention. Following the termination of the asylum detention and the frustration of the transfer, the alien policing rules shall apply.

(2) Asylum detention may only be ordered on the basis of individual deliberation and only if its purpose cannot be achieved through measures securing availability.

(3) Before ordering asylum detention, the refugee authority shall consider whether the purpose determined in Subsections (1) or (1a) can be achieved through measures ensuring availability.

(4) The measure stipulated by Section 2 lc) may be ordered individually or concurrently with the measures determined in Section 2 la) and lb).

(5) Asylum detention shall be ordered by a decision (*határozat*), and shall be executed at the time it is communicated.

(6) Asylum detention can be ordered for a maximum of seventy-two hours. The refugee authority may propose the extension of the asylum detention beyond seventy-two hours at the district court competent for the location of the detention, within 24 hours of ordering it. The court may extend the duration of the detention by sixty days at the most, which duration can be extended upon a proposal from the refugee authority for another sixty days at the most. The refugee authority may submit a motion to extend the detention several times with the proviso that the full duration of the detention cannot exceed six months. The motion for an extension shall be received by the court at least eight working days before the due date of the extension. The refugee authority shall be required to state the reasons for its motion.

(7) Asylum detention shall last no longer than six months or, in the case of a family with minors, thirty days.

(8) Detention shall be terminated without delay if

a) a period of six months – or in the case of a family with minors, thirty days – have elapsed since detention was ordered;

b) the reason for the detention order no longer exists;

- c)* it has been established that the detainee is an unaccompanied minor seeking recognition;
- d)* the detained person seeking recognition requires extended hospitalization for health reasons;
- e)* the conditions of implementing transfer or return under the Dublin procedure (hereinafter: Dublin transfer) exist; or
- f)* it becomes obvious that the Dublin transfer cannot be carried out.

(9) If asylum detention is terminated in accordance with Subsection (8) a), c), d) or f), the refugee authority shall designate a place of residence for the person seeking recognition.

(10) The refugee authority shall carry out the asylum detention in a detention centre designated for and serving the purpose of performing asylum detention, with the contribution of the agency established to perform general policing tasks.

31/B §

(1) Asylum detention may not be ordered for the sole reason that the person seeking recognition has submitted an application for recognition.

(2) Asylum detention may not be ordered in the case of an unaccompanied minor seeking recognition.

(3) Families with minors may only be placed in asylum detention as a measure of last resort, and taking the best interests of the child into account as a primary consideration.

31/C §

(1) The person seeking recognition may not request the suspension of the procedure for ordering asylum detention or a measure securing availability.

(2) There are no legal remedies against the decision ordering asylum detention or the use of a measure securing availability.

(3) The person seeking recognition may file an objection against an order of asylum detention or the use of a measure securing availability.

(4) The objection shall be decided upon by the local court having jurisdiction at the place of residence of the person seeking recognition within eight days.

(5) Based on the decision of the court, the omitted measure shall be carried out or the unlawful situation shall be terminated.

31/D §

(1) The court shall act as a sole judge and pass its decision in the form of a resolution (*végzés*) in the procedure relevant to the objection as well as the extension of detention.

(2) If the court has rejected the objection or the motion (to extend detention), no other objection or motion can be submitted on the same grounds.

(3) The person seeking recognition may only be represented by a legal representative in the court procedure.

(4) The court shall appoint a guardian ad litem for the person seeking recognition if s/he does not speak Hungarian and is unable to arrange his/her representation by an authorized representative.

(5) With the exception determined in Subsection (7), a personal hearing shall be held in the following cases:

a) when the detention period is extended by the court in excess of seventy-two hours for the first time; and

b) in the procedure related to an objection or the further extension of the detention, if the person concerned has requested a personal hearing.

(6) The personal hearing can be held in the absence of the legal representative of the person seeking recognition.

(6a) The personal hearing shall be held at the place of detention, if the conditions for the hearing are met.

(7) The court may dispense with the personal hearing if

a) the person seeking recognition is unable to attend a hearing because s/he is treated as an inpatient in a health-care institution; or

b) the objection or the motion has not been submitted by a person entitled to do so.

(8) At the personal hearing, the person seeking recognition and the refugee authority may submit evidence in writing or present the same verbally. Those present shall be given an opportunity to familiarize themselves with the evidence, unless otherwise prescribed by law. If the person seeking recognition or the representative of the refugee authority which filed the motion has not appeared but has submitted his/her comments in writing, the court shall present such comments.

(9) The court's resolution shall be communicated to the person seeking recognition and the refugee authority as well as to the legal representative and the guardian ad litem. The resolution shall be communicated by announcement and it shall be delivered immediately after it has been committed to writing.

(10) No further legal remedies against the decision of the court are available.

(11) Any costs of the court procedure will be borne by the state.

31/E §

(1) The person seeking recognition in asylum detention shall be informed about his/her rights and obligations in his/her mother tongue or in another language that s/he speaks.

(2) The authority that has ordered asylum detention shall immediately arrange, by way of a temporary measure, the accommodation of the applicant's dependent family members or the family members who are left without supervision, and for the safekeeping of any valuables of the applicant that are left unattended.

31/F §

(1) During the execution of the asylum detention, the following persons shall be separated:

- a) men from women – with the exception of spouses; and
- b) families with minors from other detainees, ensuring the appropriate protection of privacy.

(2) The accommodation of persons in need of special treatment shall be arranged in view of their specific needs – in particular their age and health condition (including their mental condition).

(3) The person seeking recognition placed in asylum detention

a) shall be entitled to the following, in addition to the material conditions of reception:

- aa) to have unsupervised contact with his/her relatives and a member of his/her consular representation;
- ab) to receive and send packages and letters and to receive visitors according to the legal provisions;
- ac) to supplement his/her food at his/her own cost;
- ad) to practice his/her religion inclusive of diet compliant with religious rules;
- ae) to take advantage of any available public educational opportunities;
- af) to make objections, complaints and public announcements and to submit requests; and
- ag) to spend at least one hour per day outdoors; and

b) shall abide by the following:

- ba) to observe the rules of the institution where the detention is implemented and to comply with the relevant instructions;
- bb) to behave in a manner that does not disturb other detainees and does not violate their rights;
- bc) to contribute to keeping clean the areas used by him/her, without compensation;
- bd) to subject himself/herself to the examinations concerning him/her and to tolerate the inspection of his/her clothing as well as the confiscation of any personal items whose possession is not permitted; and
- be) to compensate damages s/he has deliberately caused;
- bf) to reimburse all costs of the accommodation and services provided to him/her unless a decision providing refugee status, subsidiary protection or protection against *refoulement* was made in his/her case.

31/G §

(1) If the refugee authority hasn't complied with the obligation stipulated by Sections 31/E-F, the person held in asylum detention may submit a complaint addressed to the head of the detention facility.

(2) In case of rejection of the complaint, the person held in asylum detention may turn to the Head of the refugee authority.

31/H §

(1) The refugee authority shall *ex officio* examine whether conditions of asylum bail prevail. If the availability of the person seeking recognition may be secured through asylum bail, the refugee authority shall make a decision on this.

(2) The refugee authority may at any point of the proceedings authorize the deposit of asylum bail.

(3) Following the deposit of asylum bail, the asylum authority shall designate a place of residence for the person seeking recognition, and shall inform him/her about his/her obligations relevant to availability, the non-compliance of which obligation shall result in the person seeking recognition losing the right to claim back the deposited asylum bail.

(4) If the person seeking recognition complies with the obligation relevant to availability, the deposited asylum bail shall be returned upon final closure of the asylum proceedings.

(5) If the person seeking recognition loses his/her right to demand the deposited asylum bail back, the state will acquire the amount of the bail.

31/I §

(1) Section 31/A (10) shall not apply if the extraordinarily great number of persons seeking recognition puts an unforeseen burden on the capacity of the asylum detention centres and/or on the refugee authority.

(2) In the event referred to in Subsection (1), the refugee authority may carry out detention in locations other than those laid down in Section 31/A (10) as suitable for carrying out asylum detention. Applicants for recognition shall be held in the detention locations separately, as specified in this Subsection.

(3) The rules applicable to persons seeking recognition in asylum detention shall apply to persons seeking recognition accommodated under Subsection (2).

Provisions and Benefits of Refugees, Beneficiaries of Subsidiary and Temporary Protection

32 §

(1) The refugee and the beneficiary of subsidiary protection - in case of need - shall remain entitled to the material conditions of reception as well as the provisions and benefits for 30 days at most, of the date of the decision on recognition, unless otherwise provided by law. For a period of 30 days from the day the decision

communicated to him/her, the person with tolerated stay shall be entitled for accommodation and subsistence at a reception centre or an equivalent facility.

(1a) If the refugee and the beneficiary of subsidiary protection are not subject to the social security scheme, they shall be entitled to basic healthcare under Section 29/A and healthcare based on separate legislation for 6 months from the date of their recognition.

(2) The beneficiary of temporary protection - in case of need – is entitled to the material conditions of reception and to provisions and benefits determined in the separate relevant legal regulations.

(3) The refugee authority shall decide by way of decision (*határozat*) if based on law such a decision cannot be avoided. The decision may be subjected to court review. The court may alter the decision of the refugee authority.

32/A §

(1) The material conditions of reception provided to the beneficiary of temporary protection, as well as the provisions and benefits determined in the separate relevant legal regulations may be reduced or withdrawn if the beneficiary of temporary protection

a) repeatedly or grossly violates the rules of conduct which govern at the reception centre;

b) repeatedly or grossly violates his/her obligation of cooperation;

c) issues an untrue declaration with respect to his/her property and/or income and assets in the interest of acquiring entitlement to the material conditions of reception or provisions and benefits determined in the separate relevant legal regulations, or refuses to make a declaration;

d) shows grossly violent behaviour.

(2) The refugee authority shall decide on the reduction or withdrawal of the material conditions of reception or provisions and benefits determined in the separate relevant legal regulations by way of decision (*határozat*).

(3) The provisions of Sections 26 (3) – (4) and 30 (3)-(7) shall duly apply to the legal remedies against the decisions made under Subsection (1).

32/B §

(1) Decisions based on Section 32/A (1) may be subjected to court review.

(2) The court may change the decision of the refugee authority. No legal remedy shall lie against the decision of the court closing the procedure.

(3) The request for review shall be submitted to the refugee authority within three days of the communication of the decision. The refugee authority shall forward the request for review, together with the documents of

the case and its counter-application, to the court with no delay. The submission of the request for review shall not have a suspensive effect on the execution of the decision.

(4) The court shall decide on the request for review in a non-litigious procedure - within six working days of receipt of the request for review - on the basis of the available documents. In case of need, there shall be a hearing in the procedure.

Chapter VII

GENERAL RULES OF ASYLUM PROCEDURES

Purpose of the Asylum Procedure

33 §

The asylum procedure is aimed at determining whether, based on this Act,

- a)* a foreigner seeking recognition satisfies the criteria of recognition as a refugee, a beneficiary of subsidiary protection or a beneficiary of temporary protection,
- b)* the principle of non-refoulement is applicable with regard to foreigners seeking recognition,
- c)* a foreigner seeking recognition may be expelled or deported where the principle of non-refoulement is not applicable,
- d)* a foreigner can be handed over in the framework of Dublin transfer.

Bearing of Costs

34 §

Upon submission of an application for the first time, the person seeking recognition shall be fully exempt from the payment of costs in the asylum procedure, both the administrative and the judicial one.

Submission of Application for Recognition

35 §

(1) An asylum procedure shall be instituted on the basis of an application for recognition submitted to the refugee authority. A person seeking recognition shall be subject to the asylum procedure from

- a)* the submission of an application for international protection to the refugee authority in person, or
- b)* the registration of the application by the refugee authority, if an application for international protection was submitted to any other authority,

until communication of the non-contestable final decision made in the procedure.

(2) The person seeking recognition shall proceed in the refugee procedure in person.

(3) A person with limited legal capability, too, shall be entitled to proceed in an asylum procedure.

(4) Upon the presentation of the application for recognition, the person seeking recognition shall appear before the refugee authority in person.

(5) If an incapable person wishes to submit an application for recognition in person, the refugee authority shall involve the representative by law (*törvényes képviselő*) in the asylum procedure or, in the absence thereof, shall request the appointment of a guardian for the case (*ügygondnok*).

(6) If the person seeking recognition is an unaccompanied minor, the refugee authority shall, without delay, initiate the temporary placement of the child and request the guardianship authority to appoint a child protection guardian, who serves to represent the minor. The child protection guardian shall be appointed within eight days of the arrival of the refugee authority's request. The unaccompanied minor and the refugee authority shall without delay be notified by the guardianship authority of the person of the child protection guardian appointed.

(7) In the case of an unaccompanied minor, the asylum procedure shall be conducted as a matter of priority.

(8) In the event of a joint application of family members, the person with full capability seeking recognition shall submit the application for recognition in such a way that it shall also extend to his/her family members.

(9) A joint application for recognition shall extend to a family member with full or limited capability if s/he consents to the joint application in writing in advance or at the personal interview, at the latest. A joint application for recognition shall extend to an incapable family member with the written consent of the representative by law or guardian for the case.

(10) The refugee authority shall arrange for the recording of the facial image and the fingerprints of the person seeking recognition when the application for recognition is submitted or when asylum detention is ordered.

35/A §

In case of a detained person seeking recognition, the asylum procedure shall be conducted as a matter of priority.

35/B §

(1) If a European arrest warrant has been issued against the person seeking recognition, the refugee authority shall make a decision on the merit of the claim before the execution of the transfer.

(2) The request for review against such decision shall have no suspensive effect on the execution of the transfer.

Procedural Rights and Obligations of Persons Seeking Recognition

36 §

(1) A person seeking recognition may use his/her mother tongue or the language which s/he understands orally and in writing in the asylum procedure.

(2) The decision (*határozat*) shall be communicated to the person seeking recognition orally in his/her mother tongue or in another language understood by him/her. Simultaneously with the oral communication of the decision, the decision shall also be communicated to the applicant in writing.

(3) A resolution (*végzés*) shall be communicated to the person seeking recognition in writing.

(4) The refugee authority shall provide for the communication of the decision and resolution within eight working days of the adoption thereof, unless the present Act provides otherwise.

(5) A decision/resolution communicated by way of a public announcement shall be regarded as communicated on the eighth day following the posting of the announcement. The public announcement shall not include the subject of the case, as far as personal details of the applicant is concerned, the family and the first name shall be included only. The announcement may be posted solely on the notice board of the refugee authority. After the communication of the announcement, the general rules of contacts may not be applied to the communication of the decision.

(6) The refugee authority may use the services of an interpreter, based on a contract concluded with the interpreter, also without a resolution on appointment.

(7) In the asylum procedure, the costs of interpretation inclusive of sign language interpretation shall be borne by the refugee authority.

(8) Upon the submission of a request for court review, the person seeking recognition shall appear before the refugee authority in person.

37 §

(1) Upon submission of an application, the refugee authority shall simultaneously inform in writing the person seeking recognition of his/her procedural rights and obligations as well as of the legal consequences of the violation of such obligations in his/her mother tongue or in another language understood by him/her.

(2) The information provided and the acknowledgement thereof shall be committed to minutes.

(3) The person seeking recognition shall be given the opportunity to use legal aid at his/her own expense or, if in need, free of charge as set forth in the Act on Legal Assistance, or to accept the free legal aid of a registered non-governmental organisation engaged in legal protection.

(4) The person providing legal assistance authorized by the person seeking recognition may

- a) attend the personal interview of the person seeking recognition;
- b) view the documents generated in the course of the asylum procedure and make copies thereof;
- c) enter the premises of the institution serving to accommodate the person seeking recognition or, if the person seeking recognition is in detention, may enter the premises of the detention facility, for the purpose of maintaining contact with the person seeking recognition.

38 §

The representative of the United Nations High Commissioner for Refugees may take part in the asylum procedure. As part of this

- a) with the consent of the person seeking recognition, it
 - aa) may attend the personal interview of the person seeking recognition;
 - ab) may view the documents generated in the course of the asylum procedure and may make copies thereof;
 - ac) shall be informed by the refugee authority of the progress of the refugee procedure and the decisions adopted, including any court decisions;
- b) it may present his/her opinion related to the application for recognition in any phase of the asylum procedure;
- c) it may enter the premises of the institutions serving to accommodate the person seeking recognition or, if the person seeking recognition is in detention, may enter the premises of the detention facility.

39 §

In the course of the asylum procedure, the person seeking recognition shall tolerate the

- a) inspection of his/her luggage, clothing and vehicle;
- b) recording of his/her facial image and fingerprints.

Rules of Evidence

40 §

The decision relating to the application for recognition shall be based on the individual assessment of the situation of the person seeking recognition.

41 §

(1) To verify or substantiate in the course of the asylum procedure whether the criteria of recognition as refugee, beneficiary of subsidiary or temporary protection exist in respect of the person seeking recognition, the following means of providing evidence may be used in particular:

a) facts and circumstances giving rise to the act of fleeing disclosed by the person seeking recognition and the documents supporting the same;

b) the travel document or any other document presented by the person seeking recognition, on the basis of which it is possible to infer his/her identity and/or nationality;

c) all relevant up-to-date information relating to the country of origin of the person seeking recognition, including the statutory or any other mandatory legal provisions of the country of origin and the method of application thereof.

(2) The refugee authority and – in case of need - the court shall obtain the report of the agency responsible for the provision of country information under the supervision of the Minister.

(3) The refugee authority may accept a public deed issued abroad or a private deed authenticated by a foreign court, state administration agency, notary or any other person vested with public authenticity submitted by the person seeking recognition as a deed with probative force even in the absence of the diplomatic authentication thereof by the Hungarian foreign representation authority operating in the state of the place of issuance.

(4) A deed issued in a language other than Hungarian may also be accepted without an authenticated Hungarian translation.

42 §

(1) Hungarian authority or court shall not enter into contact with

a) the country of origin of the person seeking recognition,

b) a country, in respect of which it may be presumed that it forwards information to the country of origin,

c) a person or organisation, in respect of whom or which it may be presumed that s/he or it persecuted or would persecute the person seeking recognition or would forward information to the persecutors of the person seeking recognition,

if, as a result of such entry into contact, the persecutors would become aware of the fact that the person seeking recognition submitted an application for recognition or if, as a consequence of such entry into contact, the person seeking recognition or a member of his/her family were exposed to a physical threat or the liberty or security of the family members of the person seeking recognition living in his/her country of origin were exposed to a threat.

(2) Subsection (1) shall not apply if the same applicant submits an application after the adoption of a final and absolute decision of refusal or discontinuation with respect to his/her previous application and the Hungarian authority or court so decided that the prohibition of refoulement was not applicable.

43 §

(1) Unless the present Act stipulates an exception, the personal hearing of the person seeking recognition shall be mandatory in the asylum procedure. The personal hearing shall be committed to minutes.

(2) The refugee authority may dispense with a personal interview if the person seeking recognition

a) is in no fit state to be heard, or

b) submitted a repeat/subsequent application and, in the application, failed to state facts or provided proofs that would allow the recognition as a refugee or beneficiary of subsidiary protection. The personal hearing cannot be dispensed with, if the repeat/subsequent application is submitted by a person seeking recognition whose application was submitted earlier on his/her behalf as a dependent person or an unmarried minor.

(3) A person seeking recognition, who has not yet completed the age of fourteen years, arriving together with a family member with full proceeding capacity, may be heard if his/her personal interview is indispensable in the interest of the clarification of the facts of the case.

(4) An application for recognition may not be refused solely on the grounds that the refugee authority did not hear the person seeking recognition.

44 §

(1) If any doubt emerges concerning the minor status of a person seeking recognition who claims to be a minor, a medical expert examination may be initiated for the determination of his/her age. The examination may only be performed with the consent of the person seeking recognition, or if the person seeking recognition is in a state which does not permit the issuance of a declaration, with that of his/her representative by law or guardian for the case.

(2) An application for recognition may not be refused solely on the grounds that the person seeking recognition, the representative by law or guardian for the case did not consent to the performance of the examination.

(3) If the person seeking recognition, the representative by law or guardian for the case does not consent to the expert examination aimed at determining the minor status, the provisions relating to minors, with the exception of the provisions relating to the involvement of a legal representative or the appointment of a guardian for the case, may not be applied to the person seeking recognition.

44/A §

Where, in a procedure started based on this Act, the substantive decision of the case is subject to a preliminary decision on a matter which belongs to the authority of another acting body, or it is not possible to make a well-founded decision in the case without first making another administrative decision closely related to the case, the refugee authority may suspend the procedure.

Examination of Prohibition of Refoulement and Expulsion Ordered by the Refugee Authority

45 §

- (1) The prohibition of refoulement prevails if the person seeking recognition were exposed to the risk of persecution due to reasons of race, religion, ethnicity, membership of a particular social group or political opinion or to treatment/behaviour determined in Article XIV(2) of the Fundamental Law and there is no safe third country which would receive him/her.
- (2) In the case of an unaccompanied minor, the prohibition of refoulement also prevails if the unification of the family or any state or other institutional care is not possible either in his/her country of origin or in another state accepting him/her.
- (3) In its decision relating to the refusal of an application for recognition or the revocation of recognition, the refugee authority shall establish whether the prohibition of refoulement prevails or not.
- (4) In the event of the existence of the prohibition under Subsections (1) or (2), the refugee authority shall recognise the foreigner as a person with tolerated stay.
- (5) In the event of the non-existence of the prohibition under Subsections (1) and (2), in its decision refusing the application for recognition, the refugee authority shall provide for the withdrawal of the foreigner's residence permit issued for humanitarian purposes and – if the foreigner has no right to stay in the territory of Hungary on other grounds – shall order his/her expulsion and deportation based on Act II of 2007 on the entry and stay of third country nationals and shall determine the period of prohibition of entry and residence.
- (6) In the event of the non-existence of the prohibition under Subsections (1) and (2), in its decision relating to the revocation of recognition, the refugee authority shall provide for the withdrawal of the foreigner's travel document issued by Hungary, identity card, his/her official document verifying his/her personal identifier and residential address or any other document verifying his/her identity and – if the foreigner has no right to stay in the territory of Hungary on other grounds – shall order his/her expulsion and deportation and shall determine the period of prohibition of entry and residence.

(7) The foreigner may appeal against the expulsion under Subsections (5) and (6) in the course of his/her appeal against the decisions of the refugee authority refusing the application for recognition and/or withdrawing the recognition.

(8) The alien policing authority shall implement the expulsion and deportation ordered by the refugee authority.

(9) Notwithstanding Subsections (5) and (6), the refugee authority shall not order expulsion if a final order of expulsion has already been made against the person seeking recognition.

(10) Subsection (3) shall not apply if the applicant's country of origin is not confirmed or substantiated.

Procedures Excluded

46 §

In the asylum procedure conducted by the refugee authority there is no place for

a) administrative appeal, rehearing procedure;

b) suspension of the procedure upon request;

c) electronic contacts;

d) legal remedy against a decision withdrawing any decision in violation of the relevant legal regulations;

e) administrator to receive the service of process may be appointed;

f) in case of a crisis situation caused by mass immigration

fa) initiating the designation or designating a guardian ad litem,

fb) designating a service agent,

g) summary procedure.

46/A §

(1) In the procedures conducted under this Act, no decision with conditional effect as specified in the Act on the General Rules of Administrative Proceedings and Services shall be made on the exercise of the right that has been applied for.

(2) In the procedures conducted under this Act, the refugee authority may prolong the procedural time-limit once by 21 days at most, before the expiration of the deadline.

Chapter VIII

PROCEDURE AIMED AT RECOGNITION AS REFUGEE OR AS BENEFICIARY OF SUBSIDIARY PROTECTION

47 §

(1) The refugee authority shall subject an application for recognition as a refugee or as a beneficiary of subsidiary protection (in the present Chapter hereinafter referred to as the “application”) to assessment following its submission. In the course of the assessment, the refugee authority shall determine whether the conditions are met for applying the provisions of the Dublin Regulations and determines whether the application is inadmissible or the application is to be decided on in accelerated proceedings.

2) The decision on inadmissible applications or applications to be decided on in accelerated proceedings shall be made within fifteen days from the date of establishment of the reason giving rise to inadmissibility or accelerated procedure.

(3) If a shorter procedure based on Subsection (2) does not apply it shall be completed within sixty days following the submission of the application.

48 §

(1) Upon request, the refugee authority shall designate private accommodation or, in its absence, a reception centre, community accommodation, other accommodation maintained under a contract or the administrative area of a certain county as the designated place of residence for the foreigner seeking recognition as a refugee or as a beneficiary of subsidiary protection (for the purposes of this Chapter hereinafter referred to as the “applicant”) until the decision that can no longer be challenged or the one on the handover of the foreigner based on Section 49 (4) becomes final, unless

a) the applicant is under the effect of a measure restricting personal freedom or subject to a criminal sanction or under the effect of a previously ordered aliens policing measure restricting personal freedom; or

b) the conditions for ordering asylum detention are met, or

c) the applicant is lawfully residing in Hungary and does not request placement in a reception centre.

(2) The refugee authority shall make arrangements regarding the placement of an unaccompanied minor in a child protection institution.

(3) The applicant may leave the reception centre, community accommodation or other accommodation maintained under a contract for a period exceeding 24 hours only in particularly justified cases, with the permission of the refugee authority, provided that his/her absence does not hinder the performance of the relevant procedural actions. In order to participate in official or court proceedings, the applicant may leave the reception centre, community accommodation or other accommodation maintained under a contract in the absence of a specific permit.

49 §

(1)⁴

(2) If the refugee authority establishes that the Dublin procedure is to be conducted, it shall suspend the procedure until the conclusion of the Dublin procedure.

(3) No legal remedy shall lie against the resolution (*végzés*) suspending the procedure under Subsection (2).

(4) If the Member State contacted in the course of the Dublin procedure is obliged to receive the applicant and to assess the application, the refugee authority shall adopt a resolution with respect to the delivery of the applicant. After the communication of the resolution on the transfer, the application cannot be withdrawn.

(5) Where the foreigner is not subject to asylum detention, the refugee authority shall provide, in the handover decision, that the foreigner may not leave the place of residence designated for him/her until the completion of handover but for a maximum 72 hours in the interest of securing the implementation of the handover procedure.

(6) A resolution providing for transfer may be submitted to court review.

(7) The request for review shall be submitted to the refugee authority within three days of the communication of the resolution. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court with no delay.

(7a) Request for judicial review submitted during the border procedure based on the present Act, shall be forwarded to the court by the refugee authority together with the case file and its counter application.

(8) The Court shall decide on the request for review in a non-litigious procedure within eight days of receipt of the request for review on the basis of the available documents. There shall be no personal hearing in the procedure. No legal remedy shall lie against the decision of the court.

(9) In the course of the court review, an application for the suspension of the implementation of the resolution providing for transfer shall have no suspensive effect on the implementation of the resolution.

50 §

(1) If the Dublin procedure is closed with the delivery of the applicant, the asylum procedure shall be discontinued at the time of the delivery of the applicant.

(2) No legal remedy shall lie against the resolution discontinuing the procedure.

(3) If the Member State contacted does not take delivery of the applicant and the assessment of the application, the asylum procedure shall be resumed as described in Section 51.

51 §

⁴ Provision discontinued

(1) If the conditions for the application of the Dublin Regulations are not met, the refugee authority shall decide on the question of the admissibility of the application and on whether the criteria for deciding on the application in an accelerated procedure are met.

(2) An application is inadmissible where

a) the applicant is a national of one of the Member States of the European Union;

b) the applicant was recognized by another Member State as a refugee or it granted subsidiary protection to him/her;

c) the applicant was recognized by a third country as a refugee, provided that this protection exists at the time of the assessment of the application and the third country in question will admit the applicant;

d) the application is repeated and no new circumstance or fact occurred that would suggest that the applicant's recognition as a refugee or beneficiary of subsidiary protection is justified;

or

e) for the applicant, there is a third country qualifying as a safe third country for him/her.

(3) In the application of Subsection (2) *d)*, new facts and circumstances are those that the applicant was unable to substantiate or verify in the previous procedure due to circumstances beyond his/her control.

(4) The application may be declared inadmissible under Subsection (2) *e)* only where the applicant

a) stayed in a safe third country, and s/he would have had the opportunity to apply for effective protection, according to Section 2 *i)*, in that country;

b) travelled through the territory of that third country and s/he would have had the opportunity to apply for effective protection, according to Section 2 *i)*, in that country;

c) has relatives in that country and can/may enter the territory of the country; or

d) the safe third country requests the extradition of the person seeking recognition.

(5) In the cases referred to in Subsection (4) *a)* and *b)*, the person seeking recognition has to prove that s/he had no opportunity for effective protection, according to Section 2 *i)*, in that country.

(6) Where Subsection (2) *e)* applies, the refugee authority shall issue a certificate in the official language of that third country to the applicant that his/her application for asylum was not assessed on the merits.

(7) The application may be decided on in an accelerated procedure where the applicant

a) discloses only information irrelevant for recognition as both a refugee and a beneficiary of subsidiary protection;

b) originated in a country listed on the European Union or national list of safe countries of origin as specified by separate legislation;

c) misled the authorities by providing false information on his/her identity or nationality

ca) by providing false information;

cb) by submitting false documents; or

cc) by withholding information or documents that would have been able to influence the decision-making adversely;

d) has destroyed or thrown away, presumably in bad faith, his/her identity card or travel document that would have been helpful in establishing his/her identity of nationality;

e) makes clearly incoherent, contradictory, clearly false or obviously unlikely statements contradicting the duly substantiated information related to the country of origin that makes it clear that, on the basis of his/her application, he/she is not entitled to recognition as a refugee or beneficiary of subsidiary protection,

f) submitted a subsequent application that is not inadmissible under Subsection (2) d);

g) submitted an application for the only reason of delaying or frustrating the order of the alien policing expulsion or carrying out of the expulsion ordered by the refugee authority, the alien police authority or the court,

h) entered into the territory of Hungary unlawfully or extended his/her period of residence unlawfully and failed to submit an application for recognition within a reasonable time although he/she would have been able to submit it earlier and has no reasonable excuse for the delay;

i) refuses to comply with an obligation to have his/her fingerprints taken, or

j) for a serious reason may pose a threat to Hungary's national security or public order, or he/she was expelled by the alien policing authority due to harming or threatening public safety or the public order.

(8) The application cannot be rejected solely on the grounds of Subsection (7) h).

(9) In the event of applying accelerated proceedings, the refugee authority – with the exception of the case specified in Subsection (7) b) – shall assess the merits of the application for recognition in order to establish whether the criteria for recognition as a refugee or beneficiary of subsidiary protection exist.

(10) Where the application is partly or fully based on circumstances referred to in Sections 6 (2) or 12 (2), the reasonable time referred to in Subsection (7) h) shall be counted from the occurrence of these circumstances.

(11) In the event of applying Subsections (2) e) or (7) b), the applicant, when this fact is communicated to him/her, can declare immediately but within 3 days at the latest why in his/her individual case, the specific country does not qualify as a safe country of origin or safe third country.

51/A §

Where the safe country of origin or the safe third country fails to take over or back the applicant, the refugee authority shall withdraw its decision and continue the procedure.

52 §⁵

53 §

(1) The refugee authority shall reject the application with its resolution (*végzés*) if it establishes the existence of any of the criteria set forth in Section 51 (2).

(2) A court review of a decision rejecting the application due to inadmissibility or made in an accelerated procedure may be requested. The submission of a request for review shall have no suspensive effect on the enforcement of the decision, with the exception of decisions made under Sections 51 (2) e) and 51 (7) h).

(2a) In the judicial review request submitted against the rejection decision new facts or new circumstances cannot be referred to, in accordance with Section 339/A of Act III of 1952 on Civil Procedure.

(3) The request for review shall be submitted to the refugee authority within seven days of the communication of the decision. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay.

(4) The court shall decide on the request for review in a non-litigious procedure within eight days of receipt of the request for review, on the basis of the available documents. The court's review shall include a complete examination of both the facts and the legal aspects as they exist at the date when the authority's decision is made. If necessary, there shall be a personal hearing in the procedure.

(5) The court may not alter the decision of the refugee authority; it shall annul any administrative decision found to be against the law - with the exception of the breach of a procedural rule not affecting the merits of the case - and it shall oblige the refugee authority to conduct a new procedure. No legal remedy shall lie against the court's decision concluding the procedure.

54 §

(1) Where the applicant submits his/her subsequent application following a final termination or rejection decision on the former application, the refugee authority shall examine whether any new circumstance or fact occurred following the earlier decision that would allow for the recognition of the applicant as a refugee or as a beneficiary of subsidiary protection.

(2) Where, in the case referred to in Subsection (1), the refugee authority establishes that the submission of a subsequent application took place directly before the implementation of the applicant's expulsion and rejects the application on the basis of Section 51 (2) d), following the communication of the decision, the applicant shall not be entitled to the rights laid down in Section 5 (1) a) - c).

⁵ Provision discontinued

(3) Where the same applicant submits an application following a final rejection decision of his/her earlier repeat application, which can no longer be challenged, the applicant shall not be entitled to the rights laid down in Section 5 (1f) a) - c).

(4) The request for court review and the application to suspend the enforcement submitted against the decisions made under Subsections (2) - (3) shall have no suspensive effect on the enforcement of the decision.

55 - 56 §⁶

57 §

The law enforcement agency specified in the government decree issued for the implementation of this Act shall participate in the procedure as expert authority. The time limit for the procedure of the expert authority shall be eight days.

58 §

(1) Following the assessment under Section 47 (1), the refugee authority shall examine in the course of the procedure whether

a) the criteria for the recognition of the applicant as a refugee exist; furthermore,

b) there is any reason that excludes the recognition of the applicant as a refugee.

(2) If the application for recognition as a refugee is unfounded due to the absence of the criteria of recognition or the existence of a reason for exclusion, the refugee authority shall examine whether

a) the criteria of the recognition of the applicant as a beneficiary of subsidiary protection exist, and

b) there is any reason which excludes the recognition of the applicant as a beneficiary of subsidiary protection.

(3) The application shall be deemed to be unfounded if the conditions of recognition as a refugee do not exist or recognition as a refugee is excluded on the basis of Section 8 (1).

59 §

(1) It indicates the absence of the criteria of recognition as a refugee or as a beneficiary of subsidiary protection in particular if

a) the applicant's country of origin may be regarded as a safe country of origin;

⁶ Provisions discontinued

*b)*⁷

c) the applicant fails to disclose the facts and circumstances giving rise to the act of fleeing or his/her declaration relating thereto is incoherent or contradictory, to such an extent that it is not possible to conclude on the basis thereof that s/he was subject to persecution or serious harm or that the risk thereof exists;

d) the applicant wilfully supplies false data with respect to his/her identification details and/or nationality;

e) the applicant wilfully uses a false or forged document for the verification of his/her identity and/or for admission to the country and insists on the untrue contents of the document;

f) the applicant destroys his/her travel document or any other document suitable for the establishment of his/her identity and/or wilfully hinders the procedural acts aimed at the establishment of his/her identity;

g) the applicant attempts to mislead the refugee authority by concealing material information or retaining documents;

h) the applicant submits an application for the sole reason of delaying the implementation of a decision ordering his/her expulsion.

(2) Subsection (1) *c)* shall not apply, if it is found by a medical expert that the incoherency and contradictory nature of the statements by the applicant is justified by a circumstance arising from the state of health or psychological condition of the applicant.

60 §

(1) Upon the examination of the criteria of recognition, all acts shall be regarded as acts of persecution which are sufficiently serious by their nature, repetition or accumulation, to constitute a severe violation of basic human rights, in particular, the right to life, the prohibition of torture, slavery or servitude and the principle to tie any punishment to statutory provisions.

(2) Persecution may, in particular, take the form of the following acts:

a) mental or physical violence, including acts of sexual violence;

b) acts committed on account of the sexual orientation of the person concerned;

c) acts committed in connection with the childhood of the person concerned;

d) legal provisions or administrative measures which are in themselves discriminatory or which are implemented in a discriminatory manner;

e) disproportionate or discriminatory measures implemented in criminal proceedings, including disproportionate or discriminatory punishment;

f) denial of judicial redress resulting in a disproportionate or discriminatory punishment;

⁷ Provision discontinued

g) punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses related to recognition as a refugee or as a beneficiary of subsidiary protection.

61 §

Upon the examination of the criteria of recognition, the following shall be regarded as serious harm

- a) threat of the death penalty;
- b) application of torture, cruel, inhuman or degrading treatment or punishment;
- c) a serious threat to the life or physical integrity of a civilian person which is the consequence of indiscriminate violence used in the course of an international or internal armed conflict.

62 §

In the course of assessment of the conditions of recognition, there may be the following actors behind persecution or serious harm

- a) the state from which the applicant was forced to flee;
- b) a party or organisation controlling the state referred to in Paragraph a) or a substantial part thereof;
- c) a person or organisation who or which is independent of that referred to in Paragraph a) or b), provided that the state referred to in Paragraph a), as well as the party or organisation referred to in Paragraph b), or any international organisation having under control considerable part of the territory of the state, is unable or unwilling to provide protection against persecution or serious harm.

62/A §

(1) In the course of assessment of the conditions of recognition, protection against persecution or serious harm can be considered as provided if it is being provided by:

- a) the state; or
- b) parties or organizations, including international organizations, controlling the state or a substantial part of the territory of the state, if they are willing and able to provide protection according to Subsection (2).

(2) The protection against persecution or serious harm must be effective and sustainable. Protection is generally provided if

- a) the actors specified in Subsection (1) a) - b) take reasonable steps to prevent the persecution or serious harm, inter alia by operating an effective legal system for the detection, prosecution and punishment of acts constituting persecution or serious harm, and

b) the applicant can have access to such protection.

63 §

(1) Protection against persecution or serious harm may be regarded as duly granted if effective tools are available in the state from which the applicant is forced to flee to prevent persecution or acts of serious harm as well as to punish the persons committing acts constituting persecution or causing serious harm, and the applicant can avail himself/herself of such protection.

(2) Protection defined in Subsection (1) may also be regarded as duly granted if in the state from which the applicant is forced to flee, the requirement of well-founded fear or the effective risk of serious harm does not prevail in a part of the country, and the applicant can reasonably be expected to remain in that part of the country.

64 §

(1) In the course of the assessment of the reasons for persecution defined in Section 6 (1)

a) the concept of race shall in particular include considerations of colour, descent, or membership of a particular ethnic group;

b) the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;

c) the concept of nationality shall not be confined to citizenship or lack thereof but shall in particular include membership of a group determined by its cultural, ethnic, or linguistic identity, common geographical or political origins or its relationship with the population of another state;

d) a group shall be considered to form a particular social group where in particular:

da) members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief that is so fundamental to the identity or conscience that a person should not be forced to renounce it, or

db) that group has a distinct identity in the relevant country because it is perceived as being different by the surrounding society;

e) the concept of political opinion shall in particular include the holding of an opinion or belief on a matter related to the potential actors of persecution and to their policies or methods, whether or not that opinion, thought or belief has been acted upon by the applicant.

(2) A group where a common characteristic of its members is based on their sexual orientation or gender identity may, depending on the circumstances of the country of origin, also qualify as a particular social group.

(3) For the purposes of Subsection (2), sexual orientation shall not include acts related to the perpetrator's sexual orientation which qualify as crimes under the rules of Hungarian law.

(4) When assessing if an applicant has a well-founded fear of being persecuted, it is immaterial whether the applicant actually possesses the racial, religious, social or political characteristic or national affiliation which attracts the persecution, provided that such a characteristic is attributed to the applicant by the actor of persecution.

65 §

The criteria of the recognition of an applicant as a refugee are met if there is a nexus between the reasons of persecution under Section 6 (1) and the acts qualifying as persecution under Section 60.

66 §

(1) The procedure shall cease if the applicant dies.

(2) The refugee authority shall decide on the basis of the information available to it or terminate the procedure if the applicant

a) withdraws his/her application in writing;

b) refuses to issue a declaration and thereby hinders the assessment of the application;

c) does not appear at the personal interview in spite of a written notice and fails to submit an appropriate explanation for his/her absence;

d) has left the designated accommodation or residence without permission for a period of more than 48 hours, for an unknown destination and failed to submit an appropriate explanation for his/her absence;

e) had his/her expulsion or extradition carried out under Section 54 (2) - (3), or

f) prevents or frustrates having his/her fingerprints or photograph taken.

(3) In its resolution terminating the procedure, the refugee authority shall provide for the withdrawal of the foreigner's humanitarian residence permit and, in the event of termination based on Subsection (2) a) - c) and f), shall provide for the expulsion and deportation of the foreigner and shall determine the period of prohibition of entry and residence as specified in Section 45 (5) and (7)-(8).

(4) No request may be filed for the court review of a resolution terminating the procedure on the basis of Subsection (2) a) - d).

(5) A request may be filed for the court review of a resolution terminating the procedure on the basis of Subsection (2) e) - f), in accordance with the provisions laid down in Sections 53 (3) - (5).

(6) The applicant may request the continuation of the procedure terminated under Subsections (2) b) - d) for 9 months following the communication of the termination resolution. The applicant may request the continuation of the procedure only in person, at the refugee authority. On the basis of a submission requesting the continuation in time, the refugee authority shall continue the procedure, starting with the procedural act preceding the decision on the termination. The applicant may request the continuation of the procedure on a single occasion.

67 §

(1) If the refugee authority establishes the unfounded nature of an application, it shall reject the application.

(2) Simultaneously with the communication of the decision on the recognition, the refugee authority shall inform in writing the foreigner recognised as a refugee or as a beneficiary of subsidiary protection of his/her rights and obligations in his/her mother tongue or in another language understood by him/her.

68 §

(1) A decision rejecting the application may be subjected to court review.

(2) The request for review shall be submitted to the refugee authority within eight days of the communication of the decision. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay.

(3) The court shall decide on the request for review in a litigious (adversarial) procedure within sixty days of receipt of the statement of claim. If the applicant is under the effect of a forced measures, measure restricting personal freedom or subject to a criminal sanction or under the effect of a previously ordered aliens policing measure restricting personal freedom, the court shall proceed as a matter of priority. The court's review shall include a complete examination of both the facts and the legal aspects as they exist at the date when the court's decision is made. If necessary, there shall be a hearing in the procedure.

(4) The personal hearing of the applicant shall be mandatory in the court procedure if the applicant is in asylum detention. The place of the personal hearing shall be the place where the detention is being performed. The personal hearing may be dispensed with if

a) the applicant cannot be summoned from his/her place of accommodation,

b) the applicant has departed for an unknown destination, or

c) the subsequent application is based on the same factual grounds as the previous one.

(5) The court may not alter the decision of the refugee authority; it shall annul any administrative decision found to be against the law - with the exception of the breach of a procedural rule not affecting the merits of the case – and it shall order the refugee authority to conduct a new procedure if necessary.

(6) No legal remedy shall lie against the court’s decision concluding the procedure.

Recognition as Refugee out of Special Consideration

69 §

(1) The Minister shall proceed ex officio in the course of the recognition of an applicant as a refugee out of special consideration.

(2) No legal remedy shall lie against the decision of the Minister.

Dublin procedure

70 §

(1) If, during the procedure, the conditions set forth for the application of the Dublin procedure exist, the provisions laid down in Sections 49 (2) - (9) and 50 (1) and (2) shall apply mutatis mutandis.

(2) If the Member State contacted does not take over the applicant and the assessment of the application, the procedure shall be continued.

Rules Relating to the Applications of Beneficiaries of Temporary Protection

71 §

(1) If a beneficiary of temporary protection submits an application for recognition as a refugee or beneficiary of subsidiary protection prior to the expiry of the term of temporary protection, the legal status of the temporarily protected person shall be maintained during the assessment of the application as well as in the event of the refusal of the application until the expiry of the term of temporary protection, provided that his/her recognition as a beneficiary of temporary protection has not been revoked.

(2) An application submitted on the basis of Subsection (1) shall be assessed even if temporary protection ceases during the procedure aimed at recognition as a refugee or as a beneficiary of subsidiary protection. In this case, the applicant shall have the rights and obligations stipulated in Section 5.

Procedure conducted at the border

71/A §

- (1) If the foreigner submits his/her application
 - a) before entering the territory of Hungary, or
 - b) following his/her escort through the gate of the facility established for the protection of the order of the state border as defined by the Act on the State Border following his/her apprehension within an 8 kilometre area of the border line or border sign of the external border as defined by Article 2 (2) of Regulation (EU) 2016/399 on a Union Code on the rules governing the movement of persons across borders in the transit zone, the provisions of this Chapter shall apply with the derogations specified in this Section.
- (2) The applicant shall not be entitled to the rights stipulated in Section 5 (1) a) and c) during the procedure conducted at the border.
- (3) The refugee authority shall decide on the admissibility of the application with priority but not later than within 8 days. The refugee authority shall provide for the immediate communication of the decision made in the procedure.
- (4) After the expiry of 4 weeks from filing the application, the alien police authority shall authorise entry on the basis of the law.
- (5) If the application is not inadmissible, the alien police authority shall authorise entry on the basis of the law.
- (6) If the applicant's entry to the territory of Hungary has been authorised, the refugee authority shall proceed with the procedure according to the general rules.
- (7) The rules applicable to the procedure conducted at the border shall not apply to a person requiring special treatment.
- (8) No specialised authority shall take part in the procedure conducted at the border.
- (9) In the review procedure a court clerk shall be entitled to act, inclusive of making the decision on the merits of the case.
- (10) The court shall hold the personal hearing at the tranzit zone. The personal hearing can also be performed using a telecommunications network if the judge – court clerk – conducts the hearing from the location of the court or from another location outside of the tranzit zone. In such case, the direct link will be provided by using a device transmitting video images and sound at the same time.
- (11) The court's decision concluding the procedure shall be communicated to the applicant by way of a public announcement if the applicant has not indicated an address for delivery or the delivery to the indicated address is unsuccessful for any reason or if there is no prospect of successful delivery. The announcement will be published – derogating from the rules of the Civil Procedure Code - by way of placing it for fifteen days on the notice board of the transit zone where the application for review was submitted. The announcement will be in the mother tongue of the applicant or in another language that s/he understands.

(12) With regard to communicating the court's decision on the conclusion of the procedure by way of public announcement, the document will be presumed to be delivered on the fifteenth day of the placement on the notice board of the transit zone.

(13) As a derogation from the requirements specified in the Civil Procedure Code, the announcement shall contain a warning about the legal consequences under Subsection (12), together with information on the exact and identifiable location within the transit zone where the addressee can take the document to be delivered.

14) If delivery by way of announcement is needed in the review procedure for any other reason, the provisions of Subsections (11)-(13) will apply with respect to the applicant, however, the court's document will be presumed to be delivered on the third day of placing the announcement.

(15) Decisions made by the court shall be communicated to the applicant in his/her mother tongue or a language understood by him/her.

Airport Procedure

72 §

(1) If a foreigner submits his/her application at an international air traffic border crossing point prior to entry in the territory of Hungary, the provisions of the present Chapter shall apply with the differences laid down in the present Section.

(2) The applicant shall not be entitled to the rights stipulated in Section 5 (1) a) and c) during the airport procedure.

(3) The refugee authority shall provide for the placement of the applicant in the accommodation facility located in the transit area of the airport.

(4) In the airport procedure, the assessment referred to in Section 47 (1) shall be completed within eight days. The refugee authority shall provide for the immediate communication of the decision made in the procedure.

(5) The applicant shall be authorized to enter the territory of Hungary if

a) the application is not inadmissible or the criteria for assessing the application in an accelerated procedure do not exist; or

b) a period of eight days has elapsed since the submission of the application..

(6) The provisions applicable in airport procedure shall not apply if the application is submitted by a person in need of special treatment.

Revocation of Recognition as Refugee or Beneficiary of Subsidiary Protection

72/A §

(1) The procedure for revoking the recognition of the refugee or beneficiary of subsidiary protection status shall start *ex officio* – except in the case of a renunciation of the status in written form.

(2) The provisions set forth in Chapter VII of the present Act shall apply accordingly to the procedure for revoking the recognition of the refugee or beneficiary of subsidiary protection status.

73 §

(1) If the refugee authority establishes upon the revision of the existence of the criteria of recognition as a refugee or beneficiary of subsidiary protection that recognition is to be revoked, it shall notify the refugee or the beneficiary of subsidiary protection thereof in writing, in his/her mother tongue or in another language understood by him/her.

(2) Simultaneously with the above notification, the refugee authority shall call upon the refugee or the beneficiary of subsidiary protection to state the reasons, within the time limit set, which verify or substantiate the existence of the criteria of recognition as a refugee or beneficiary of subsidiary protection and that no reason for exclusion exists.

(3) The refugee authority shall interview the refugee or the beneficiary of subsidiary protection in person. An interview shall be dispensed with if the foreigner

a) cannot be summoned from his/her place of residence,

b) has departed for an unknown destination, or

c) fails to present him/herself in the interview upon written call and fails to justify his/her reasons to stay away.

74 §

(1) If the refugee authority establishes that no circumstance giving rise to the revocation of recognition exists, it shall discontinue the procedure. No legal remedy shall lie against a resolution discontinuing the procedure.

(2) If the refugee authority establishes the existence of any of the circumstances set forth in Section 11 (2) in the case of a refugee or in Section 18 (2) in the case of a beneficiary of subsidiary protection, it shall revoke the recognition as a refugee or a beneficiary of subsidiary protection.

75 §

(1) A decision revoking recognition as a refugee or a beneficiary of subsidiary protection maybe subject to court review, unless the revocation is based on the waiving of the legal status by the holder.

(2) The request for review shall be submitted to the refugee authority within eight days of the communication of the decision. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay.

(3) The court shall decide on the request for review in a litigious (adversarial) procedure within sixty days of receipt of the request for review. The court's review shall include a complete examination of both the facts and the legal aspects as they exist at the date when the court's decision is made.

(4) The personal hearing of the applicant shall be mandatory in the court procedure. The personal hearing shall be dispensed with if the foreigner

a) cannot be summoned from his/her place of residence, or

b) has departed for an unknown destination.

(5) No legal remedy shall lie against a decision to close the procedure by the court.

Review of the existence of the conditions for recognition as a beneficiary of subsidiary protection

75/A §

For the review whether the conditions for recognition as a beneficiary of subsidiary protection exist, the provisions of Chapter VII and Sections 56–68 shall apply accordingly.

Chapter IX

*PROCEDURE AIMED AT RECOGNITION AS BENEFICIARY OF TEMPORARY
PROTECTION*

76 §

(1) Based on the Minister's proposal, the Government shall adopt a normative decision with respect to the recognition of eligibility for temporary protection as defined in Section 19 b).

(2) The decision under Subsection (1) shall state the term upon the expiry of which or the fact upon the occurrence of which temporary protection shall cease.

(3) In the procedure aimed at recognition as a beneficiary of temporary protection, the refugee authority and the court shall not obtain the report referred to in Section 41 (2).

(4) The provisions set forth in Subsections (1) - (3) shall duly apply to a decision regarding the maintenance of temporary protection following the expiry of the term or the occurrence of the fact determined in Section 24 (1).

77 §

- (1) A person seeking recognition as a beneficiary of temporary protection (in the present Chapter hereinafter referred to as the “applicant”) shall verify or substantiate that s/he forms part of a group of persons fleeing *en masse* who are entitled to protection under Section 19 a) or b).
- (2) An application for recognition as a beneficiary of temporary protection (in this Chapter hereinafter referred to as the “application”) is unfounded if the applicant
 - a) fails to verify or substantiate that s/he is a member of a group entitled for protection under Section 19 a) or b), or
 - b) his/her recognition as a beneficiary of temporary protection is excluded based on Section 21.
- (3) A procedure aimed at the recognition of a foreigner as a beneficiary of temporary protection shall be completed within fortyfive days. The administrative time limit may not be extended.
- (4) In the procedure aiming at the recognition as temporarily protected person, the provisions of Chapter VII shall apply accordingly.

78 §

- (1) In the course of the procedure aimed at recognition as a beneficiary of temporary protection, the refugee authority shall obtain the position of the law enforcement agency determined in the decree on the implementation of the present Act as expert authority.
- (2) The law enforcement agency determined in the decree on the implementation of the present Act shall meet the request of the refugee authority within thirty working days. The administrative time limit of the procedure of the expert authority may not be extended.

79 §

- (1) If the refugee authority establishes that the application is unfounded, it shall reject the application.
- (2) Legal remedy shall lie against the decision of the refugee authority rejecting the application in accordance with the provisions set forth in Section 68.
- (3) Simultaneously with the communication of the decision positively responding to the application, the refugee authority shall inform in writing the foreigner recognised as a beneficiary of temporary protection of his/her rights and obligations in his/her mother tongue or in another language understood by him/her.

Revocation of Recognition as Temporarily Protected Person

79/A §

(1) The procedure aiming at the revocation of the recognition of a foreigner as a beneficiary of temporary protection shall start ex officio except the case set forth in Section 25 (2) a) and c).

(2) In the procedure aiming at the revocation of the recognition of a foreigner as a beneficiary of temporary protection the provisions of Chapter VII shall apply accordingly.

80 §

(1) If the refugee authority establishes the existence of any of the circumstances set forth in Section 25(2), it shall revoke the recognition as a beneficiary of temporary protection.

(2) Legal remedy shall lie against the decision withdrawing recognition as a beneficiary of temporary protection, except as set out in Subsection (3), in accordance with the provisions set forth in Section 75.

(3) If recognition as a beneficiary of temporary protection was revoked on the basis of Section 25 (2)a), no legal remedy shall lie against the decision revoking recognition.

Crisis situation caused by mass immigration

80/A §

(1) A crisis situation caused by mass immigration can be declared if

a) the number of those arriving in Hungary and seeking recognition exceeds

aa) five hundred people a day as a month's average, or

ab) seven hundred and fifty people per day as the average of two subsequent weeks, or

ac) eight hundred people per day as a week's average,

b) the number of people staying in the transit zone in Hungary - not considering those contributing to taking care of the foreigners - exceeds

ba) one thousand people per day as a month's average, or

bb) one thousand five hundred people per day as the average of two subsequent weeks, or

bc) one thousand six hundred people per day as a week's average.

c) in addition to the instances specified in paragraphs a) and b), the development of any circumstance related to the migration situation directly endangering the public security, public order or public health of any settlement, in particular the breakout of unrest or the occurrence of violent acts in the reception centre or another facility used for accommodating foreigners located within or in the outskirts of the settlement concerned.

(2) A crisis situation caused by mass immigration can be declared in a Government Decree on the proposal by the minister as initiated by the National Commander of the Police and the head of the refugee authority.

A crisis situation caused by mass immigration can be declared for the entire territory or defined areas of Hungary.

(3) The existence of the preconditions of a crisis situation caused by mass immigration shall be monitored on a continuous basis by the National Commander of the Police and the head of the refugee authority and if the preconditions for declaring a crisis situation caused by mass immigration do not exist, they shall initiate with the Minister to propose the Government to repeal the Government Decree under Subsection (2). The minister submits his/her proposal to the Government without delay and the Government shall discuss as a matter of priority – and if the preconditions for declaring a crisis situation caused by mass immigration do not exist – shall repeal the Government Decree specified in Subsection (2).

(4) The Government Decree specified in Subsection (2) shall remain in force for a maximum of six months, with the exception of an extension of its force by the Government. The Government may extend the force of the Government Decree specified in Subsection (2) if the preconditions for declaring a crisis situation caused by mass immigration exist in the time of extension.

(5) The Government shall report on the extension of the force of the Government Decree specified in Subsection (2) to the Parliament's standing committee dealing with law enforcement.

(6) The rules of Sections 80/B-80/G shall only apply in the territory specified in the Government Decree in accordance with Subsection (2), necessary for handling the causes of the crisis situation caused by mass immigration, to the extent necessary for handling the situation.

Temporary requisitions applicable in a crisis situation caused by mass immigration

80/B §

(1) In a crisis situation caused by mass immigration, any movable item or real property owned or managed by the State or the local government, or owned or used by a company majority owned by the State or owned by a local government can be requisitioned temporarily but for not more than six months by the body involved in handling the crisis situation caused by mass immigration - to the extent necessary for performing its duties - provided that the body concerned can only take such measures necessary for addressing the crisis situation from its own resources with a disproportionately large investment or being in default. Requisitions shall be tolerated by third parties using the real property concerned under any legal title.

(2) Before starting the requisition, the property manager, owner or - if the real property concerned is used by a third party - the user or, in the absence of these, the person exercising the owner's rights (hereinafter jointly: "property manager") shall be informed of the nature of the requisition, its expected duration and provisions for any subsequent compensation for damages.

(3) The affected property manager may raise an objection against the requisition if the foreseeable damage caused by the requisition would significantly exceed the interest of using as indicated by the recipient.

(4) If the recipient fails to accept the objection, s/he shall inform the minister of the objection and his/her own position on the objection, who shall decide on accepting or rejecting the objection within 3 days, in conjunction with the minister in charge of the field of activity of the property manager.

(5) In the event of a situation posing a threat to life, physical integrity or health, the objection has no suspensive effect.

(6) The conditions necessary for requisition existing in the scope of interest of the property manager shall be provided by the property manager, and if they refuse to do so the recipient may request the contribution of the police to enforce the requisition. The property manager shall be obliged to cooperate with the recipient and s/he shall be obliged to provide the recipient with the information related to using the property.

(7) The state of the property before requisition shall be documented in minutes in a way that allows future identification of any damage occurring subsequently. The representative of the property manager shall be obliged to take part in the survey of the state of the property before requisition and s/he shall be entitled to make written comments to the documentation.

(8) Within 15 days of terminating the crisis situation caused by mass immigration, but not later than the expiry of the deadline specified in Subsection (1), the recipient shall return into the possession of the property manager the items of movable and real property used, by restoring – or if it is not possible then without – their original state. During the return, the state of the items of movable and real property requisitioned shall be recorded in the minutes according to Subsection (7).

(9) In the crisis situation caused by mass immigration, the minister may - in agreement with the minister responsible for supervising State property - order a contracting obligation for the companies' majority owned by the State or owned by local governments, with regard to providing services in the field of their scope of activity.

80/C §

(1) Compensation related to the requisition shall be borne by the State.

(2) The property manager may file a claim for compensation for damage related to the requisition or to the provision of the services under the contracting obligation at the county or metropolitan authority office having jurisdiction according to its registered address or their place of residence (hereinafter: government office).

(3) The government office shall have jurisdiction to proceed with the compensation procedure and to determine the amount of compensation. The government office shall request the recipient within 3 days after

filing the claim for compensation, by setting a deadline of 15 days, to make a statement on the well-foundedness of the claim for compensation.

(4) The government office shall proceed within 60 days of filing the claim for compensation.

(5) In the assessment of the amount of the compensation, the following shall be taken into account:

a) the usual fee paid for similar services in the business sphere,

b) the depreciation occurred while using the property handed over under requisition,

c) the cost of professionally restoring or repairing the damage caused to the state of a movable or real property,

d) the trade value at the time of taking over the object of requisition if the object has been lost or destroyed,

e) the material gain lost due to providing the service, less the amount of the fee specified in point a),

f) the amount recovered from insurance policy.

(6) The compensation shall be assessed and paid in monetary form.

(7) There is no appeal against a decision on compensation, but a request for review can be submitted against the decision to the county (metropolitan) court of public administration and labour having jurisdiction according to the location of the government office within 30 days from communicating the decision. The court shall decide upon the request for review according to the provisions of the Civil Procedure Code on public administration lawsuits.

(8) If, due to the extension of the crisis situation caused by mass immigration or for any other reason, the recipient has not returned the real property used within the statutory deadline to the property manager, or when the restitution of the property's original state is impossible or it would imply disproportionate costs, the property manager may request, in an application filed at the government office, that the recipient initiates a procedure of expropriation of the real property.

(9) The application for initiating the procedure of expropriation can be filed upon the expiry of the deadline in the event of a delay of return or within 30 days upon the return in any other case. The provisions of the Act on Expropriation shall apply to the procedure.

Certain provisions of the authority applicable in a crisis situation caused by mass immigration

80/D §

(1) In the event of a crisis situation caused by mass immigration, it will not be necessary to proceed with the official procedures related to constructing, installing and operating facilities for the purpose of accommodating and detaining the persons falling under the scope of this Act and the Act on the entry and

stay of third-country nationals - with the exception of the construction procedure and the expropriation procedure.

(2) In the event of a crisis situation caused by mass immigration, the constructions specified in Subsection (1) shall be considered special types of constructions for national security purposes under the Act on forming and protecting the built environment.

80/E §

In the event of a crisis situation caused by mass immigration

a) the construction, installation and operation of facilities for the purpose of accommodating, serving and detaining the persons specified in Sections 5 (1) and 15/A of the Act LXXXIX of 2007 on the State Border as well as the persons falling under the scope of the Act on Asylum and the Act on the entry and stay of third-country nationals,

b) the building of public utilities and their connectors serving the reception of persons falling under the scope of the Act on Asylum and the Act on the entry and stay of third-country nationals, and

c) the procurements directly related to performing asylum and immigration policing duties shall be considered as procurements connected to the fundamental security of the country, therefore the provisions of the Act on Public Procurements do not need to be applied.

80/F §

In the event of a crisis situation caused by mass immigration, the state body for healthcare administration shall examine without delay whether the statutory conditions for ordering emergency epidemic measures exist.

80/G §

In the event of a crisis situation caused by mass immigration, - according to the instructions of the refugee authority

a) At the request of the minister and on the basis of the decision by the minister responsible for law enforcement the body established for general policing duties and

b) At the request of the minister on the basis of the decision by the minister responsible for defense forces the Hungarian Military

may act in the registration of applications and in carrying out related tasks.

Chapter X

DATA MANAGEMENT

81 §

The refugee authority shall manage the personal details of refugees, beneficiaries of subsidiary and temporary protection, persons with tolerated stay, persons seeking recognition and persons under the scope of Dublin procedure (hereinafter collectively referred to as “persons coming under the effect of the present Act”) and the data related to their stay, the provisions and benefits which they are entitled to as well as any changes therein in the asylum records for the purpose of

- a)* establishment of the existence of the legal status of refugees, beneficiaries of subsidiary or temporary protection and persons with tolerated stay as well as providing the benefits which are attached thereto,
- b)* establishment of the entitlement to the provisions and benefits determined in the present Act and in separate legal rule,
- c)* identification,
- d)* prevention of parallel procedures and
- e)* establishment of the multiple submission of applications.

82 §

For the purposes of the present Chapter, the following details of the persons coming under the effect of the present Act shall qualify as natural identification data:

- a)* surname(s) and first name(s);
- b)* surname(s) and first name(s) at birth;
- c)* former surname(s) and first name(s);
- d)* pseudonym(s);
- e)* place and date of birth;
- f)* sex;
- g)* mother’s surname(s) and first name(s);
- h)* current and former nationality, nationalities or stateless status;
- i)* in case of refugee or beneficiary of subsidiary protection, the personal identifier.

83 §

(1) The refugee records shall contain the following details of a person coming under the effect of the present Act:

- a)* natural identification data;
- b)* facial image;
- c)* fingerprints of persons older than fourteen years of age;

- d)* if the applicant is an unaccompanied minor, this fact,
- e)* if the applicant was taken over in the Dublin procedure, this fact and the date of the take-over,
- f)* the date of submission of the application for recognition as refugee or beneficiary of subsidiary or temporary protection as well as the date of the withdrawal of such application,
- g)* the fact and the date of recognition as refugee, beneficiary of subsidiary or temporary protection and persons with tolerated stay, the name of the authority or court issuing the recognition decision as well as the number of persons covered by the decision,
- h)* the fact, reason and date of rejecting the application for recognition, the discontinuation of the procedure and the revocation of the recognition; the name of the authority or court that made the decision, and the number of persons covered by the decision;
- i)* the fact and reason of the hand-over of the applicant in Dublin procedure, the dates of the resolution providing for the hand-over as well as of the actual hand-over, and the number of persons covered by the resolution,
- j)* marital status, occupation, education of the person seeking recognition;
- k)* place of residence, place of stay and accommodation of the person seeking recognition, as well as the beneficiary of subsidiary and temporary protection receiving provisions and benefits under this Act;
- l)* name of country of origin;
- m)* from among data relating to racial or national affiliation, membership of particular social group, religion or political convictions, those which the person referred to in the reasoning part of his/her application;
- n)* data of identification and travel documents (identification mark and number of document, term of validity, date of issuance, name of issuing authority, place of issuance);
- o)* natural identification data of family members arriving together with him/her and the legal title of residence in Hungary;
- p)* data relating to his/her income and pecuniary situation which were contained in his/her declaration, the document supplied by him/her or in the data supplied by the tax authority and/or the agency fulfilling social security responsibilities.
- q)* the fact and date of the proceedings initiated ex officio;
- r)* the fact and date of the procedural actions carried out during the asylum proceedings on the basis of the present Act;
- s)* the legal base, time limit or duration, location, name of ordering authority, number of decision ordering asylum detention of the person seeking recognition;
- t)* the legal base, number of decision, name of authority ordering a designated place of stay as well as the parameters of the designated place of stay;
- u)* the amount of asylum bail and the date of the deposit, return and transfer to the state;

v) the technical number relevant to the facial image specified by the Act on the registry of facial image analysis and system of facial image analysis.

(1a) The record as per Subsection (1) qualifies as official authentic record in relation to data specified by Subsection (1)c), f-i), n), q) and r).

(2) The refugee authority shall manage for a period of ten years

a) the data stipulated by Subsection (1) a) - o) and q) – r), reckoned from the refusal of the application, or the discontinuation of the procedure or the cessation of recognition;

b) the data determined in Subsection (1) p), reckoned from the cessation of entitlement to the provisions and benefits determined in the present Act and in a separate legal rule or from the repayment of repayable subsidies or from the lapse of a claim.

(3) The purpose of the recording and storage of fingerprints is

a) to implement the provision stipulated by Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice;

b) to ensure access in case of persons seeking recognition older than 12 years of age, based on Articles 21 and 22 of Regulation No. 767/2008/EC of the European Parliament and of the Council of 9 July 2008 (hereinafter: VIS Regulation) concerning the Visa Information system (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation).

(4) The refugee authority shall, without delay, forward the fingerprints recorded for the purpose stipulated by Subsection (3)a) together with the natural identification data and nationality verified by the person seeking recognition or, in the absence of verification, stated by the person seeking recognition, as well as the designated place of accommodation, to the data processing agency referred to in Subsection (5).

(5) For the purposes of the range of data determined in Subsection (4), the agency determined in the ministerial decree shall be the data processing agency. The data manager shall be responsible for forwarding data to the central unit of Eurodac, for receiving and collating them.

(6) The refugee authority shall exclusively manage finger print information recorded for the purpose stipulated by Subsection (3)b) in order to process searches according to Articles 21 and 22 of the VIS Regulation, and shall subsequently delete them with no delay.

(7) Documents issued on the basis of the present Act shall contain the information from among the information registered by the refugee records necessary for the verification of the identity of the holder and the validity of entitlements provided by the document.

(7a) The refugee authority shall manage:

a) the type and identification data of the document issued under this Act and reported as lost, stolen or destroyed, and the fact that an alert has been posted in the Schengen Information System;

b) the date of report, and

c) the name of the body receiving the report.

(7b) The refugee authority shall handle the data laid down in Subsection (7a) until the document issued under this Act is found or, in the absence of this, for 10 years from the report that the document is missing.

(8) The refugee authority shall manage the fingerprints and facial image of the third country national recognized as beneficiary of temporary protection in accordance with EC Resolution 1030/2002/EC (13 June 2002) amended by EC Resolution 380/2008/EC (18 April 2008) on the establishment of the uniform format of residence permits for third country nationals.

(9) The refugee authority shall manage the fingerprints stipulated by Subsection (8) in the context of Article 1 (4) of EC Resolution 1030/2002/EC (13 June 2002) amended by EC Resolution 380/2008/EC (18 April 2008) on the establishment of the uniform format of residence permits for third country nationals, till the end of that.

84 §

(1) For the purpose of ensuring the rights of persons placed at reception centres and establishing their entitlement to the provisions and benefits determined in the present Act and in a separate legal rule, the reception centre shall keep records of the

a) natural identification data of the persons placed at the reception centre and

b) extent and term of the provisions and benefits provided by the reception centre.

(1/a) The record as per Subsection (1) qualifies as official authentic record in relation to data specified by Subsection (1)b).

(2) The data of persons placed at a reception centre shall be managed for a period of one year following final departure from the reception centre.

85 §

(1) For the purpose of establishing entitlement to the provisions and benefits falling within its competence, as determined in the present Act and in separate legal rule, the local government office and local municipality

with competence according to the place of residence, place of stay or accommodation of a refugee, beneficiary of subsidiary or temporary protection shall keep records of the following details of the person falling within his/her competence entitled to benefits and provisions:

- a)* natural identification data;
- b)* place of residence, place of stay or accommodation;
- c)* amount of benefit disbursed;
- d)* date of disbursement, in case of repayable benefit, deadline for repayment.

(2) The record as per Subsection (1) qualifies as official authentic record in relation to data specified by Subsection (1)c) and d).

(3) Agencies disbursing benefits may manage data relating to the income and assets of family members sharing a household with a person entitled to benefits falling within the competence of the local government office and local municipality if the existence of the criteria for the disbursement of benefits may be established on the basis thereof.

(4) Agencies disbursing benefits shall supply data to the refugee authority and the agencies authorised by law to request the data determined in Subsection (2).

(5) The local government office, the local municipality and the agencies disbursing benefits may manage the data specified in Subsections (1) - (3) during the existence of the entitlement to benefits or the obligation of repayment.

86 §

The refugee authority may request data specified by law for the attendance of its responsibilities stipulated by law

- a)* from the records related to persons who committed crime, are under forced measures and/or criminal procedure;
- b)* from the central aliens police records;
- c)* from the records of personal and residence data;
- d)* based on an international treaties, legal acts of the European Community or reciprocity, from foreign crime investigation, aliens police and refugee agencies and international organisations.

87 §

(1) For the purpose of fulfilling their responsibilities determined by law, the following agencies may request data specified by law from the records referred to in the present Chapter:

- a)* court,

- b) public prosecutor's office,*
 - c) investigating authority,*
 - d) national security service,*
 - e) alien police authority,*
 - f) tax and customs authorities,*
 - g) expert authority involved in asylum procedure;*
 - h) authority proceeding in and Minister responsible for nationality cases,*
 - i) authority proceeding in cases related to the records of personal and residence data,*
 - j) labour authority,*
 - k) labour safety authority,*
 - l) state administration agency responsible for health care,*
 - m) registrar authority,*
 - n) guardianship authority,*
 - o) agencies disbursing benefits on the basis of a legal rule or contract and*
 - p) the Responsible Authority, based on the government decree relevant to the processing of funding from the Internal Security Fund and the Asylum, Migration and Integration Fund during the program period of 2014-2020, on those participating in measures financed by the Migration and Integration Fund, in order to ensure individual monitoring as per Article 25 (1) a) of the Regulation (EU) No 514/2014 of the European Parliament and of the Council as well as the facilitation of the controllability of the use of funding.*
- (1a) The Centre for Anti-Terrorism Information and Criminal Analysis may request data from databases defined by the present Chapter in order to carry out risks analysis of passengers' details.
- (2) By communicating the personal data stipulated by law of the natural person recognized as refugee or beneficiary of subsidiary protection, the refugee authority shall inform the local government office that is competent at the future place of residence in order to facilitate their inclusion into the personal and address registry, issuance of the necessary personal identification documents, personal identifier and authority residence card.
- (3) The data managed on the basis of the present Act may be used for statistical purposes and data may be supplied from the records containing such data for statistical purposes in a way which does not permit the identification of individuals.
- (4) The following data may be delivered to the Central Statistical Office in the interest of data management for statistical purposes also in a way which allows for the identification of individuals:
- a) from among data in Section 83(1)a): the surname and first name or names, the former surname and first name or names, place and date of birth, sex, the mother's surname and first names at birth, data related to the current and former nationality or stateless status, and*

b) data stipulated by Section 83 (1) f), j)-l).

(5) The data determined in Section 83 (1) m) may only be delivered to the investigating authority and the public prosecutor's office and, as determined by law, to the court and the national security services.

(6) The refugee authority shall share the facial images of the persons covered by the asylum records together with the technical number relevant to them in order to facilitate the establishment and management of the facial profile, with the facial profile registry.

(7) Agencies specified by the Act on the registry of facial image analysis and system of facial image analysis – according to the conditions stipulated by that Act – may request data from the registry by communicating the technical number stipulated by the Act on the registry of facial image analysis and system of facial image analysis.

(8) The refugee authority – through the application of the technical number stipulated by the Act on the registry of facial image analysis and system of facial image analysis – is obliged to provide agency in charge of maintaining the facial profile registry with data on the entry into the asylum records of a facial image and its changes, with no delay.

87/A §

(1) In order to carry out its tasks arising from its contribution laid down in Section 31/A (10), the police shall process the following particulars of the person seeking recognition and subject to police cooperation:

a) surname(s) and first name(s);

b) surname(s) and first name(s) at birth;

c) former surname(s) and first name(s);

d) place and date of birth;

e) sex;

f) mother's surname(s) and first name(s) at birth;

g) current and former nationality, nationalities or stateless status;

h) photo;

i) medical opinions on his/her health, treatment data of the detainee; and

j) data related to the performance of the asylum detention, in particular to ordering and terminating it.

(2) The police shall handle the particulars specified in Subsection (1) for five years following the termination of the asylum detention.

88 §

(1) The refugee authority may supply data to foreign states and international organisations with respect to

- a)* legal rules and practice applicable in the field of refugee affairs;
- b)* monthly figures concerning the arrival of persons coming under the effect of the present Act and their breakdown by nationality;
- c)* general trends of applications for recognition.

(2) The agency responsible for supplying country information under the supervision of the Minister shall supply data to foreign states and international organisations with respect to the situation in the countries of origin or the countries of previous residence of the persons coming under the effect of the present Act.

(3) The refugee authority shall also disclose data stipulated by Subsection (1) to the agency designated by the Commission of the European Union and to the United Nations High Commissioner for Refugees.

89 §

(1) Based on international treaty or reciprocity, the refugee authority shall supply all information, upon request, to the agencies of foreign states, not including the countries of origin of the persons coming under the effect of the present Act, and to the United Nations High Commissioner for Refugees, and further as part of the transfer of an asylum procedure, which is necessary for the assessment of the application for recognition, provided that the protection of personal data is ensured by the party requesting such data.

(2) The information referred to in Subsection (1) may contain

- a)* the natural identification data of a person coming under the effect of the present Act;
- b)* the data of his/her identity and travel documents (identification mark and number of document, term of validity, date of issuance, name of issuing authority, place of issuance);
- c)* other data necessary for the establishment of the identity of the person seeking recognition;
- d)* data relating to residence permit or visa;
- e)* place and date of submission of application for recognition or any previous application for recognition, status of procedure and contents of decision made on the application;
- f)* data generated by the criminal law procedure.

(3) The grounds which were stated by the person coming under the effect of the present Act to substantiate his/her application may only be disclosed as part of the data disclosure under Subsection (1) with the written consent of the person concerned.

(4) With the exception of the agencies authorised in Subsection (1), personal data may only be disclosed to a foreign agency or person on the basis of the written consent of the person concerned. The person concerned shall be informed of the purpose of utilisation beforehand.

(5) Within 30 days, the refugee authority shall provide information upon request by Member States of the European Union relevant to third country nationals holding an EC settlement permit, whether the person is a refugee or beneficiary of subsidiary protection in Hungary.

(6) In order to implement a request under Section 34(10) of the Act II of 2007 on the entry and stay of third country nationals, the refugee authority shall inform the aliens policing authority, without delay, about the fact of recognition as refugee or beneficiary of subsidiary protection.

89/A §

(1) The Responsible Authority specified by Article 25(1)a) of Regulation (EU) No 514/2014 of the European Parliament and of the Council shall maintain a registry of those who participate in measures financed by the Asylum, Migration and Integration Fund (hereinafter: Fund), in order to ensure the controllability of the use of funding.

(2) The registry shall contain information relevant to the use of funding provided from the Asylum, Migration and Integration Fund as per target groups defined by the government decree, provided by the beneficiaries, as follows:

a) surname(s) and first name(s);

b) place of birth;

c) date of birth;

d) sex;

e) nationality;

f) legal status of refugee, beneficiary of subsidiary and temporary protection, person with tolerated stay or person seeking recognition;

g) the fact if the person belonging to the target group has special needs and if this person is an unaccompanied minor;

h) the serial number of documents issued in Hungary for the person belonging to the target group;

i) the fact if the person belonging to the target group has been taken over through resettlement or relocation.

(3) Agencies conducting verification/control of the use of EU funding may look into the data registered under Subsection (2).

(4) Data entered into the registry may be used for statistical purposes and data may be supplied from the registry for statistical purposes in a way which does not permit the identification of individuals.

(5) The Fund shall manage data specified in Subsection (2) for 10 years following the end of the reimbursement period relevant to EU funding during the period of 2014-2020.

Chapter XI

FINAL PROVISIONS

Provisions of Entry into Force and Discontinuations

90 §

- (1) The present Act shall enter into force on 1 January 2008 with the exception in Subsection (2).
- (2) Section 94 of the present Act shall enter into force on 2 July 2007.
- (3) Simultaneously with the entry into force of the present Act,
- a) Act CXXXIX of 1997 on Asylum,
 - b) Sections 36 and 58 of Act LXXV of 1999 on the Rules of Intervention Against Organised Crime as well as Certain Related Phenomena and Amendments of the Law Related Thereto,
 - c) Act XXXVIII of 2001 on the Amendment of Act CXXXIX of 1997 on Asylum,
 - d) Sections 44 - 56, the preceding chapter title “CHAPTER VII” and “On the Amendment of Act CXXXIX of 1997 on Asylum”, Sections 147 (1) f), 147 (2)d) and 147 (3) of Act XXIX of 2004 on Certain Amendments of the Law Related to Hungary’s Accession to the European Union, the Repeal of Statutory Provisions and the Establishment of Certain Statutory Provisions,
 - e) Section 93 of Act I of 2007 on the Entry and Stay of Persons with the Rights of Free Movement and Stay,
 - f) Section 113 of Act II of 2007 on the Entry and Stay of Third Country Nationals
- shall cease to have effect.

Temporary Provisions

91 §

- (1) The provisions of the present Act shall not apply to asylum procedures in progress at the time of its entry into force.
- (2) Wherever the present Act attaches legal consequences to the subsequent submission of an application, upon establishing the number of previous applications, any applications submitted prior to the entry into force of the present Act shall also be taken into consideration.

92 §

(1) - (2)⁸

⁸ Provisions deleted by Act XXXIX of 2016.

(3) Benefits awarded before 1 January 2014 shall not be disbursed after 28 February 2014.

92/A §

(1) The provisions of this Act established by Act CXXVII of 2015 on the establishment of the temporary border safety closure and the amendment of certain migration related acts (hereinafter: the Amending Act) shall be applied for the assessment of applications for asylum submitted following the entry into force of the Amending Act.

(2) For applications submitted following the entry into force of the Amending Act, wherever the present Act attaches legal consequences to the repeated submission of an application, upon establishing the number of previous applications, any applications submitted prior to the entry into force of the present Act shall also be taken into consideration.

92/B §

(1) The provisions of this Act established by Act XXXIX of 2016 on the Amendment of Certain Acts relevant to Migration and Further Related Acts (hereinafter: the Amending Act) shall be applied to the assessment of applications for asylum submitted following the entry into force of the Amending Act.

(2) For applications submitted following the entry into force of the Amending Act, wherever the present Act attaches legal consequences to the repeated submission of an application, upon establishing the number of previous applications, any applications submitted prior to the entry into force of the Amending Act shall also be taken into consideration.

(3) The provisions of Sections 7/A (1) and 14 (1) shall be applied to persons recognized in the course of applications that had been submitted after the entry into force of the Amending Act.

(4) The provisions of Section 26 (5) – established by the Amending Act - shall be applied to allowances distributed prior to the entry into force of the Amending Act.

(5) The support provided based on this Act or the Government Decree implementing this Act, prior to the effective date of the Amending Act, shall continue to be provided according to the legislation in effect at the time of granting the support; such support shall not be affected by the provisions of the Amending Act.

(6) The provisions of Section 44/A – established by the Amending Act - shall also be applied to applications submitted prior to the entry into force of the Amending Act.

Provisions of Authorisation

93 §

(1) The Government is hereby authorised to establish the following in a decree:

- a)* the detailed rules of the asylum procedure;
- b)* the detailed rules relevant to the transfer of asylum procedures to foreign refugee authorities as well as to the receipt of asylum procedures from foreign refugee authorities;
- c)* the types of provisions and benefits due to persons seeking recognition, refugees, beneficiary of subsidiary and temporary protection and the criteria of their availability;
- d)* the rules governing the reimbursement of the costs of the use of provisions and benefits;
- e)* the range of documents of persons seeking recognition, refugees, beneficiaries of subsidiary and temporary protection;
- f)* the content and form of the document for the persons seeking recognition, refugee, beneficiaries of subsidiary and temporary protection;
- g)* the detailed procedural rules of the issuance of travel documents to refugees, beneficiaries of subsidiary and temporary protection;
- h)* the designation of the agency in charge of providing country information;
- i)* the criteria of financial assistance that may be provided to ensure the expenses related to the travel in case of repatriation and settlement in a third country.
- j)* to declare a crisis situation caused by mass immigration and to establish the rules related to declaring, having and ending a crisis situation caused by mass immigration.

(1a) The Government is hereby authorised to assign the authorities attesting the authenticity of the data storage devices containing the biometric data of the documents entitling residence issued on the basis of Council Regulation 380/2008/EC of 18 April 2008 modifying Council Regulation 1030/2002/EC of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

(2) The Government is hereby authorised to establish the lists of countries of origin and third countries declared by Hungary to be safe at national level.

(2a) The Government is hereby authorised to establish by decree the number of foreigners that can be recognized as refugees in a year, based on Section 7(5).

(3) The Minister is hereby authorised to

- a)* determine in a decree the structure of the organisational system, tasks and operating procedures of refugee affairs;
- b)* designate in a decree the agency authorised to process the data of the refugee records and the data referred to in Section 83(3);
- c)* determine the detailed rules relating to the data supply necessary for the operation of the system relating to early warning, preparedness and crisis management pursuant to Article 33 of Regulation 604/2013/EU of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for

determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) and to appoint the responsible authorities;

d) determine the amount of asylum bail, the procedural rules relevant to the deposit of the asylum bail and the management of the asylum bail, furthermore

e) set out detailed regulations for the implementation of asylum detention.

(4) In the crisis situation caused by mass immigration the minister is hereby authorized to order in a decree - in agreement with the minister responsible for supervising State property - a contracting obligation for the companies majority owned by the State or owned by local governments, with regard to providing services in the field of their scope of activity.

94 §⁹

Compatibility with European Union Law

95 §

(1) The present Act serves partial compatibility with the following Community legal Acts:

a) Resolution of the ministers of Member States of the European Communities responsible for immigration of 30 November 1992 on manifestly unfounded applications;

b) Resolution of the ministers of Member States of the European Communities responsible for immigration of 30 November 1992 on a harmonised approach to questions concerning host third countries;

c) Resolution of the ministers of Member States of the European Communities responsible for immigration of 30 November and 1 December 1992, London, on countries in which there is generally no serious risk of persecution;

d) Council resolution of 20 June 1995 on minimum guarantees for asylum procedures;

e) Council resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries;

f) Council resolution of 25 September 1995 on burden-sharing with regard to the admission and residence of displaced persons enjoying temporary protection;

g) Joint Position of the Council of 4 March 1996 on the Harmonised Application of the Definition of the Term "Refugee" in Article 1 of the Geneva Convention of 28 July 1951 Relating to the Status of Refugees;

h) Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;

⁹ Provision deleted by Act XXXIX of 2016

i) Articles 2 d)-e), h)-j), 3-5, 7-8, 10-11 and 13-22 of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of person seeking recognition, together with the implementation decrees of this Act;

*j*¹⁰

k) Articles 3, 6-12, 15-28, 32, 34 (3) a), 35 and 37-39 of Council Directive 2005/85/EC of 1 December 2005 on minimum standards of procedures in Member States for granting and withdrawing refugee status, together with the implementation decrees of this Act;

l) Council Regulation 380/2008/EC of 18 April 2008 modifying Council Regulation 1030/2002/EC of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (Sections 22 and 83);

m) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents;

n) Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to persons enjoying international protection [Section 89 (5)-(6)];

o) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugee or for persons eligible for subsidiary protection, and for the content of the protection granted;

p) Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection;

q) Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection.

r) 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.

(2) The present Act establishes provisions necessary for the implementation of the following Community legal acts:

a) Council and European Parliament Regulation 767/2008/EC of 9 July 2008 on the visa information system (VIS) and the exchange of information by Member States concerning the visa entitling the holder for short term residence (VIS Regulation) [Sections 35 and 83];

b) European Parliament and Council Regulation 603/2013/EU of 26 June 2013 amending Regulation (EU) No. 1077/2011 on the establishment of 'Eurodac' for the comparison of fingerprints and for the establishment of a European Agency for the operational management of large-scale IT systems in the area of freedom,

¹⁰ Provision discontinued

security and justice, for the effective application of Regulation (EU) 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes,

c) European Parliament and Council Regulation 604/2013/EU of 26 June 2013 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 or a stateless person.

d) Commission Implementing Regulation 118/2014/EU of 30 January 2014 amending Regulation 1561(*sic!*)/2003/EC laying down detailed rules for the application of Council Regulation 343/2003/EC establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national.

e) Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

f) Regulation (EU) No 514/2014 of the European Parliament and of the Council of 16 April 2014 laying down general provisions on the Asylum, Migration and Integration Fund and on the instrument for financial support for police cooperation, preventing and combating crime, and crisis management.