

Act II of 2007

on the Entry and Stay of Third-Country Nationals

With a view to partaking in the progressive establishment of an area of freedom, security and justice, and to promoting the social and economic development and advancement of countries within and outside the borders of the European Union, Parliament has adopted the following Act - with due consideration of the provisions of Article 58 of the Constitution - concerning the entry and stay of third-country nationals:

Chapter I

General Provisions

Section 1

- (1) The Republic of Hungary shall ensure the right of entry, exit and stay of third-country nationals in accordance with the provisions of this Act.
- (2) The right of entry, exit and residence of third-country nationals may be restricted in accordance with the provisions set forth in this Act.
- (3) This Act - with the exceptions set out in Subsections (4)-(5) - shall not apply to persons who have the right of free movement and residence under specific other legislation.
- (4) The persons referred to in Subsection (3) of this Section, if not nationals of any Member State of the European Union, shall be subject to the provisions of Chapter IV of this Act pertaining to EC permanent residence permits.
- (5) The provisions of this Act shall apply to the persons referred to in Subsection (3) if they are third-country nationals by definition of specific other legislation, and if they apply for authority to reside specified in this Act following termination of their right of residence specified in specific other legislation.

Section 2

For the purposes of this Act:

- a)* 'third-country national' shall mean any person who is not a Hungarian citizen or is a stateless persons, other than the persons referred to in Subsection (3) of Section 1;
- b)* 'stateless person' shall mean a person who is not recognized as a citizen by any country under his/her national law;
- c)* 'Schengen State' shall mean any Member State of the European Union applying in full the Schengen acquis defined in Article 1 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on the European Union, to the Treaty establishing the European Community and to the Treaty establishing the European Atomic Energy Community (hereinafter referred to as "Schengen Protocol") and in Council Decision 1999/435/EC, as well as the measures adopted by the institutions of the European Union in these fields, and any other State that is in association with the implementation, application and development of the Schengen acquis by virtue of Article 6 of the Schengen Protocol within the meaning of the Agreement concluded with the Council of the European Union;
- d)* 'family member' shall mean:

da) the spouse of a third-country national;

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

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

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

e) 'unaccompanied minor' shall mean any third country national below the age of eighteen, who arrive on the territory of the Republic of Hungary unaccompanied by an adult responsible for them whether by law or custom, for as long as they are not effectively in the care of such a person, including minors who are left unaccompanied after they entered the territory of the Republic of Hungary;

f) 'exile' shall mean any person who is provided temporary shelter and may not be returned to the country of his/her nationality, or in the case of a stateless person to the country of domicile, for fear of being subjected to capital punishment, torture or any other form of cruel, inhuman or degrading treatment, and there is no safe third country offering refuge, and who is not entitled to asylum or treatment as a stateless persons, nor to any subsidiary form of protection or temporary protection;

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

h) 'carrier' shall mean any natural or legal person, or business association lacking the legal status of a legal person who or which professionally undertakes transportation of persons;

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

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

k) 'employer' shall mean any natural or legal person, or business association lacking the legal status of a legal person, who provides employment to a third-country national;

l) 'host' shall mean any natural or legal person, or business association lacking the legal status of a legal person, who undertakes a commitment in a letter of invitation - with an official certificate affixed - to provide room and board and financial support for the invited third-country national during his/her stay in the territory of the Republic of Hungary, and, unless an international treaty provides otherwise, to cover the costs of medical care and the costs of exit of such third-country national.

Section 3

The following persons shall be considered third-country nationals:

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

b) any person who is unable to substantiate that he/she has the right of free movement and residence under specific other legislation.

Section 4

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

Section 5

Of the provisions of this Act only those contained in Chapter IV as pertaining to national permanent residence permits shall apply to the third-country nationals recognized by the Hungarian refugee authority as refugees or having granted subsidiary or temporary protection under specific other legislation.

Chapter II

Regulations for Stays Not Exceeding Three Months Within a Six-Month Period

General Rules

Section 6

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

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

Section 7

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

Visas for a Stay Not Exceeding Three Months

Section 8

(1) Visas for a stay not exceeding three months are as follows:

a) airport transit visa, which entitles its holder to enter the international areas of the airport and to remain there until the departure of the flight to the destination country;

b) transit visa, for single, double or multiple entry, and transit for maximum five days;

c) short-stay visa, for single, double or multiple entry, and stays not exceeding three months.

(2) Visas for a stay not exceeding three months are valid for a maximum of five years.

Section 9

(1) Visas for a stay not exceeding three months may be granted to third-country nationals who satisfy the requirements set out in Article 5 (1) *a*), *c*) and *e*) of the Schengen Borders Code.

(2) Visas for a stay not exceeding three months may be granted - in exceptional cases - on humanitarian grounds, on grounds of national interest or because of international obligations, to a third-country national who fails to comply with either of the requirements set out in Article 5 (1) *a*), *c*) and *e*) of the Schengen Borders Code.

(3) Visas for a stay not exceeding three months shall be refused, or if already issued shall be withdrawn from, the third-country nationals:

a) who fail to comply with either of the requirements set out in Article 5 (1) *a*), *c*) and *e*) of the Schengen Borders Code;

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

c) who attempted to mislead the competent authority as to the purpose of entry and stay.

(4) Transit visas and short-stay visas issued by any Schengen State shall be withdrawn if the holder fails to comply with either of the requirements set out in Article 5 (1) *a*), *c*) and *e*) of the Schengen Borders Code.

(5) By way of derogation from what is contained in Subsection (4), a transit visa or short-stay visa issued by another Schengen State shall not be withdrawn if the only grounds for withdrawal is non-compliance with Subparagraph *e*) of Article 5 (1) of the Schengen Borders Code.

(6) In the cases defined by the minister in charge of immigration, the minister in charge of foreign policies, and by the minister in charge of supervising the national security services for reasons of public security and national security, a visa for a stay not exceeding three months may only be granted upon the prior consent of the central visa authority.

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

(8) The resolution adopted in connection with applications for a visa for a stay not exceeding three months or, for the cancellation of visas, may not be appealed.

Section 10

(1) The validity of a visa for a stay not exceeding three months may be extended solely on humanitarian grounds, in connection with gainful employment, for personal reasons or for reasons beyond the applicant's control, provided that:

a) the applicant is able to satisfy the requirements set out in Article 5 (1) *a*) and *c*)-*e*) of the Schengen Borders Code;

b) the facts presented in support of the extension were not available at the time when the visa was issued; and

c) the extension will not result in any changes in the original purpose of the visa.

(2) Upon extension, the period of stay may not exceed:

a) ten days for transit visas,

b) three months for short-stay visas.

(3) The resolution adopted in connection with applications for the extension of visas for a stay not exceeding three months can not be contested.

Section 11

(1) Transit visas and short-stay visas shall be issued with restricted territorial validity if:

a) the competent visa authority grants an exemption - in exceptional cases - from compliance with either of the requirements set out in Article 5 (1) *a)* or *c)-e)* of the Schengen Borders Code on humanitarian grounds, on grounds of national interest or because of international obligations;

b) the competent visa authority grants an exemption - in exceptional cases - from obtaining the consent referred to in Subsection (6) of Section 9 on humanitarian grounds, on grounds of national interest or because of international obligations;

c) the central visa authority grants an exemption - in exceptional cases - from compliance with the requirements set out in Subsection (7) of Section 9 on humanitarian grounds, on grounds of national interest or because of international obligations;

d) the central visa authority consents for the issue of a visa in spite of objection from one or more Schengen States at the time of consultation held according to Subsection (7) of Section 9;

e) the competent visa authority issues a short-stay visa to a person who has exhausted another short-stay visa for a period not exceeding three months within a six-month period from the time of first entry;

f) any Schengen State refuses to recognize the travel document of a third-country national that has already been recognized by the Republic of Hungary.

(2) A visa issued for a stay not exceeding three months shall be restricted in the cases defined under Paragraphs *a)-e)* of Subsection (1) to the territory of the Republic of Hungary, and in the case defined in Paragraph *f)* of Subsection (1) to the territory of the Republic of Hungary and of the Schengen States that recognized the travel document.

Section 12

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

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

Chapter III

Provisions Governing Stays for a Period Longer than Three Months

General Rules

Section 13

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

a) they are in possession of a valid travel document;

b) they are in possession of:

ba) a visa for a stay longer than three months,

bb) a residence permit,

bc) an immigration permit,

bd) a permanent residence permit,

be) an interim permanent residence permit,

bf) a national permanent residence permit, or

bg) an EC permanent residence permit;

c) they are in possession of the necessary permits for return or continued travel;

d) they justify the purpose of entry and stay;

e) they have accommodations or a place of residence in the territory of the Republic of Hungary;

f) they have sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country;

g) they have full healthcare insurance or sufficient financial resources for healthcare services;

h) they are not subject to expulsion or an entry ban, they are not considered to be a threat to public policy, public security or public health, or to the national security of the Republic of Hungary;

i) they are not persons for whom an alert has been issued in the SIS for the purposes of refusing entry.

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

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

Visas for Stays Longer Than Three Months

Section 14

(1) Visas for stays longer than three months are as follows:

a) long-term visa, for single or multiple entry, and stays in the territory of the Republic of Hungary for a period of longer than three months;

b) seasonal employment visa, for single or multiple entry and for employment for a period of longer than three

months and maximum six months;

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

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

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

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

Section 15

(1) Unless otherwise provided for in this Act, visas for stays longer than three months may be granted to third-country nationals who satisfy the requirements set out in Paragraphs *a)*, *c)-h)* of Subsection (1) of Section 13.

(2) Visas for stays longer than three months shall be refused, or if already issued shall be withdrawn from, third-country nationals:

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

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

(3) The resolution adopted in connection with applications for visas for a stay longer than three months or for the cancellation of visas may not be appealed.

Residence Permit

Section 16

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

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

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

Section 17

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

a) have a valid long-term visa or national visa, or

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

Section 18

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

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

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

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

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

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

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

Section 19

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

(2) The following persons may be granted a long-term visa or a residence permit on the grounds of family reunification:

a) family members of persons with refugee status, and

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

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

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

a) their parents who are dependants;

b) their siblings, if they are unable to provide for themselves due to health reasons.

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

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

(7) Family members - unless they have obtained the right of residence on any other grounds - shall be authorized to extend his/her right of residence after five years from the date of issue of his/her first residence

permit, or upon the death of the spouse or the persons with refugee status, and if other requirements for further residence are ensured.

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

(9) Subject to the exception set out in Subsection (10), the validity period for a residence permit granted for the purpose of family reunification shall be three years, and it may be extended by three additional years at a time.

(10) The validity period of a long-term visa or residence permit issued for the purpose of family reunification may not exceed the validity period of the sponsor's long-term visa or residence permit.

Section 20

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

a) to perform work for others under contract of employment - as governed by law - for remuneration, which constitutes subordinate and superior positions;

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

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

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

a) shall have a seasonal employment visa, or

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

c) shall have a long-term visa or a residence permit for the purpose of gainful employment,

d) shall have a long-term visa or a residence permit for the purpose of family reunification,

e) shall have a long-term visa or a residence permit in order to pursue studies.

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

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

(5) The period of validity of a long-term visa or a residence permit issued for the purpose of gainful employment subject to work permit shall correspond to the duration of the work permit.

Section 21

(1) A long-term visa or residence permit may be issued on grounds of pursuit of studies to third-country nationals accepted by an establishment of secondary or higher education accredited in the Republic of Hungary

and admitted to the territory of the Republic of Hungary to pursue as his/her main activity a full-time course of study, or to attend a course in an establishment of higher education, which may cover a preparatory course prior to such education.

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

a) shall correspond to the duration of training, if it is less than two years,

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

Section 22

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

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

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

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

Section 23

(1) Long-term visas or residence permits may be issued for official duty to third-country nationals:

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

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

c) who are journalists;

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

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

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

Section 24

(1) Long-term visa or residence permit may be issued for the purpose of medical treatment to third-country nationals:

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

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

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

Section 25

(1) Long-term visas or residence permits may be issued for the purpose of visit to third-country nationals holding a letter of invitation specified in specific other legislation.

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

Section 26

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

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

(3) A long-term visa issued for the purpose of voluntary service activities shall not constitute any basis for the third-country national to apply for a residence permit.

Section 27

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

a) to engage in activities to preserve and maintain the Hungarian language;

b) to engage in activities intended to preserve cultural and ethnic identity;

c) for the purpose of learning and enlightenment in an establishment of secondary or higher education recognized by the State;

d) for the purpose of furthering family ties, other than family reunification.

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

Section 28

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

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

Section 29

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

a) the person recognized by the Republic of Hungary as a stateless person;

b) the person who has been granted the status of exile by the Republic of Hungary;

c) any third-country national who applied to the refugee authority for asylum, or who applied to the refugee authority for any subsidiary form of protection or temporary protection;

d) any third-country national who was born in the territory of the Republic of Hungary who has been removed from the custody of his guardian having custody according to Hungarian law, and also unaccompanied minors;

e) for substantial national security or law enforcement reasons - by initiative of the national security or law enforcement agency - to any third-country national, or other affiliated third-country nationals on his/her account, who has cooperated with the authorities in a crime investigation and has provided significant assistance to gather evidence.

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

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

b) shall be six months in the case referred to in Paragraph *e)* of Subsection (1), that may be extended by maximum six months at a time.

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

a) any requirement for issue is no longer satisfied;

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

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

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

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

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

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

Certificate of Temporary Residence

Section 30

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

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

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

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

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

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

f) whose entry is authorized under Subsection (2) of Section 13, if he/she does not have any form of authorization to reside in the territory of the Republic of Hungary;

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 31

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

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

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

Chapter IV

Permanent residence

Section 32

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

a) a permanent residence permit issued before the time of this Act entering into force;

b) an interim permanent residence permit;

- c)* a national permanent residence permit;
- d)* an EC permanent residence permit.

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

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

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

(5) Persons with permanent resident status shall be required to register their place of abode and apply for a personal identification document in accordance with specific other legislation.

Section 33

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

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

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

- a)* who has a prior criminal record, until relieved from the detrimental legal consequences related to his criminal record;
- b)* whose residence in the territory of the Republic of Hungary constitutes a threat to national security;
- c)* who is subject to expulsion from or a ban of entry to the territory of the Republic of Hungary.

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

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

Interim Permanent Residence Permit

Section 34

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

permit if seeking admission into the territory of the Republic of Hungary:

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

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

(3) The validity period of an interim permanent residence permit shall be five years maximum, and it may be extended by five additional years at a time.

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

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

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

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

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

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

National Permanent Residence Permit

Section 35

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

- a)* he/she has lawfully resided in the territory of the Republic of Hungary continuously for at least the preceding three years before the application was submitted;
- b)* he/she is a family member of dependent direct relatives in the ascending line - other than the spouse - of a third-country national with immigrant or permanent resident status or who has been granted asylum, and he/she has been living in the same household for at least the preceding one year before the application was submitted;
- c)* he/she is the spouse of a third-country national with immigrant or permanent resident status or who has been granted asylum, provided that the marriage was contracted at least two before the application was

submitted;

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

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

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

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

Section 36

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

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

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

Section 37

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

a) the circumstances serving as basis for the issuance have changed to an extent that the criteria for authorization are no longer satisfied, and if a period of five years has not elapsed from the date of issue of the permit;

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

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

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

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

b) the immigration authority has withdrawn the authority to reside in the territory of the Republic of Hungary of the third-country national exercising parental custody over a minor child who is a third-country national, and

the continued residence of the minor with the other parent with parental custody is not ensured in the territory of the Republic of Hungary;

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

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

EC Permanent Residence Permit

Section 38

(1) EC permanent residence permits may be issued for long-term residence in the territory of the Republic of Hungary to third-country nationals having lawfully resided in the territory of the Republic of Hungary continuously for at least the preceding five years before the application was submitted.

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

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

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

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

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

e) exiles.

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

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

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

(6) Temporary absence from the territory of the Republic of Hungary of less than six consecutive months shall not be deemed as discontinuity of residence, if the combined duration of absence does not exceed three hundred days over a period of five years.

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

Section 39

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

- a)* the third-country national was absent from the territory of the Community for a period of over twelve months;
- b)* the third-country national was granted long-term resident status in another Member State of the European Union;
- c)* the third-country national was absent from the territory of the Republic of Hungary for a period of over six years;
- d)* the third-country national disclosed false information or untrue facts to the immigration authority in the interest of obtaining the permit;
- e)* the third-country national is expelled or excluded.

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

Chapter V

Aliens Policing Regulations Pertaining to Third-Country Nationals

Refusal of Entry and Return

Section 40

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

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

(2) If entry is refused because the third-country national is a subject to an entry ban, the visa issued in accordance with this Act shall be void.

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

Section 41

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

- a)* remain for a maximum period of eight hours on the means of transport that is scheduled to depart to the point of origin or another destination of transit;
- b)* remain in a designated place located in the frontier zone for a maximum period of seventy-two hours, or if having arrived by means of air transport, in a designated place of the airport for a maximum period of eight days; or

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

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

Order to Leave the Territory of the Republic of Hungary

Section 42

(1) The immigration authority, if it finds that a third-country national who has lawfully resided in the territory of the Republic of Hungary no longer has the right of residence, shall adopt a resolution to withdraw the document evidencing right of residence of the third-country national in question, and shall order him/her to leave the territory of the Republic of Hungary.

(2) A deadline of maximum thirty days shall be prescribed to comply with the aforesaid obligation.

(3) The decision for the obligation to leave the territory of the Republic of Hungary cannot be contested autonomously.

(4) The provisions contained in Subsections (1)-(3) shall not apply if:

a) the right of residence was terminated due to the expulsion of the third-country national, or due to an entry ban;

b) the third-country national has expressly refused to leave the territory of the Republic of Hungary.

Expulsion Ordered Under Immigration Laws and Entry Ban

Section 43

(1) The immigration authority shall order the expulsion of, and impose an entry ban on a third-country national under immigration laws, or an entry ban shall be imposed in itself in connection with a third-country national whose whereabouts are unknown or who resides outside the territory of the Republic of Hungary, and who:

a) must not be allowed to enter the territory of the Republic of Hungary under international commitment; or

b) is to be excluded by decision of the Council of the European Union.

(2) The immigration authority may order the expulsion of a third-country national under immigration laws, and impose an entry ban on him/her, or an entry ban shall be imposed in itself in connection with a third-country national whose whereabouts are unknown or who resides outside the territory of the Republic of Hungary, and who:

a) has crossed the frontier of the Republic of Hungary illegally, or has attempted to do so;

b) fails to comply with the requirements set out in this Act for the right of residence;

c) fails to comply with the order to leave the territory of the Republic of Hungary within the prescribed time limit;

d) was engaged in any gainful employment in the absence of the prescribed work permit or any permit prescribed under statutory provision;

e) who has failed to repay the refundable costs of his/her previous return advanced by the State of Hungary;

- f)* whose entry and residence represents a threat to national security, public security or public policy;
- g)* whose entry and residence represents a threat and is potentially dangerous to public health;
- h)* who was returned under international treaty without expulsion to the authorities of another State;
- i)* who has failed to pay any instant fine or a fine imposed in conclusion of a misdemeanor proceeding within the prescribed deadline, and it cannot be recovered or collected.

Section 44

(1) The duration of an entry ban that was ordered independently shall be determined by the immigration authority ordering it. An entry ban may be ordered for a maximum duration of three years, and it may be extended by maximum three additional years at a time. An entry ban shall be cancelled forthwith when the grounds for ordering it no longer exist.

(2) An entry ban ordered independently may not be appealed.

Section 45

(1) The immigration authority shall have regard for the following factors before adopting an expulsion order under immigration laws:

- a)* any threat to national security, public security, public policy or public health, in view of the gravity and nature of the actionable conduct;
- b)* the duration of stay;
- c)* the age and family status of the third-country national affected, possible consequences of his/her expulsion on his/her family members;
- d)* links of the third-country national to the Republic of Hungary, or the absence of links with the country of origin.

(2) Any third-country national who:

- a)* resides in the territory of the Republic of Hungary under immigrant or permanent resident status;
- b)* is bound to a third-country national residing in the territory of the Republic of Hungary under immigrant or permanent resident status by marriage or is a family member of such person, and has a residence permit,

may be expelled only if his/her continued residence represents a serious threat to national security, public security or public policy.

(3) The provisions of Subsection (2) shall also apply to the immediate family members - defined in specific other legislation - of a third-country national who has applied to the refugee authority for refugee status for the duration of the application pending, and those with refugee status or to whom any subsidiary form of protection or temporary protection was granted.

(4) Third-country nationals who are victims of trafficking in human beings may only be expelled during the time of deliberation they are afforded only if their residence in the territory of the Republic of Hungary constitutes any threat to national security, public security or public policy.

(5) An unaccompanied minor may only be expelled if adequate protection is ensured in his country of origin or in a third country by means of reuniting him with other members of his family or by state or other institutional care.

(6) The immigration authority may abstain from ordering expulsion under immigration laws on the grounds specified in Paragraphs *a)*, *b)* and *d)* of Subsection (2) of Section 43, if the third-country national affected agrees to leave the territory of the Republic of Hungary on his/her own accord. The immigration authority - having regard to Subsection (2) of Section 42 - shall prescribe the time limit for voluntary exit, and this decision may not be appealed.

(7) Expulsion may not be ordered under immigration laws, and entry ban may not be ordered independently against a third-country national who was convicted for a crime in the court of the law, yet the sentence did not include expulsion in any form, neither as a principal punishment nor as an ancillary punishment.

Section 46

(1) Expulsion orders shall specify:

- a)* the criteria weighted in accordance with Section 45;
- b)* the duration of the entry ban;
- c)* the country to which the person in question is expelled;
- d)* the deadline for leaving the country;
- e)* the border crossing point for leaving the country;
- f)* the obligation for being photographed and fingerprinted.

(2) Expulsion orders may not be appealed; however, a petition for judicial review may be lodged within eight days of the date when the resolution was delivered. The court shall adopt a decision within fifteen days upon receipt of the petition.

(3) The court may overturn the resolution. The court's decision is final.

Section 47

(1) Unless otherwise prescribed in this Act, an entry ban shall be ordered in conjunction with expulsion ordered under immigration laws, for duration of between one year and ten years.

(2) The duration of the entry ban ordered in conjunction with expulsion shall apply from the date of execution of the expulsion.

(3) Third-country nationals subject to an entry ban may enter the territory of the Republic of Hungary only upon the special consent of the ordering authority.

Section 48

(1) Expulsion measures shall be carried out primarily in accordance with a readmission agreement.

(2) In order to secure the enforcement of an expulsion measure the immigration authority shall be authorized to confiscate the travel document of the third-country national affected; this action cannot be contested.

(3) Enforcement of an expulsion measure may be suspended until the necessary means and conditions are secured, i.e. until the travel document, visa, transport ticket is obtained. The decision ordering suspension cannot be contested.

Expulsion by the Court

Section 49

(1) Where expulsion is ordered by the court it shall be carried out by the immigration authority.

(2) The court or the penal institution shall forthwith notify the immigration authority to carry out the expulsion when it becomes final.

(3) The immigration authority, upon receipt of the notice referred to in Subsection (2), shall order the expulsion to be enforced.

Costs of Expulsions

Section 50

(1) The costs associated with expulsion shall be borne by the person expelled or - if lacking the financial means necessary - by his/her host.

(2) In order to secure the costs of departure, the competent authority may seize the travel ticket if the third-country national in question has one, or - if sufficient financial means cannot be ensured otherwise - may confiscate his money in the amount as is required to purchase the ticket and to obtain a travel document; these actions may not be contested.

(3) Where the expulsion measure cannot be carried out because neither the person being expelled nor his/her host has the financial means necessary, the competent authority shall advance the costs of departure.

(4) The costs advanced according to Subsection (3) shall be repaid:

a) by the person expelled;

b) by the host if the person affected was invited;

c) by the employer, if expulsion was ordered under Paragraph *d)* of Subsection (2) of Section 43;

d) by the research organization if the person affected was admitted for the purposes of carrying out a research project and if expulsion was ordered under Paragraph *b)* or *c)* of Subsection (2) of Section 43.

(5) The liability of the research organization mentioned in Paragraph *d)* of Subsection (4) shall remain in effect for six months following termination of the hosting agreement.

Prohibition of Return, and for Ordering and Carrying Out Expulsion Measures

Section 51

(1) Third-country nationals may not be returned or expelled to the territory of a country that fails to satisfy the criteria of safe country of origin or safe third country regarding the person in question, in particular where the third-country national is likely to be subjected to persecution on the grounds of his/her race, religion, nationality, social affiliation or political conviction, nor to the territory or the frontier of a country where there is substantial reason to believe that the expelled third-country national is likely to be subjected to capital

punishment, torture or any other form of cruel, inhuman or degrading treatment or punishment (non-refoulement).

(2) Any third-country national whose application for refugee status is pending may only be returned or expelled if his/her application is refused by final and executable decision of the refugee authority.

Section 52

(1) The immigration authority shall take into account the principle of non-refoulement in the proceedings relating to the ordering and enforcement of expulsion measures.

(2) A ban for the enforcement of expulsion measures ordered by the court may be imposed by the sentencing judge.

(3) Where Subsection (2) applies, the person expelled may appeal directly to the sentencing judge to declare the expulsion non-enforceable. If the person expelled submits his request addressed to the sentencing judge to the immigration authority, the immigration authority shall forward it without undue delay to the competent sentencing judge with its opinion attached.

(4) The enforcement of expulsion shall be suspended for the duration of the proceeding of the sentencing judge.

Photographing and Fingerprinting

Section 53

(1) With a view to avoiding any overlap in proceedings and for establishing the identity of third-country nationals, the authority ordering the obligation to leave the territory of the Republic of Hungary, ordering expulsion under immigration laws, compulsory confinement, entry ban, detention under immigration laws or carrying out the expulsion ordered by the court shall take the fingerprint and photograph of the third-country national affected.

(2) The above-specified third-country national shall submit to having his/her fingerprint and a photograph of his/her face taken.

Detention

Section 54

(1) In order to secure the expulsion of a third-country national the immigration authority shall have powers to detain the person in question if:

a) he/she is hiding from the authorities or is obstructing the enforcement of the expulsion in some other way;

b) he/she has refused to leave the country, or, based on other substantiated reasons, is allegedly delaying or preventing the enforcement of expulsion;

c) he/she has seriously or repeatedly violated the code of conduct of the place of compulsory confinement;

d) he/she has failed to report as ordered, by means of which to forestall conclusion of the pending immigration proceeding;

e) he/she is released from imprisonment as sentenced for a deliberate crime.

(2) Detention under immigration laws shall be ordered by way of a formal resolution, and shall be carried out

when communicated.

(3) Detention under immigration laws may be ordered for a maximum duration of seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the third-country national's departure, or for maximum thirty days.

(4) Detention ordered under immigration laws shall be terminated immediately:

a) when the conditions for carrying out the expulsion are secured;

b) when it becomes evident that the expulsion cannot be executed; or

c) after six months from the date when ordered.

(5) In the application of Paragraph *c)* of Subsection (4), the duration of detention prior to expulsion shall be included in the duration of detention.

(6) In connection with the termination of detention under Paragraphs *b)* and *c)* of Subsection (4), the immigration authority ordering the detention shall designate a compulsory place of confinement for the third-country national affected.

Section 55

(1) The immigration authority may order the detention of the third-country national prior to expulsion in order to secure the conclusion of the immigration proceedings pending, if his/her identity or the legal grounds of his/her residence are not conclusively established.

(2) Detention prior to expulsion shall be ordered by way of a formal resolution, and shall be carried out when communicated.

(3) Detention prior to expulsion may be ordered for a maximum duration of seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the third-country national's identity or the legal grounds of his/her residence is conclusively established, or for maximum thirty days.

Section 56

(1) The detention under immigration laws or the detention prior to expulsion (hereinafter referred to collectively as "detention") of a third-country national who is a minor may not be ordered.

(2) Detention shall be terminated immediately when the grounds therefor no longer exist.

Complaints

Section 57

(1) Third-country nationals may not apply for the suspension of proceedings for ordering their detention.

(2) A third-country national placed under detention may lodge a complaint - as a form of remedy, on the grounds of an infringement of the law - against the resolution ordering his/her detention within seventy-two hours from the time when ordered.

(3) The third-country national placed under detention may lodge a complaint in the event of the immigration authority's failure to comply with its obligations set out under Sections 60-61.

(4) The complaint shall be adjudged by the local court of jurisdiction by reference to the place of detention.

(5) According to the court's decision:

a) detention shall be terminated forthwith if declared unlawful;

b) any measure that has been omitted must be carried out, or any infringement must be remedied.

(6) The court shall adopt a decision:

a) immediately for complaints filed under Subsection (2), or simultaneously with the extension of detention beyond the seventy-two-hour time limit;

b) within eight days for complaints filed under Subsection (3).

Extension of the Duration of Detention by Court Order

Section 58

(1) The immigration authority shall file its request for an extension beyond the seventy-two-hour time limit at the local court within twenty-four hours from the time when ordered.

(2) The court may grant an extension of detention under immigration laws for a maximum duration of thirty days at a time. Any additional thirty-day extension of detention under immigration laws may be requested at the court by the immigration authority, where the court must receive the request within eight working days prior to the due date for extension.

(3) The immigration authority shall provide an explanation for the aforesaid request.

Common Provisions for Court Procedures

Section 59

(1) The court shall proceed with a single judge presiding in proceedings concerning complaints and for the extension of detention and shall conclude the case by way of a ruling.

(2) If the court has dismissed a complaint or a motion for extension, another request or motion may not be lodged on the same grounds.

(3) In the court proceedings representation for the third-country national may only be provided by a legal representative.

(4) The court shall appoint a representative *ad litem* for any third-country national or his/her family member who does not understand the Hungarian language and is unable to contract the services of a legal representative on his/her own.

(5) In any case concerning the extension of detention beyond the seventy-two-hour time limit by the court, and in proceedings relating to complaints and further extension of detention the detainee shall be granted a personal hearing upon request.

(6) The hearing may be conducted at the place of detention and in the absence of the third-country national's legal representative.

(7) The court may disregard the holding of a hearing if the third-country national is unable to attend due to

being treated in an in-patient medical institution, or if the complaint or the motion does not originate with a party entitled to do so.

(8) The third-country national and the immigration authority shall present their evidence in writing or verbally during the hearing. Parties shall be given the opportunity to study the evidence presented. If the third-country national is not present, or the proponent authority is not represented, but they have submitted their comments in advance in writing, they will be introduced by the court.

(9) The court's decision shall be delivered to the third-country national affected, and to the immigration authority. If the third-country national has a legal representative or a representative *ad litem*, they shall be informed as well. The court decision shall be announced verbally and shall also be delivered in writing without delay.

(10) The court's decision is final.

(11) The court proceedings are exempt from charges.

Execution of Detention

Section 60

(1) The third-country national placed under detention shall be informed of his/her rights and obligations in his/her native language or another language he/she understands.

(2) If so requested by the third-country national or if so prescribed by a bilateral consular agreement, the authority ordering detention prior to deportation shall promptly inform the Hungarian consular or diplomatic mission of the third-country national concerning his/her detention, the obligation of compulsory confinement, and the extension of the duration of detention via the minister in charge of foreign policies. If consular representation is not available for the third-country national affected, the notice shall be sent to the minister in charge of foreign policies.

(3) As a provisional measure, the authority ordering the detention shall immediately provide for the placement of dependent family members of the third-country national apprehended, who have remained without supervision, and/or for the safeguarding of his/her valuables which have been left unattended.

Section 61

(1) The immigration authority shall carry out the detention in places designated for this purpose.

(2) Men placed under detention shall be housed in separate quarters from women.

(3) Third-country nationals placed under detention shall have the right to:

a) housing and nourishment, have the right to wear their own clothes or shall be provided with seasonal clothing if necessary, and emergency and basic medical care as specified in specific other legislation;

b) consult their legal representative or a member of the consular representation of their host country without any supervision, and to be visited by relatives under supervision;

c) send and receive packages and letters as specified in specific other legislation, and to receive visitors;

d) supplement their diet at their own expense;

e) practice their religion;

- f)* use the educational and cultural facilities of the institution;
- g)* make complaints and present any requests, protests or notifications of common interest;
- h)* spend at least one hour each day outdoors.

(4) Third-country nationals placed under detention shall have the obligation to:

- a)* abide by the house rules of the detention facility, and to obey the instructions received in that respect;
- b)* conduct themselves so as not to injure the rights of other detainees, and not to disturb them;
- c)* take part in cleaning the areas they use, without any compensation;
- d)* subject themselves to any examinations, to permit the searching of their clothing, and not obstruct the confiscation of any contrabands.

Compulsory Confinement

Section 62

(1) The immigration authority shall have powers to order the confinement of a third-country national in a designated place, if the third-country national in question:

- a)* cannot be returned or expelled due to commitments of the Republic of Hungary conferred upon it in international treaties and conventions;
- b)* is a minor who should be placed under detention;
- c)* should be placed under detention, in consequence of which his/her minor child residing in the territory of the Republic of Hungary would be left unattended if he/she was to be detained;
- d)* is released from detention, however, there are still grounds for his/her detention;
- e)* has a residence permit granted on humanitarian grounds;
- f)* has been expelled, and is lacking adequate financial resources to support himself and/or does not have adequate dwelling.

(2) The operative section of the resolution shall specify:

- a)* the place of compulsory confinement;
- b)* the code of conduct to be observed;
- c)* the obligation to appear at specific intervals in before the authority if the place of confinement is not a community hostel or a refugee center.

(3) The compulsory place of confinement shall be designated at a community hostel or a refugee center, if the third-country national is not able to support himself, and has no adequate place of abode, financial resources, income, or host or relative who can be compelled to provide support.

(4) The costs of confinement in a community hostel or refugee center shall be borne by the third-country national, unless he is issued a residence permit on humanitarian grounds.

(5) Compulsory confinement proceedings may not be suspended upon the third-country national's request. A decision ordering compulsory confinement cannot be reconsidered for reasons of equity.

(6) A third-country national placed under compulsory confinement may lodge a complaint - as a form of remedy, on the grounds of an infringement of the law - against the resolution ordering his/her confinement. Such complaints shall be subject to the provisions of Section 57 and Section 59.

(7) The court shall adopt a decision for such complaints within eight days.

Section 63

(1) If eighteen months have lapsed from the date when compulsory confinement in a community hostel or refugee center was ordered, but the circumstance serving grounds therefor still exists for reasons beyond the control of the third-country national in question, another place for the third-country national to stay in shall be designated.

(2) In the case defined in Subsection (1), the immigration authority may endorse - on humanitarian considerations - the third-country national's request to remain in the community hostel of refugee center.

Section 64

Any third-country national who has been ordered by the immigration authority to remain in a designated place shall be entitled to engage in gainful employment - subject to the immigration authority's consent - if he/she has a valid work permit.

Removal by Deportation

Section 65

(1) A return or expulsion measure ordered by the court or the immigration authority shall be enforced by way of transporting the third-country national affected under official escort (hereinafter referred to as "deportation") if the third-country national:

a) is released from imprisonment as sentenced for a deliberate crime;

b) is under detention;

c) makes it necessary to supervise his exit for national security reasons, if so required by commitment under international treaty, or for the protection of public security or public policy.

(2) Deportation shall be ordered in the resolution ordering expulsion under immigration laws or in the resolution for the enforcement of expulsion if ordered by the court. In all other instances it shall be ordered by specific resolution.

(3) The immigration authority shall have powers to carry out the deportation of a third-country national residing in the territory of the Republic of Hungary by order of another Schengen State, if deportation was ordered:

a) for the reason that the person in question represents a genuine, present and sufficiently serious threat affecting national security or public security,

b) in connection with a conviction under the laws of the country where the resolution was adopted for an offence punishable by a penalty involving imprisonment of at least one year;

c) based on suspicion of serious criminal offences;

d) based on failure to comply with regulations on the entry or residence of foreign nationals.

(4) The third-country national affected may lodge a complaint against the deportation measure.

(5) A decision ordering deportation cannot be reconsidered for reasons of equity and the third-country national affected may not request suspension of the procedure of deportation.

(6) The immigration authority may cooperate in the enforcement of expulsion ordered by a country that is required to apply the provisions of Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

(7) The deportation of a person shall be abandoned if:

a) the entry of the person deported to the country of destination is no longer an option;

b) the person deported requires urgent medical attention;

c) the country from whom permission was requested for using its territory for transit by air in connection with deportation as prescribed in specific other legislation (hereinafter referred to as "requested State") did not grant consent, or revoked its previous consent;

d) the person deported entered the territory of the requested State without authorization during transit.

Prohibition of leaving the country

Section 66

(1) The immigration authority may prohibit the exit of a third-country national whose travel document is to be confiscated by the immigration authority as requested by the court, the public prosecutor, or the investigation authority.

(2) Upon receipt of a request specified in Subsection (1) the immigration authority shall adopt a resolution of prohibition of leaving the country and shall confiscate the third-country national's travel document.

(3) The aforesaid resolution may not be appealed.

(4) The immigration authority, upon receipt of a notice from the court, the public prosecutor or the investigation authority for lifting the prohibition of leaving the country, shall cancel the prohibition without delay and shall release the third-country national's travel document as well.

Control of Third-Country Nationals

Section 67

(1) The immigration authority shall have powers to control compliance with and enforce the provisions of this Act.

(2) Upon request for checks, third-country nationals shall produce and surrender their travel documents, authority to reside and other personal identification documents.

(3) In the event that any travel document is found in the possession of a third-country national that is issued to another person, and is held illegally by the third-country national, it shall be confiscated and - if no criminal charges are filed - sent to the Hungarian mission of the issuing State, or failing this, it shall be returned to the issuing agency via the minister in charge of foreign policies.

(4) Any third-country national who is unable to verify his/her lawful residence in Hungary or is unable to produce credible evidence of his/her identity, or who violates the provisions of this Act shall be apprehended and taken into custody by the immigration authority.

(5) If the grounds for residence of the third-country national or the identity of the third-country national mentioned above cannot be established while in custody, the third-country national may be kept in custody for an additional period of maximum twelve hours; this action may be contested.

Warrant of Arrest

Section 68

(1) In order to locate a third-country national whose whereabouts are unknown, the immigration authority may issue a warrant if the person in question:

a) is subject to any immigration proceeding specified in this Chapter;

b) has escaped from detention or is on unauthorized absence from the place of compulsory confinement in violation of the code of conduct;

c) failed to comply with the final decision of expulsion.

(2) When the grounds for such a warrant cease to prevail, it shall be withdrawn forthwith.

Chapter VI

Vested Responsibilities

Section 69

(1) Carriers providing travel accommodations to third-country nationals by means of air, water or scheduled road transport shall be required to check the travel document of their passengers before boarding for travelling to the Republic of Hungary or to another country through the territory of the Republic of Hungary to ensure that they have travel documents required for entry or for transit.

(2) The carrier transporting any third-country national by means of air, water, road or railway transport shall provide for the return of such third-country national to the country of departure or to the country which is liable to accept him/her:

a) if its passenger is refused admission to the Republic of Hungary for lacking any of the requirements specified by law;

b) if its passenger is refused admission to another country and is turned back to Hungary; or

c) if the carrier to which the passenger was scheduled to be transferred refused to admit the passenger on his means of transport.

(3) If return cannot be promptly executed, the carrier in question shall bear all costs incurred in connection with the stay of the third-country national until his/her return.

(4) When a third-country national is refused admission and the carrier disputes its obligation to return the person in question or to finance his/her stay, the immigration authority shall adopt a formal resolution to order the carrier to comply.

(5) For any failure to comply with the obligation specified in Subsection (1) as set out in specific other legislation, a penalty for the protection of public policy shall be imposed upon the carrier in question.

(6) A carrier shall be exempted from the payment of penalty for the protection of public policy if able to verify of having proceeded with due care and diligence to ensure compliance with the obligation of control specified in Subsection (1).

Section 70

(1) The authority carrying out border checks shall impose a penalty - specified under specific other legislation - for the protection of public policy upon any air carrier who fails to supply information - in violation of the provisions set out in specific other legislation - on passengers it transports from outside of any Member State of the European Union or from outside of the territory of any Schengen State into the territory of the Republic of Hungary.

(2) The provisions laid down in Subsection (1) shall also apply where the information the air carrier has supplied is incomplete or untrue stemming from its failure to exercise due care and diligence.

Section 71

(1) Employers shall be required to ascertain before the employment of a third-country national that the third-country national affected has the permit prescribed in this Act for engaging in gainful employment.

(2) Employers shall be required to report within three working days to the immigration authority if the third-country national failed to report for work as authorized, or if his/her employment is terminated before the expiration of the validity period of his/her work permit.

(3) Any employer who fails to satisfy the obligation defined in Subsection (1) shall be subject to a penalty - specified under specific other legislation - for the protection of public policy levied by the immigration authority.

Section 72

Hosts shall be held liable for damages they cause to others resulting from any infringement of their obligations.

Chapter VII

Notification Requirements

Obligation of Third-Country Nationals to Register their Place of Accommodation

Section 73

(1) Third-country nationals shall be required to register their place of accommodation and shall simultaneously disclose the following information to the immigration authority:

- a)* the natural identification data specified in Section 94;
- b)* particulars of the travel document;
- c)* address of place of accommodation;
- d)* date of arrival to and estimated departure from, the place of accommodation;

e) serial number of visa or residence permit; and

f) date and place of entering the country.

(2) Operators of commercial lodgings and other hotel establishments of legal persons shall keep records (guest books) on the prescribed forms of the information of their guests who are third-country nationals as defined in Subsection (1).

Registration of Birth

Section 74

Third-country nationals holding a visa for a stay not exceeding three months, a visa for a stay longer than three months, a residence permit, and third-country nationals with immigrant or permanent resident status shall report the birth of a child in the territory of the Republic of Hungary and shall simultaneously supply the following information:

a) the natural identification data of the child as specified in Section 94;

b) particulars of the child's travel document;

c) address of the child's place of accommodation or home address;

Reporting Obligations and Regulatory Measures in Connection with the Personal Documents of Third-Country Nationals

Section 75

(1) Third-country nationals shall promptly notify the immigration authority if their travel document or residence permit is lost, stolen or destroyed. The immigration authority shall confirm receipt of such notification in writing.

(2) The immigration authority shall be immediately notified in the event that a travel document, which was presumed lost and reported as such, is found subsequently.

(3) The immigration authority may issue a warrant to locate the travel document or residence permit of a third-country national if the whereabouts of such document is unknown.

(4) Unless otherwise stipulated by international agreement, third-country nationals whose travel document is lost, stolen, destroyed or has expired shall obtain a replacement travel document. Such third-country nationals shall be allowed to leave the country only in possession of the new travel document and a certificate of the notification referred to in Subsection (1), or in possession of the expired travel document.

(5) The immigration authority shall provide for the forwarding of any travel documents found via the minister in charge of foreign policies to the foreign representation of the State having jurisdiction at the place of issue.

Chapter VIII

Stateless Status and Issuing Travel Documents to Third-Country Nationals

Proceedings for the Recognition of Stateless Status

Section 76

(1) Proceedings for the recognition of stateless status are opened upon the submission of a request to the immigration authority for stateless status by a person who lawfully resides in the territory of the Republic of

Hungary (hereinafter referred to as "petitioner"), which is to be presented verbally or in writing.

(2) Any request submitted verbally shall be recorded in writing by the immigration authority.

(3) Upon submitting the petition the immigration authority shall inform the petitioner concerning his/her rights and obligations in the proceedings, the legal consequences of any breach of such obligations and of the designated place of accommodation.

(4) Acknowledgment of the information shall be recorded in writing.

Section 77

(1) The petitioner shall attend the proceedings in person and shall be interviewed.

(2) The petitioner may use his/her native language or a language he/she understands for verbal and written communication during the proceedings.

(3) The petitioner shall be provided access to legal counseling.

Section 78

(1) A petition for stateless status shall be refused by way of a formal resolution if the petitioner:

a) falls within the scope of Paragraph 2 of Article 1 of the United Nations Convention relating to the Status of Stateless Persons signed in New York on 28 September 1954, promulgated by Act II of 2002; or

b) terminated his/her nationality deliberately, with a view to obtaining stateless status.

(2) The immigration authority shall terminate the proceedings:

a) if the petitioner dies;

b) if the petitioner withdraws his/her petition in writing;

c) if the petitioner fails to appear in the interview in person in spite of repeated written notices and is unable to justify his/her absence;

d) if the proceeding cannot continue for the petitioner's whereabouts is unknown.

Section 79

(1) In the proceedings for the recognition of stateless status the petitioner is required to prove or substantiate his/her stateless status, with particular regard to the State:

a) where his/her place of birth is located;

b) where his/her previous permanent or habitual residence is located; and

c) of the nationality of his/her family members and parents.

(2) In the proceedings referred to in Subsection (1) the immigration authority shall - upon request - provide

administrative help via the Hungarian foreign missions.

Section 80

- (1) A resolutions adopted in proceedings for the recognition of stateless status may not be appealed.
- (2) A petition for the judicial review of such resolutions shall be submitted to the immigration authority within fifteen days from the date when the decision was communicated. The immigration authority shall forward the petition without delay to the competent court together with the documents of the case and any cross-complaint attached.
- (3) The Municipal Court of Budapest - having exclusive jurisdiction in such cases - shall adopt a decision within ninety days of receipt of the petition. In the hearing the petitioner shall be interviewed in person. Personal hearing is not required if the petitioner cannot be reached at the address on record or if moved to a place unknown. The court may overturn the resolution.
- (4) The proceedings for the recognition of stateless status are exempt from charges.

Section 81

The representative of the Office of the United Nations High Commissioner for Refugees may participate in any stage of the proceedings for the recognition of stateless status, and:

- a)* he may be present when the petitioner is interviewed;
- b)* he may provide administrative assistance to the petitioner;
- c)* he may gain access to the documents of the proceedings and make copies thereof;
- d)* the immigration authority shall send the administrative resolution or court decision to him.

Issuing Travel Documents to Third-Country Nationals

Section 82

- (1) The foreign representation of the Republic of Hungary shall issue a single-entry travel document to a third-country nationals with immigrant or permanent resident status, if his/her travel document was lost or destroyed abroad and cannot be replaced abroad or it would entail unreasonable difficulties, and thus he/she is unable to return to Hungary.

Section 83

- (1) The immigration authority shall issue a travel document for the purpose of traveling abroad, permitting reentry to the territory of the Republic of Hungary if requested by a third-country national with immigrant or permanent resident status, if he/she does not have a valid travel document from his/her country of origin and if such cannot be replaced for reasons beyond his/her control
- (2) The above-specified travel document shall be valid for one year from the date of issue.

Section 84

The immigration authority may issue a travel document for a single occasion to a third-country national for the purpose of return to the country of his permanent residence, if the travel document of such person was lost or destroyed and cannot be replaced

Section 85

(1) The immigration authority may issue a travel document - upon request - to a stateless person residing in the territory of the Republic of Hungary for the purpose of reentry to the territory of the Republic of Hungary, within the period of validity, from his/her travel abroad.

(2) The above-specified travel document shall be valid for one year from the date of issue.

Section 86

If the travel document issued by the immigration authority to a third-country national or to a stateless person residing in the territory of the Republic of Hungary is confiscated by the court, the public prosecutor or the investigation authority in the course of criminal proceedings, or if they contacted the immigration authority to confiscate such travel document, the immigration authority shall withdraw the travel document in question.

Chapter IX

Common Provisions

Section 87

(1) Upon receipt of a visa application the competent authority shall issue the visa or shall reject the application by way of a resolution.

(2) A visa shall be issued in expedited proceedings to a minor if the verifiable purpose of entry is the minor's medical treatment.

(3) In visa proceedings the competent authority shall hear the applicant if he/she is a minor with limited legal capacity or if incompetent. Such hearing shall be attended by the minor's legal representative or by a person of legal age with legal capacity who has been duly authorized by the legal representative.

Section 88

(1) In the proceedings launched upon request in accordance with this Act the client shall submit his/her request in person. The competent authority may not require an applicant to appear in person who is unable to do so due to health reasons.

(2) In the proceedings referred to in Subsection (1), with the exception of visa applications, if the request the client has submitted is incomplete, the competent authority shall promptly make out a notice for requesting the missing information.

(3) Those proceedings in which the applicant is required to appear in person cannot be administered by way of electronic means.

Section 89

(1) Subject to the exceptions set out in Subsections (2)-(4), the decisions adopted in proceedings falling with the cope of this Act shall be delivered by service of process.

(2) The following shall also be conveyed verbally to the client attending in his/her native language or in another language he/she understands:

a) resolutions;

b) the court's decision adopted in the judicial review of a resolution;

c) the court's decision adopted in the judicial review of a resolution ordering detention, and in connection with the extension of such detention.

(3) The fact and time of conveyance shall be recorded in a protocol and it must be signed by the client.

(4) If the client's whereabouts are unknown, the resolution or ruling shall be conveyed by way of a posted notice, with the exception set out in Subsection (5). An administrator for service of process shall not be appointed.

(5) The operative part of a resolution ordering an entry ban independently shall be displayed on a website specified in specific other legislation.

Section 90

(1) Where no appeal is permitted under this Act, reopening the case and proceedings under reasons of equity may not be requested.

(2) In the proceedings governed in this Act, the rulings adopted in the first instance by the authority of the second instance may not be appealed.

Section 91

(1) In visa proceedings the costs of translation and interpreting services, and the fees of a sign language interpreter (hereinafter referred to as "costs of language services") shall be borne by the applicant.

(2) In addition to what is contained in Subsection (1), in the proceedings launched upon request under this Act the costs of delivery of the decision and the costs of language services shall be covered by the competent authority, whereas the costs of language services in other proceedings shall be borne by the applicant.

(3) In proceedings launched *ex officio* under this Act, the costs of language services shall be borne by the competent authority.

Section 92

In proceedings launched *ex officio* under this Act, in cases of emergency the competent authority may use an interpreter in the absence of an order of appointment subject to a contract between the authority and the interpreter.

Chapter X

Regulations Relating to the Processing of the Data of Third-Country Nationals

Section 93

The immigration authority shall process the personal data of third-country nationals obtained within the framework of this Act in the central immigration register for the purpose of establishing their identity, for checking the authenticity of documents, to determine the duration of lawful residence and to avoid any overlap in procedures.

Section 94

The central immigration register shall contain the following natural identification data of the persons falling within the scope of immigration sub-registers (hereinafter referred to as "natural identification data"):

- a)* surname and forename (names);
- b)* surname and forename (names) at birth;
- c)* any previous surname and forename (names);
- d)* place and date of birth;
- e)* sex;
- f)* mother's surname and forename (names) at birth;
- g)* nationality (nationalities) or stateless status.

Immigration Sub-Registers

Section 95

(1) The immigration authority shall process the following data of third-country nationals in connection with visa applications and the visa issued, or document in place of visas (in this Section hereinafter referred to collectively as "visa"):

- a)* natural identification data;
- b)* facial photograph;
- c)* travel document particulars;
- d)* the purpose of entry and the planned duration of stay;
- e)* particulars of the documents provided in support of the conditions required for entry and stay;
- f)* the fact and reasons for the refusal of a new visa or for the renewal of an existing one, and for the withdrawal of a visa;
- g)* the number and validity period of the visa issued (extended);
- h)* the date and place of entry and exit;

i) address of the place of accommodation.

(2) The immigration authority shall process the data referred to in Subsection (1) for five years in connection with the refusal of a visa application from the date when refused, in connection with a visa issued (extended) from the date of expiry or the date of withdrawal.

Section 96

(1) The immigration authority shall process the following data of third-country nationals in connection with applications for residence permits and the residence permits issued:

a) natural identification data;

b) facial photograph;

c) travel document particulars;

d) the purpose and planned duration of stay;

e) particulars of the documents provided in support of the conditions required for entry and stay;

f) the fact and reasons for the refusal of a new residence permit or for the extension of an existing one, and for the withdrawal of a residence permit;

g) the number, serial number and validity period of the residence permit issued (extended);

h) the date of first entry and final exit;

i) address of the place of accommodation.

(2) The immigration authority shall process the data referred to in Subsection (1) for five years in connection with the refusal of an application for residence permit from the date when refused, in connection with a residence permit issued (extended) from the date of expiry, or from the date of withdrawal.

Section 97

(1) The immigration authority shall process the following data of the host and the invited third-country national:

a) the natural identification data of the host, if a natural person, or the corporate name of the host if a legal person or business association lacking the legal status of a legal person;

b) the host's home address if a natural person, or the host's registered office (place of business) if a legal person or business association lacking the legal status of a legal person;

c) the natural identification data of the invited third-country national;

d) the duration of commitment;

e) the serial number of the letter of invitation with an official certificate affixed;

f) if the official certificate is refused, the reasons therefor.

(2) The immigration authority shall process the data referred to in Subsection (1) for five years following the expiration of the commitment.

Section 98

(1) The immigration authority shall process the following data of third-country nationals in connection with certificates of temporary residence:

- a)* natural identification data;
- b)* facial photograph;
- c)* travel document particulars;
- d)* the reason for the issue of the certificate of temporary residence;
- e)* any extension of the certificate of temporary residence, and its withdrawal including the fact and reasons therefor;
- f)* the number, serial number and validity period of the certificate of temporary residence issued (extended);
- g)* address of the place of accommodation.

(2) The immigration authority shall process the data referred to in Subsection (1) for five years in connection with the certificate of temporary residence issued (extended) from the date of expiry, or from the date of withdrawal.

Section 99

(1) The immigration authority shall process the following data of third-country nationals in connection with applications for immigration permits and permanent residence permits, interim permanent residence permits, national permanent residence permits or EC permanent residence permits, and the interim permanent residence permits, national permanent residence permits or EC permanent residence permits issued:

- a)* natural identification data;
- b)* facial photograph;
- c)* travel document particulars;
- d)* particulars of the documents provided in support of the conditions required for these permits;
- e)* the fact and reasons for the refusal of these permits or for the extension of existing ones, and for the withdrawal of these permits;
- f)* the number, serial number and validity period of the permits issued (extended);
- g)* the date of first entry and final exit;
- h)* home address;
- i)* personal identification number;

j) number of personal identification document.

(2) The immigration authority shall process the data referred to in Subsection (1) for twenty years in connection with the refusal of an application for these permits from the date when refused, or from the date of termination of the legal status in question.

Section 100

(1) The immigration authority shall process the following data of third-country nationals whose travel document was reported lost, stolen or destroyed:

a) natural identification data;

b) type of travel document reported lost, stolen or destroyed, and its particulars;

c) the date and time when reported;

d) place and date of first entry;

e) address of the place of accommodation, home address;

f) name of the authority to which the report was filed;

g) the number and validity of the certificate evidencing residence and the name of the issuing authority;

h) the type, number and validity of the new travel document.

(2) The immigration authority shall process the data referred to in Subsection (1) until the travel document is found, or for a period of five years from the date when reported lost, stolen or destroyed.

Section 101

(1) The immigration authority shall process the following data of third-country nationals in connection with the registration of their place of accommodation or place of abode:

a) natural identification data;

b) the date of entry (arrival);

c) address of the place of accommodation, home address.

(2) The immigration authority shall process the data referred to in Subsection (1) for five years following the date of registration of the place of accommodation or place of abode, or from the date when the guestbook is surrendered.

Section 102

(1) The immigration authority shall process the following data of a third-country national who has been ordered to leave the territory of the Republic of Hungary, or who is subject to compulsory confinement, expulsion ordered under immigration laws, expulsion by court order, entry ban or detention under immigration laws:

- a)* natural identification data;
- b)* facial photograph and fingerprint;
- c)* name of the ordering authority and the number of the relevant resolution;
- d)* the legal grounds for the measure, order or resolution, and the related deadline or duration;
- e)* the fingerprint of the persons subject to expulsion under immigration laws or by court order.

(2) The immigration authority shall process the following data of third-country nationals in connection with requesting assistance relating to or the authorization of, transit for the purposes of expulsion by air:

- a)* natural identification data;
- b)* the type, number and validity of the travel document;
- c)* particulars of direct flight or flights used for the purpose of expulsion (flight number, place of departure and arrival, time of departure and arrival);
- d)* the reasons for official escort, if any;
- e)* information relating to medical treatment and to contagious diseases that can be identified;
- f)* information concerning any previous failed attempt for expulsion.

(3) The immigration authority shall process the data specified in Subsection (1) for five years after the expulsion or the entry ban is lifted.

(4) The immigration authority shall process the data specified in Subsection (2) for five years following the date when the request for transit was received.

Section 103

(1) The immigration authority shall process the following data of third-country nationals subject to prohibition of leaving the country:

- a)* natural identification data;
- b)* name of the authority ordering the prohibition of leaving the country.

(2) The immigration authority shall process the data specified in Subsection (1) until the prohibition is lifted.

Section 104

(1) In conjunction with commitments of the Republic of Hungary conferred in international treaties and conventions, the immigration authority shall process the following data of third-country nationals detained, arrested or taken into custody in the Republic of Hungary, or affected by some extraordinary event (i.e. death, accident resulting in serious injury, etc.):

- a)* natural identification data;

b) address of the place of accommodation, home address;

c) information on the criminal proceedings (degree and description of the crime), name of the acting authority and the case number;

d) information on the extraordinary event, name of the acting authority and the case number.

(2) The immigration authority shall process the data specified in Subsection (1) for three years after the information obligation is discharged.

Section 105

The immigration authority shall process the data specified in Article 8 (1) of Council Regulation 2725/2000/EC of 11 December 2000 concerning the establishment of "Eurodac" for the comparison of fingerprints for the effective application of the Dublin Convention.

Section 106

(1) The immigration authority may disclose data of the type of data specified by law from the immigration sub-registers to the following bodies to the extent required to discharge their duties conferred upon them by legal regulation:

a) law enforcement agencies;

b) investigation authorities;

c) national security services;

d) the refugee authority;

e) tax authorities;

f) the authorities participating in immigration proceedings;

g) the customs authority;

h) the authority handling citizenship-related duties;

i) the body operating the register of personal data and address records of citizens;

j) the employment and labor authority;

k) the occupational safety authority; and

l) the public health authority.

(2) The immigration authority shall maintain data transfer records on the disclosures of data specified in Subsection (1), indicating the body to which the data was disclosed and for what purpose. The immigration authority shall process the data contained in the data transfer records for five years following the time of transfer.

(3) If justified on the grounds of national security or criminal investigation, the immigration authority may refuse to disclose any information from the data transfer records.

(4) The immigration authority may request data in connection with its proceedings conducted under this Act from the following:

a) the register of personal data and address records of citizens;

b) the register of convicted criminals, the register of persons incarcerated and the register of individuals indicted under criminal charges;

c) the watch list;

d) the register of persons with work permits;

e) the register of companies;

f) the register of licensed private entrepreneurs; and

g) the public health authority.

Section 107

(1) The immigration authority may disclose data from the immigration sub-registers to foreign law enforcement agencies, border authorities, immigration and law enforcement authorities, international organizations, to Community bodies established on the strength of directly applicable Community legislation pursuant to directly applicable Community legislation or international agreement, to the extent specified therein.

(2) The immigration authority may receive data from the bodies and organizations specified in Subsection (1) pursuant to directly applicable Community legislation or international agreement, to the extent specified therein.

Section 108

The data processed in accordance with this Act may be disclosed for statistical purposes, in a manner so as not to allow the identification of specific individuals.

Chapter XI

Closing Provisions

Entry into Force

Section 109

(1) This Act - subject to the exceptions set out in Subsections (2)-(5) - shall enter into force on 1 July 2007.

(2) The following provisions of this Act shall enter into force on the day determined in the Council Decision for authorizing the Republic of Hungary to apply the Schengen acquis in full:

a) Paragraph *j)* of Section 2,

b) Subsections (4)-(5) and (7) of Section 9,

c) Sections 10-12,

d) Paragraph *i*) of Subsection (1) of Section 13,

e) in Subsection (1) of Section 16 the passage "in possession of a long-term visa or a residence permit",

f) Subsection (2) of Section 18,

g) in Paragraph *c*) of Subsection (2) of Section 33 the passage "or for whom an alert has been issued in the SIS for the purposes of refusing entry",

h) in Paragraph *a*) of Subsection (4) of Section 42 the passage "or for whom an alert has been issued in the SIS for the purposes of refusing entry",

i) Subsection (3) of Section 65, and

j) in Paragraph *g*) of Subsection (1) of Section 95 the passage "and information relating to restricted territorial access".

(3) The following texts in this Act shall be replaced on the day determined in the Council Decision for authorizing the Republic of Hungary to apply the Schengen acquis in full:

a) the following provision shall replace Paragraph *a*) of Subsection (1) of Section 14: "visa entitling to the take-over of the residence permit, which authorizes for a single entry for the take-over of said permit and for a stay of max. 30 days on the territory of the Republic of Hungary;"

b) Section 15 shall be replaced by the following provision: "Section 15 (1) Visa entitling to the take-over of the residence permit may be granted to third country nationals who are allowed to receive such based on this Act.

(2) The visa entitling to the take over of the residence permit is invalid if the residence permit grounding its issuance has been or should be withdrawn.

(3) Visa for seasonal work or national visa may be granted to third country nationals who meet the conditions stipulated under Paragraphs *a*) and *c*)-*i*) of Subsection (1) of Section 13.

(4) The issuance of the visa for seasonal work and that of the national visa shall be rejected or the visa issued shall be withdrawn if the third country national:

a) does not meet any condition in Paragraphs *a*) and *c*)-*i*) of Subsection (1) of Section 13;

b) gave to the acting authority false data or untrue facts to obtain the residence permit.

(5) No appeal lies against the decision made on the application for the visa for seasonal work or the withdrawal of the visa.;

c) Section 17 shall be replaced by the following provision:

"Section 17 (1) Unless otherwise provided for by this act, residence permit may be issued to third country nationals who meet the conditions under Paragraphs *a*) and *c*)-*i*) of Subsection (1) of Section 13, and

a) hold a valid national visa if a national residence permit is requested, or

b) hold a valid residence permit if the extension of the said permit is requested."

c) The following provision shall replace Subsection (3) of Section 26:

"(3) The residence permit issued for the purpose of performing voluntary activities shall be extended."

(4) The following provisions of this Act shall enter into force on the day determined in the Council Decision for authorizing the Republic of Hungary to apply the Schengen acquis in full:

a) the text "in Paragraphs s), c) or e) of Subsection (1) of Section 9" shall be replaced by "in Paragraphs a) as well as c)-e)";

b) the text "in Paragraphs a) c) or e) in Paragraph a) of Subsection (3) of Section 9" shall be replaced by "in Paragraph a) or c)-e)";

c) the text "in Paragraphs c)-h) in Paragraph a) of Subsection (1) of Section 18" shall be replaced by "in Paragraphs c)-i)";

d) the text "long term visa visa" in Subsection (1) of Section 26 shall be replaced by "residence permit";

e) the text "long term visa" in Subsection (2) of Section 26 shall be replaced by "residence permit";

f) the text "in Paragraphs c)-h)" in Subsection (1) of Section 28 shall be replaced by "in Paragraphs c)-i)".

(5) Effective as of the day determined in the Council Decision for authorizing the Republic of Hungary to apply the Schengen acquis in full the following provisions of this Act shall be repealed:

a) Subsection (2) of Section 9;

b) in Subsection (1) of Section 19 the passage "long-term visa or a", and the passage "long-term visa,";

c) in Subsections (2), (4), (5) and (6) of Section 19 the passage "a long-term visa or";

d) in Subsection (8) of Section 19 the passage "long-term visa,";

e) in Subsection (10) of Section 19 the passage "long-term visa or" in both instances;

f) in Subsection (1) of Section 20, Subsection (1) of Section 21, Subsection (1) of Section 22, Subsection (1) of Section 23, Subsection (1) of Section 24, Subsection (1) of Section 25, and in Subsection (1) of Section 28 the passage "long-term visa or";

g) in Subsection (2) of Section 20 the passage "long-term visa or a";

h) in Subsection (3) of Section 20 the passage "long-term visa or";

i) in Subsection (5) of Section 20 the passage "a long-term visa or";

j) in Paragraph a) of Subsection (1) of Section 30 the passage "long-term visa,";

k) in Paragraph b) of Subsection (1) of Section 30 the passage "long-term visa";

l) in Subsection (3) of Section 30 the passage "long-term visa or";

m) and in Subsection (1) of Section 35 the passage "long-term visa,".

(6) Simultaneously with this Act entering into force the following provisions shall be repealed:

a) Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals;

b) in Paragraph *a)* of Subsection (1) of Section 308 of Act I of 2002 on the Amendment of Act XIX of 1998 on Criminal Procedure the passage "Sections 98-101 of Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals";

c) Sections 57-80 of Act XXIX of 2004 on Amendments and Repeals of Legal Regulations and other Legislative Changes Related to Hungary's Accession to the European Union, the preceding title "CHAPTER EIGHT" and the title "on the Amendment of Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals", furthermore, Section 145;

d) in Subsection (1) of Section 42 of Act I of 2005 on the Amendments of Regulations Relating to the Armed Forces and Law Enforcement Agencies the passage "Paragraph *g)* of Subsection (2) of Section 90 of Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals";

e) Sections 10-31, Paragraphs *a)-f)* of Section 32, and in the introductory sentence to Subsection (1) of Section 32 of Act XLVI of 2005 on the Amendment of Act LV of 1993 on Hungarian Citizenship and Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals the passage "Simultaneously:";

f) Section 1, Points 2, 4 and 6 of Subsection (1) of Section 4, in Subsection (2) of Section 13 the passage "by means of railway or water transport", and Subsection (3) of Section 13 of Act XXXII of 1997 on the Protection of Borders and the Border Guard.

Transitional Provisions

Section 110

(1) The visas, residence permits, certificate of temporary residences issued before the time of this Act entering into force shall constitute the right of stay contained therein within their period of validity.

(2) The immigration permits and permanent residence permits issued before the time of this Act entering into force shall constitute the right of stay contained therein within their period of validity.

(3) The applications for visas and residence permits submitted before the time of this Act entering into force, and still pending, shall be assessed based on the provisions of this Act, with the exception that the applications submitted by third-country nationals for residence permits shall be treated - relying on their statements - as if they were submitted for interim permanent residence permits.

(4) The applications submitted for permanent residency before the time of this Act entering into force, and still pending, shall be assessed based on the provisions of this Act pertaining to national residence permits and EC residence permits, relying on the applicants' statements.

(5) The detention of third-country nationals prior to expulsion ordered before the time of this Act entering into force shall be governed by the provisions of this Act pertaining to detention subject to expulsion, and the detention prior to removal and detention under immigration laws ordered before the time of this Act entering into force shall be governed by the provisions of this Act pertaining to detention under immigration laws.

Authorizations

Section 111

(1) The Government is hereby authorized to decree:

a) the authorities vested with competence in connection with immigration proceedings, with the registration of accommodations and home addresses, and the data of third-country nationals that may be processed on the strength of this Act, their scope of jurisdiction and the detailed regulations for their proceedings;

b) the immigration related tasks and duties and the powers and authorizations of visa authorities, the detailed regulations for the issue of visas, the type of documents evidencing the right of entry and residence without a visa, and the prescribed form of visas;

c) the conditions for issuing residence permits, certificates of temporary residence, interim permanent residence permits, national residence permits and EC residence permits, and the formal requirements for these documents;

d) the travel documents recognized;

e) the detailed regulations concerning the issue, renewal and withdrawal of residence permits granted on humanitarian grounds, and the detailed regulations for cooperation between the immigration, national security and law enforcement agencies;

f) the conditions for providing official certificates for letters of invitation, and the detailed regulations for such proceedings;

g) the regulations concerning detention prior to expulsion or ordered under immigration laws, and for setting up and the designation of a compulsory place of confinement, and the detailed regulations for the provision of healthcare services and other assistance to third-country nationals in detention;

h) the detailed public health regulations pertaining to the entry and residence of third-country nationals in Hungary, and the financial requirements for health care services and the means of certification;

i) the amount limits of the financial penalties to be imposed on carriers and employers under this Act, and the procedure for levying them;

j) the rules of conduct for persons placed under compulsory confinement;

k) the regulations for the provisions to third-country nationals ordered to stay in the airport transit zone;

l) the regulations for the provisions and support granted to exiles and persons residing in community hostels and refugee centers, and to third-country nationals who are victims of trafficking in human beings;

m) the requirements set out for community hostels and the house rules of community hostels;

n) the detailed regulations for the entry and stay in Hungary of civilian personnel under the NATO-SOFA Agreement and of the relatives of such personnel;

o) the detailed regulations for recognition and enforcement of expulsion orders adopted by Member States;

p) the detailed regulations concerning the proceedings for the recognition of stateless status;

q) the detailed regulations for the issue of travel documents to third-country nationals.

(2) The minister in charge of immigration is hereby authorized to decree, in agreement with the ministers concerned:

a) the content specifications and enclosures of the forms and documents prescribed by this Act;

b) the fees for the procedures relating to the entry, exit and residence of third-country nationals, and for the procedures relating to the issue of travel documents to third-country nationals;

c) the financial resources deemed adequate for entry and residence;

d) the rules for covering the costs of immigration related procedures;

e) the form of travel documents issued to third-country nationals.

(3) The minister in charge of foreign policies is hereby authorized to decree, in agreement with the minister in charge of immigration, the detailed regulations concerning the entry and exit and the right of residence of persons enjoying diplomatic or other type of immunity.

(4) The minister in charge of immigration and the minister in charge of the judicial system are hereby authorized to decree, in agreement with the ministers concerned, the regulations for the execution of detention and deportation by order of the immigration authority.

(5) The minister in charge of the healthcare system is hereby authorized to decree, in agreement with the minister in charge of immigration, the types of diseases which are potentially dangerous to public health.

(6) The minister in charge of immigration, the minister in charge of foreign policies, and the minister in charge of supervising the national security services are hereby authorized to decree the cases where the central visa authority is required to consult with the central authorities of other Schengen States requesting consultation prior to granting consent for the issue of a visa for a stay not exceeding three months for reasons of public security and national security.

Compliance with the Acquis

Section 120

(1) This Act serves the purpose of partial compliance with the following legislation of the Communities:

a) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985;

b) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;

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

d) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air;

e) Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities;

f) Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data;

g) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service;

h) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research;

i) Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K. 3 (2) of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State;

j) Council Resolution of 30 November 1994 relating to the limitations on the admission of third-country nationals to the territory of the Member States for the purpose of pursuing activities as self-employed persons;

k) Council Recommendation of 22 December 1995 on harmonizing means of combating illegal immigration and illegal employment and improving the relevant means of control;

l) Council Recommendation of 4 March 1996 relating to a common position in connection with airport transit zone measures;

m) Council Recommendation of 4 March 1996 relating to local consular cooperation regarding visas;

n) Council Resolution of 26 June 1997 on unaccompanied minors who are nationals of third countries;

o) Council Resolution of 4 December 1997 on measures to be adopted on the combating of marriages of convenience.

(2) This Act contains provisions necessary for the implementation of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).v