

Unofficial translation!

Act LXXX of 2007¹

on Asylum

For the protection of the human rights and fundamental freedoms of those compelled to leave their countries, with regard to the international obligations of the Republic of Hungary and the generally recognised basic principles of international law, bearing in mind the European Union's refugee policy and the interest in the creation of an area which is based on freedom, security and the enforcement of law, respecting the traditions of national migration and the spirit of welcome of the international community, recognising and supporting the activities of the non-governmental organisations which play a part in assisting those receiving protection, in the interest of the implementation of the provisions set forth in Section 65 of the Constitution, Parliament hereby creates the following Act on Asylum:

Chapter I

GENERAL PROVISIONS

Scope of Act

1. §

(1) The present Act regulates the content of the asylum granted by the Republic of Hungary, the criteria of recognition as a refugee, a beneficiary of subsidiary and temporary protection (hereinafter referred to as "recognition") and the procedure aimed at recognition and the revocation thereof.

(2) The provisions of the present Act shall apply to foreigners who have submitted applications for recognition or who enjoy asylum.

Definitions

2. §

For the purposes of the present Act,

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

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

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

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

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

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

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

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

i) safe third country: in the context of the applicant the country where the applicant stayed or travelled through prior to his/her arrival in the territory of the Republic of Hungary and had the opportunity to submit an application for recognition as a refugee or for subsidiary protection, provided that the refugee authority ascertained that in the given country

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

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

ic) the rule of international law, according to which the applicant may not be expelled to the territory of a country where s/he would be exposed to death penalty, torture, cruel, inhuman or degrading treatment or punishment, is recognised and applied, and

id) there is protection available in accordance with the Geneva Convention.

j) family member: a foreigner's

ja) spouse,

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

jc) parent(s) if the person seeking recognition is a minor;

k) person requiring special treatment: a vulnerable person, in particular, a minor, unaccompanied minor, elderly or disabled person, pregnant woman, single parent raising a minor child and a person who has undergone torture, rape or any other grave form of psychological, physical or sexual violence and has special needs because of his/her individual situation.

Basic Principles

3. §

(1) The provisions of the present Act shall be applied in compliance with the Convention relating to the Status of

¹ Adopted by Parliament on 25 June 2007; promulgated by the Official Gazette on 29 June 2007.

Refugees of 28 July 1951, as supplemented by the Protocol of 31 January 1967 (hereinafter referred to as the “Geneva Convention”) as well as with the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, Rome.

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

4. §

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

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

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

Chapter II

LEGAL STATUS OF PERSONS SEEKING RECOGNITION

5. §

(1) A person seeking recognition shall be entitled to

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

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

c) work in the territory of the reception centre within one year of the submission of the application for recognition and according to the general rules applicable to foreigners thereafter;

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

(2) A person seeking recognition shall be obliged to

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

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

c) stay at the accommodation facility designated by the refugee authority for him/her according to the present Act and observe the rules of conduct governing residence at the designated accommodation facility.

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

as mandatory by law and required by the relevant health authority in the case of the danger of disease;

e) refrain from being employed except for the work undertaken in reception centre.

Chapter III

REFUGEES

6. §

(1) The Republic of Hungary shall recognise as a refugee a foreigner who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside of the country of his/her origin and is unable or, owing to such fear, unwilling to avail himself/herself of the protection of that country.

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

(3) An applicant who files a subsequent application cannot be recognized as a refugee, if the risk of persecution is based on circumstances which the applicant has created since leaving the country of origin and the refusal of the application is not against the Geneva Convention.

Criteria of recognition as refugee

7. §

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

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

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

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

(5) The Minister may recognise as a refugee a foreigner who had been recognised by the United Nations Higher Commissioner for Refugees as a refugee, in respect of whom the refugee authority established the applicability of the Geneva Convention. The number of refugees recognized under the terms of the present subsection shall not exceed one hundred per year.

Reasons for Exclusion from Recognition as a Refugee

8. §

(1) A foreigner shall not be recognized as a refugee in respect of whom any of the disqualifying circumstances determined in Article 1, paragraph D, E or F of the Geneva Convention prevails.

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

Refugees from safe countries of origin and safe third countries

9. §

(1) If the country of origin of the person applying for refugee status is on the list of safe countries of origin of the EU or on such national list, it is up to the applicant to prove that with regard to him/her the very country is not complying with the criteria set for safe countries of origin.

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

Legal Status of Refugees

10. §

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

(2) A refugee

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

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

(3) A refugee shall be entitled to

a) an identity card determined in separate legal rule and a bilingual travel document specified by the Geneva Convention;

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

(4) A refugee shall be obliged to

a) cooperate with the refugee authority;

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

c) conform to the laws and regulations of the Republic of Hungary.

Cessation of Refugee Status

11. §

(1) The refugee status shall cease if

a) the refugee acquires Hungarian nationality;

b) recognition as a refugee is revoked by the refugee authority.

(2) Recognition as a refugee shall be revoked if the refugee

a) has voluntarily re-availed himself/herself of the protection of the country of his/her nationality;

b) having lost his/her nationality, s/he has voluntarily re-acquired it;

c) has acquired new nationality and enjoys the protection of the country of his/her new nationality;

d) has voluntarily re-established him/herself in the country which s/he left or outside which s/he had remained owing to fear of persecution;

e) the circumstances in connection with which s/he has been recognised as a refugee have ceased to exist;

f) waives the legal status of refugee in writing;

g) was recognised in spite of the existence of the reasons for exclusion referred to in Section 8, subsection (1) or such a reason for exclusion prevails in respect of his/her person;

h) the conditions of his/her recognition did not exist at the time of the adoption of the decision on his/her recognition;

i) concealed a material fact or facts in the course of the refugee procedure or issued an untrue declaration in respect of such a fact or facts or used false or forged documents, provided that this was decisive for his/her recognition as a refugee.

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

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

Chapter IV

BENEFICIARIES OF SUBSIDIARY PROTECTION

12. §

(1) The Republic of Hungary shall grant subsidiary protection to a foreigner who does not satisfy the criteria of recognition as a refugee but there is a risk that, in the event of his/her return to his/her country of origin, s/he would be

exposed to serious harm and is unable or, owing to fear of such risk, unwilling to avail himself/herself of the protection of his/her country of origin.

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

Criteria for Recognition as Beneficiary of Subsidiary Protection

13. §

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

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

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

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

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

14. §

The refugee authority shall review the existence of the criteria of eligibility for subsidiary protection at least every five years following recognition.

Reasons for Exclusion from Subsidiary Protection

15. §

No subsidiary protection shall be granted to a foreigner

a) in whose case there is good reason to assume that
aa) s/he committed a crime against peace, a war crime or a crime against humanity as defined in international instruments;

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

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

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

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

16. §

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

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

Legal Status of Beneficiaries of Subsidiary Protection

17. §

(1) Except as set out in subsections (2) and (3), unless a rule of law or government decree expressly provides otherwise, a beneficiary of subsidiary protection shall have the rights and obligations of a refugee.

(2) In deviation from Section 10, subsection (3), paragraph a), a beneficiary of subsidiary protection shall be entitled to the travel document determined in a separate legal rule.

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

Cessation of Subsidiary Protection Status

18. §

(1) The legal status of subsidiary protection shall cease if
a) the beneficiary of subsidiary protection acquires Hungarian nationality;

b) the beneficiary of subsidiary protection is being recognised by the refugee authority as a refugee;

c) the refugee authority revokes the status of subsidiary protection.

(2) Subsidiary protection shall be withdrawn if the beneficiary of subsidiary protection

a) has repeatedly and voluntarily re-availed himself/herself of the protection of the country of his/her nationality;

b) having lost his/her nationality, s/he has voluntarily re-acquired it;

c) has acquired new nationality and enjoys the protection of the country of his/her new nationality;

d) has voluntarily re-established him/herself in the country which s/he had left or outside which s/he had remained owing to fear of serious harm or the risk of such harm;

e) the circumstances on the basis of which s/he was recognised as a beneficiary of subsidiary protection have ceased to exist;

f) waives the legal status of subsidiary protection in writing;

g) was recognised in spite of the existence of reasons for exclusion referred to in Section 14 or such reason for exclusion prevails in respect of his/her person;

h) the conditions for recognition did not exist at the time of the adoption of the decision on his/her recognition;

i) concealed a material fact or facts in the course of the refugee procedure or issued an untrue declaration in respect of such a fact or facts or used false or forged documents, provided that this was decisive for the recognition of his/her recognition as beneficiary of subsidiary protection.

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

Chapter V BENEFICIARIES OF TEMPORARY PROTECTION

19. §

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

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

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

Criteria of Recognition as Beneficiary of Temporary Protection

20. §

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

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

recognised as a beneficiary of temporary protection agrees with such recognition.

Reasons for Exclusion from Temporary Protection

21. §

(1) No temporary protection shall be granted to a foreigner

a) in whose case it is well-founded to assume that

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

ab) s/he committed a serious, non-political criminal act outside the territory of the Republic of Hungary prior to the submission of the application for recognition as a beneficiary of temporary protection;

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

b) whose stay in the territory of the Republic of Hungary violates the interest of national security;

c) in whose case a final and absolute court judgment established that s/he had committed a crime which is punishable by imprisonment for five years or more under the rules of Hungarian law.

(2) In the course of implementing Section 1, paragraph a, sub-paragraph ab), an act qualifies as a serious, non-political, criminal act upon the commission of which, with regard to the totality of the circumstances, including the objective intended to be attained through the crime, the motivation of the crime, the method of commission and the means used or intended to be used, the ordinary legal aspect of the crime dominates over the political aspect and it is punishable by an imprisonment of five year or longer term according to Hungarian law.

Legal Status of Beneficiaries of Temporary Protection

22. §

(1) A beneficiary of temporary protection shall be entitled to

a) a document verifying his/her identity;

b) a travel document, as determined in separate legal rule, authorising a single exit and return, if s/he has no valid travel document from his/her country of origin;

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

d) employment according to general rules applicable to foreigners.

(2) A temporarily protected person is obliged to

a) report his/her place of accommodation and any change therein to the refugee authority;

b) cooperate with the refugee authority;

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

d) conform to the laws and regulations of the Republic of Hungary.

Term of Temporary Protection

23. §

- (1) The term of temporary protection based on Section 19, paragraph a) shall be one year.
- (2) If the Council of the European Union decides on the maintenance of the recognition of eligibility for temporary protection following the expiry of the term determined in subsection (1), the term of temporary protection shall be extended by the term set forth in the decision of the Council.

22. §

- (1) Protection based on Section 19, paragraph b) shall exist until the expiry of the term or the occurrence of the fact stated in the decision of the National Assembly (Parliament).
- (2) Should the National Assembly decide on the maintenance of the recognition of eligibility for temporary protection following the expiry of the term or the occurrence of the fact determined in subsection (1), the term of temporary protection shall be extended by the term set forth in the decision of the National Assembly.

Cessation of Legal Status of Temporary Protection

25. §

- (1) The legal status of temporary protection shall cease if
 - a) the term of temporary protection expires or, in the case of recognition based on Section 19, paragraph b), the fact determined by the National Assembly occurs;
 - b) the Council of the European Union revokes recognition under Section 19, paragraph a);
 - c) the beneficiary of temporary protection acquires the legal status of settled (*letelepedett*) in Hungary;
 - d) the beneficiary of temporary protection is being recognised by the refugee authority as a refugee or a beneficiary of subsidiary protection;
 - e) the refugee authority revokes the recognition as a beneficiary temporary protection.
- (2) Recognition as a beneficiary of temporary protection shall be revoked if
 - a) the foreigner recognised as a beneficiary of temporary protection receives temporary protection, with his/her consent, from another state applying Directive 2001/55/EC;
 - b) the beneficiary of temporary protection was recognised in spite of the existence of reasons for exclusion referred to in Section 21, subsection (1) or such a reason for exclusion prevails in respect of the beneficiary of temporary protection;
 - c) the beneficiary of temporary protection waives the legal status of subsidiary protection in writing;
 - d) the conditions of recognition did not exist at the time of the adoption of the decision on his/her recognition.

Chapter VI

**CONDITIONS OF RECEPTION,
PROVISIONS AND BENEFITS OF REFUGEES,
BENEFICIARIES OF SUBSIDIARY AND
TEMPORARY PROTECTION**

Conditions of Reception

26. §

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

Material Conditions of Reception

27. §

Unless a rule of law or government decree provides otherwise, a person seeking recognition shall be entitled to the provisions, benefits and accommodation determined in the present Act and in the Government Decree following the submission of the application for recognition, until the final and absolute conclusion of the refugee procedure (hereinafter referred to as the “material conditions of reception”).

28. §

- (1) The refugee authority shall provide for the availability of the material conditions of reception suited to the state of health and satisfying the basic needs of the person seeking recognition.
- (2) The material conditions of reception shall also be provided to persons seeking recognition while detained.

29. §

- (1) A person seeking recognition – in case of need – shall be entitled to free of charge provision of material conditions and to provisions and benefits specified in separate legal instruments.
- (2) Besides provisions referred to in subsection (1), persons requiring special treatment shall be entitled to health care provisions suited to their state of health, as determined in a separate legal rule, free of charge in case of need.

Revocation and Denial of Conditions of Reception

30. §

- (1) Except as set out in subsection (2)-(3), the conditions of reception provided for a person seeking recognition may be revoked or denied if the person seeking recognition
 - a) repeatedly or grossly violates his/her obligation of cooperation;
 - b) leaves the accommodation facility designated for him/her for a period of more than twenty-four hours without the permission of the refugee authority;
 - c) repeatedly or grossly violates the rules of conduct which govern at the designated accommodation facility;

d) has departed from the designated accommodation facility for an unknown destination and a period of fifteen days has elapsed since his/her departure;

e) issues an untrue declaration with respect to his/her property and/or income in the interest of acquiring entitlement to the material conditions of reception or refuses to issue a declaration;

f) manifests seriously violent behaviour because of which criminal or minor offence procedure is initiated against him/her;

g) repeatedly submits an application for recognition on unchanged factual grounds.

(2) The conditions of reception shall not be revoked or denied in case of persons requiring special treatment.

(3) The emergency health care services shall be provided even in the event of the revocation or denial of the conditions of reception referred to in subsection (1).

(4) The refugee authority shall decide on the revocation or denial of the conditions of reception in a resolution (*végzés*). The revocation or denial set forth in the resolution shall be proportionate to the breach of obligation referred to in subsection (1).

(5) After its decision regarding the revocation or denial of the conditions of reception becomes final and absolute, the refugee authority shall - upon request by the applicant or ex officio - regularly review the necessity of the maintenance of such revocation or denial.

(6) If the refugee authority has revoked or denied the conditions of reception on the basis of subsection (1), paragraph a), b) or d) and the person seeking recognition meets his/her obligation of cooperation or subsequently reports with the refugee authority, furthermore if the refugee authority finds - within the framework of the review referred to in subsection (5) - that the maintenance of the revocation or denial is not necessary any longer, it shall decide on the restoration or assessment of certain or all the conditions of reception, in a resolution.

(7) If, based on subsection (1), paragraph e), the refugee authority has revoked the conditions of reception and it is substantiated that the person seeking recognition had sufficient funds for the material conditions of reception, the refugee authority in its resolution on revocation, may order the reimbursement of the costs of the conditions of reception which were used without entitlement thereto in.

31. §

No separate legal remedy lies against a resolution providing for revocation or denial, restoration or assessment of certain or all the conditions of reception. The resolution may be contested as part of the legal remedy request filed against the decision assessing the application for recognition as a refugee or beneficiary of subsidiary or temporary protection, the refusal of the application without an in-merit investigation or the decision to discontinue the procedure.

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

32. §

(1) The refugee and the beneficiary of subsidiary and temporary protection shall be entitled to the conditions of reception as well as to the provisions and benefits determined in separate legal instrument for the purpose of creating his/her basic living conditions for the period of time determined in separate legal rule, under the same conditions as those applicable to a person seeking recognition.

(2) The beneficiary of temporary protection - in case of need - is entitled to free of charge provision of material conditions of reception, and to provision and benefits determined in separate legal instrument.

(3) The provisions and benefits determined in separate legal instrument as well as the material conditions of reception may be revoked or denied if the refugee, beneficiary of subsidiary or temporary protection

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

b) manifests seriously violent behaviour because of which criminal or minor offence procedure is initiated against him/her;

c) issues an untrue declaration with respect to his/her property and/or income in the interest of acquiring entitlement to the material conditions of reception or provisions and benefits determined in separate legal instrument or refuses to issue a declaration.

(4) Provisions of Section 30 subsections (2)-(4) and (7) shall be applied to decisions made under subsection (3).

(5) If the refugee authority has revoked or denied the material conditions of reception or the provisions and benefits on the basis of subsection (3), the resolution thereon shall be subject to judicial review.

(6) Requests for judicial review shall be submitted within three days upon communication of the resolution to the refugee authority. The refugee authority shall forward the request for review together with the file and its counter-request to the court. The submission of a request for legal review shall have suspensive effect to the implementation of the resolution.

(7) The Municipal Court of Budapest shall decide upon the request in non-litigious procedure within eight days, based on the file. In case of need, the court may hold a hearing.

(8) The court may alter the decision of the refugee authority. There is no further legal review available against the decision taken by the court.

(9) Refugees, beneficiaries of subsidiary and temporary protection shall be entitled to the pre-integration provisions and benefits determined in a separate legal rule for their social integration.

(10) In case a refugee, beneficiary of subsidiary or temporary protection wishes to return to his/her country of origin, or to settle in a third country that is willing to admit him/her, s/he may receive financial support to fully or partially cover the expenses related to the travel.

Chapter VII

GENERAL RULES OF ASYLM PROCEDURES

33. §

The asylum procedure is aimed to determine whether, based on the present Act, the foreigner seeking recognition satisfies the criteria of recognition as a refugee, a beneficiary of subsidiary or temporary protection.

Bearing of Costs

34. §

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

Submission of Application for Recognition

35. §

- (1) An asylum procedure shall be instituted on the basis of an application for recognition submitted to the refugee authority.
- (2) The person seeking recognition shall proceed in the refugee procedure in person.
- (3) A person with limited legal capability, too, shall be entitled to the opportunity to proceed in a refugee procedure.
- (4) Upon the presentation of the application for recognition, the person seeking recognition shall appear before the refugee authority in person.
- (5) If an incapable person wishes to submit an application for recognition in person, the refugee authority shall involve the representative by law (*törvényes képviselő*) in the refugee procedure or, in the absence thereof, shall request the appointment of a guardian.
- (6) If the person seeking recognition is an unaccompanied minor, the refugee authority shall, without delay, provide for the appointment of a guardian serving to represent the minor.
- (7) In the case of an unaccompanied minor, the conducting of the asylum procedure shall have priority.
- (8) In the event of a joint application of family members, the person with full capability seeking recognition shall submit the application for recognition in such a way that it shall also extend to his/her family members.
- (9) A joint application for recognition shall extend to a family member with full or limited capability if s/he consents to the joint application in writing in advance or at the personal interview, at the latest. A joint application for recognition shall extend to an incapable family member with the written consent of the representative by law or guardian.

Procedural Rights and Obligations of Persons Seeking Recognition

- (1) A person seeking recognition may use his/her mother tongue or the language which s/he understands orally, and in writing in the refugee procedure.
- (2) A decision shall be communicated to the person seeking recognition orally in his/her mother tongue or in another language understood by him/her. Simultaneously with the oral communication of the decision, the decision shall also be communicated to the applicant in writing.
- (3) A resolution shall be communicated to the person seeking recognition in writing.
- (4) The refugee authority shall provide for the communication of the decision and resolution within three days of the adoption thereof, unless the present Act provides otherwise.
- (5) A decision/resolution communicated by way of a public announcement shall be regarded as communicated on the eighth day following the posting of the announcement. The public announcement shall not include the subject of the case, as far as personal details of the applicant is concerned, the family and the first name shall be included only.
- (6) The refugee authority may use the services of an interpreter, based on a contract concluded with the interpreter, also without a resolution of appointment.
- (7) In the refugee procedure, the costs of translation inclusive of sign language translation shall be borne by the refugee authority.

37. §

- (1) Upon submission of an application, the refugee authority shall simultaneously inform in writing the person seeking recognition of his/her procedural rights and obligations as well as of the legal consequences of the violation of such obligations in his/her mother tongue or in another language understood by him/her.
- (2) The information provided and the acknowledgement thereof shall be committed to minutes.
- (3) The person seeking recognition shall be given the opportunity to use legal aid at his/her own expense or, if in need, free of charge as set forth in the Act on Legal Assistance, or to accept the free legal aid of a registered non-governmental organisation engaged in legal protection.
- (4) The person providing legal assistance authorized by the person seeking recognition
 - a) may attend the personal interview of the person seeking recognition;
 - b) may view the documents generated in the course of the refugee procedure and may make copies thereof;
 - c) may enter the premises of the institution serving to accommodate the person seeking recognition or, if the person seeking recognition is in detention, may enter the premises of the detention facility, for the purpose of maintaining contact with the person seeking recognition.

38. §

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

- a) with the consent of the person seeking recognition,

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

39. §

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

- a) the inspection of his/her luggage, clothing and vehicle;
- b) the recording of his/her facial image and, in the case of foreigners having completed the age of fourteen years, fingerprints.

Rules of Evidence

40. §

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

41. §

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

- a) facts and circumstances giving rise to the act of fleeing disclosed by the person seeking recognition and the documents supporting the same;
- b) the travel document or any other document presented by the person seeking recognition, on the basis of which it is possible to infer his/her identity and/or nationality;
- c) all relevant up-to-date information relating to the country of origin of the person seeking recognition, including the statutory or any other mandatory legal provisions of the country of origin and the method of application thereof.

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

(3) The refugee authority may accept a public deed issued abroad or a private deed authenticated by a foreign court, state administration agency, notary public or any other person vested with public authenticity submitted by the person seeking

recognition as a deed with probative force even in the absence of the diplomatic authentication thereof by the Hungarian foreign representation authority operating in the state of the place of issuance.

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

42. §

Hungarian authority or court may not enter into contact with

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

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

43. §

(1) Unless the present Act stipulates an exception, the personal interview of the person seeking recognition shall be mandatory in the asylum procedure.

(2) The refugee authority may dispense with a personal interview if the person seeking recognition is not fit for being heard.

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

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

44. §

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

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

(3) If the person seeking recognition, the representative by law or guardian does not consent to the expert examination aimed at determining the minor status, the provisions

relating to minors, with the exception of the provisions relating to the involvement of a legal representative or the appointment of a guardian, may not be applied to the person seeking recognition.

Examination of Prohibition of Refoulement

45. §

(1) The prohibition of refoulement (non-refoulement) prevails if the person seeking recognition were exposed to the risk of persecution due reasons of race, religion, ethnicity, membership of a particular social group or political opinion or to death penalty, torture, cruel, inhuman or degrading treatment or punishment in his/her country of origin for, and there is no safe third country which would receive him/her.

(2) In the case of an unaccompanied minor, the prohibition of refoulement also prevails if the unification of the family or any state or other institutional care is not possible either in his/her country of origin or in another state receiving him/her.

(3) In its decision relating to the refusal of an application for recognition or the revocation of recognition, the refugee authority shall establish whether the prohibition of refoulement prevails or not.

(4) In the event of the existence of the prohibition under subsection (1) or (2), based on the proposal of the refugee authority, the alien police authority shall recognise the foreigner as a person authorised to stay.

(5) In the event of the non-existence of the prohibition under subsections (1) and (2), in its decision refusing the application for recognition, the refugee authority shall provide for the revocation of the foreigner's residence permit issued for humanitarian purposes and shall oblige him/her to leave the territory of the Republic of Hungary.

(6) In the event of the non-existence of the prohibition under subsections (1) and (2), in its decision relating to the revocation of recognition, the refugee authority shall provide for the withdrawal of the foreigner's travel document issued by the Republic of Hungary, identity card, his/her official document verifying his/her personal identifier and residential address any other document verifying his/her identity and shall simultaneously oblige him/her to leave the territory of the Republic of Hungary.

(7) A time limit of maximum thirty and minimum ten days shall be provided for the fulfilment of the obligation of leaving the country.

(8) The imposition of the obligation of leaving the territory of the Republic of Hungary shall be dispensed with if the foreigner

a) is entitled to stay in the territory of the Republic of Hungary on any other legal grounds;

b) is in a condition at the time of the adoption of the decision that the execution of the obligation of leaving the country would result in a serious, irreversible or permanent deterioration in his/her state of health or would result in a life threatening condition and this is confirmed by a statement of an expert in forensic medicine .

(9) The foreigner shall be obliged to leave the territory of the Republic of Hungary, when the condition referred to in subsection (8) ceases to exist.

Procedures Excluded

46. §

In the asylum procedure,

a) there is no administrative appeal, rehearing of the case or equity procedure;

b) the procedure may not be suspended upon request;

c) there is no electronic administration.

Chapter VIII

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

Preliminary Assessment Procedure

47. §

(1) The refugee authority shall subject an application for recognition as a refugee or as a beneficiary of subsidiary protection (in the present Chapter hereinafter referred to as the "application") to a preliminary assessment following its submission.

(2) The preliminary assessment procedure shall be completed within fifteen days. The time limit for administration may not be extended.

48. §

(1) The refugee authority shall designate a reception centre as a place of residence for the foreigner seeking recognition as a refugee or as a beneficiary of subsidiary protection (in the present Chapter hereinafter referred to as the "applicant") until the decision closing the preliminary assessment procedure or the one on the delivery or acceptance of the foreigner based on Section 49 (4) become final, unless the applicant is under the effect of a measure restricting personal freedom or under the effect of punishment.

(2) The applicant may only leave the reception centre in particularly justified cases, with the permission of the refugee authority, provided that his/her absence does not prevent the performance of the relevant procedural acts.

49. §

(1) In the course of the preliminary assessment procedure, the refugee authority shall examine whether the criteria of the application of Council Regulation 343/2003/EC of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national and Commission Regulation 1560/2003/EC of 2 September 2003 establishing the detailed

rules of the application of Council Regulation 343/2003/EC of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (hereinafter collectively referred to as the “Dublin Regulations”) exist.

(2) If the refugee authority establishes that a procedure is to be conducted which is aimed at the determination of the state applying the Dublin Regulations (hereinafter referred to as “Member State”) responsible for the assessment of the application and the delivery and acceptance of the applicant (hereinafter referred to as the “Dublin procedure”), it shall suspend the preliminary assessment procedure until the conclusion of the Dublin procedure.

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

(4) If the member state contacted in the course of the Dublin procedure is obliged to receive the applicant and to assess the application, the refugee authority shall adopt a resolution (*végzés*) with respect to the delivery of the applicant.

(5) The refugee authority shall provide in the resolution on delivery that the foreigner may not leave the place of residence designated for him/her until the completion of delivery but for maximum 72 hours in the interest of securing the implementation of the delivery procedure.

(6) A request may be submitted for court review of a resolution providing for delivery.

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

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

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

50. §

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

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

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

51. §

(1) If the conditions of the application of the Dublin Regulations do not exist, the refugee authority shall decide on the question of the admissibility of the application for refugee status.

(2) An application is not admissible if

a) the applicant is a national of one of the member states of the European Union;

b) the applicant was recognised by another member state as a refugee;

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

d) following a final and absolute decision of refusal, the same person submits an application on the same factual grounds.

52. §

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

(2) The refugee authority shall discontinue the preliminary assessment procedure if the applicant

a) withdraws his/her application in writing;

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

c) does not appear at the personal interview in spite of a written notice and fails to appropriately justify his/her absence;

d) has departed for an unknown destination.

(3) In the resolution discontinuing the preliminary assessment procedure, the refugee authority shall provide for the withdrawal of the foreigner’s humanitarian residence permit and shall simultaneously oblige him/her to leave the territory of the Republic of Hungary. A time limit of minimum ten and maximum thirty days shall be provided for the fulfilment of the obligation of leaving the country. The refugee authority shall provide for the immediate communication of the resolution on the discontinuation of the preliminary assessment procedure.

(4) No legal remedy shall lie against the resolution discontinuing the procedure, however, the applicant may, within three days of the communication of the resolution on discontinuation, request the refugee authority to continue the preliminary assessment procedure. No application for justification may be submitted on account of the applicant’s failure to observe the time limit available for the submission of the application for the continuation of the preliminary assessment procedure.

(5) The resolution discontinuing the preliminary assessment procedure shall become final, if the foreigner fails to request the continuation of the procedure within three days upon communication of the resolution.

(6) No legal remedy shall lie against a resolution refusing, without an in-merit assessment, a belated request.

(7) The refugee authority shall continue the preliminary assessment procedure on the basis of a request submitted within the relevant time limit.

(8) In the case determined in subsection (7), the administrative time limit of the preliminary assessment procedure shall be disrupted at the time of the adoption of the resolution of discontinuation. The administrative time

limit shall not re-commence in the event of the resumption of the preliminary assessment procedure.

53. §

- (1) The refugee authority shall refuse the application without an in-merit assessment if
 - a) it establishes the existence of any of the criteria set forth in Section 51, subsection (2) or
 - b) a circumstance giving rise to discontinuation referred to in Section 52, subsection (2) arises in the preliminary assessment procedure conducted on the basis of Section 52, subsection (7).
- (2) A court review of a resolution refusing an application without in-merit assessment may be requested.
- (3) The request for review shall be submitted to the refugee authority within three days of the communication of the resolution. The refugee authority shall forward the request for review, together with the documents of the case and its counter-application, to the court without delay. The submission of the request for review shall have a suspensive effect on the implementation of the resolution of the refugee authority.
- (4) The Municipal Court shall decide on the request for review in a non-litigious procedure within eight days of receipt of the request for review on the basis of the available documents. In case of need, there shall be a hearing in the procedure.
- (5) The court may alter the decision of the refugee authority. No legal remedy shall lie against the decision of the court.

54. §

- If the same applicant submits an application after the adoption of final and absolute decisions of refusal or discontinuation with respect to two of his/her previous applications and the authority so decided that the prohibition of refolement was not applicable,
- a) the submission of the application shall have no suspensive effect
 - aa) on the fulfilment of the obligation of leaving the country,
 - ab) in the event of the non-fulfilment of the obligation of leaving the country, on the execution of expulsion,
 - ac) on the extradition of the foreigner.
 - b) the foreigner shall not be entitled to the rights referred to in Section 5 subsection (1) paragraphs a)-c).

55. §

- (1) If the refugee authority establishes the admissibility of an application, it shall refer the application to the in-merit procedure.
- (2) No legal remedy shall lie against a resolution referring the application to the in-merit procedure.
- (3) If the refugee authority refers the application to the in-merit procedure and the applicant is in alien policing detention, the alien police authority shall, at the

initiative of the refugee authority, terminate his/her detention.

In-Merit Procedure

56. §

- (1) In its resolution referring the application to the in-merit procedure, the refugee authority shall designate at the request of the person concerned, a private residence as his/her place of residence. If no such request is articulated, the refugee authority shall designate a reception centre or another accommodation facility maintained on the basis of a contract as the place of residence.
- (2) The applicant shall reside at the place of residence designated for him/her on a residential basis during the in-merit procedure.
- (3) The in-merit procedure shall be completed within sixty days of the adoption of the resolution referring the application to the in-merit procedure.

57. §

- (1) The Office for National Security shall take part in the in-merit procedure as an expert authority.
- (2) The administrative time limit applicable to the expert authority shall be forty-five days which may not be extended.
- (3) The duration of the procedure of the expert authority shall be included in the administrative time limit of the in-merit procedure.

58. §

- (1) The refugee authority shall examine in the course of the in-merit procedure whether
 - a) the criteria of the recognition of the applicant as a refugee exist, and whether
 - b) there is any reason for exclusion of the recognition of the applicant as a refugee.
- (2) If the application for recognition as a refugee is unfounded due to the absence of the criteria of recognition or the existence of a reason for exclusion, the refugee authority shall examine whether
 - a) the criterias of the recognition of the applicant as a person eligible for subsidiary protection exist, and
 - b) there is any reason which excludes the recognition of the applicant as a beneficiary of subsidiary protection.
- (3) An application is unfounded if
 - a) the conditions of recognition as a refugee do not exist or recognition as a refugee is excluded on the basis of Section 8, subsection (1), and
 - b) the conditions of recognition as a person eligible for subsidiary protection do not exist or recognition as a person eligible for subsidiary protection is excluded on the basis of Section 15.

59. §

- (1) It indicates the absence of the criteria of recognition as a refugee or as a person eligible for subsidiary protection in particular if

- a) the applicant's country of origin may be regarded as a safe country of origin;
- b) the applicant arrived from a country which qualifies as a safe third country from his/her point of view;
- c) the applicant fails to disclose the facts and circumstances giving rise to the act of fleeing or his/her declaration relating thereto is incoherent or contradictory, to such an extent that it is not possible to conclude on the basis thereof that s/he was subject to persecution or serious harm or that the risk thereof exists;
- d) the applicant wilfully supplies false data with respect to his/her identification data and/or nationality;
- e) the applicant wilfully uses a false or forged document for the verification of his/her identity and/or for admission to the country and insists on the untrue contents of the document;
- f) the applicant hides from the refugee authority or destroys his/her travel document or any other document suitable for the establishment of his/her identity and/or wilfully hinders the procedural acts aimed at the establishment of his/her identity;
- g) the applicant attempts to mislead the refugee authority by concealing material information or retaining documents;
- h) the applicant submits an application for the sole reason of delaying the implementation of a decision ordering his/her expulsion.

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

60. §

(1) Upon the examination of the criteria of recognition, all acts shall be regarded as acts of persecution which are sufficiently serious by their nature, repetition or accumulation, to constitute a severe violation of basic human rights, in particular, the right to life, the prohibition of torture, the prohibition of slavery or servitude and the principle of no punishment without law.

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

- a) acts of mental or physical violence, including acts of sexual violence;
- b) acts committed on account of the sexual orientation of the person concerned;
- c) acts committed in connection with the childhood of the person concerned;
- d) legal provisions or administrative measures which are in themselves discriminatory or which are implemented in a discriminatory manner;
- e) disproportionate or discriminatory measures implemented in criminal proceedings, including disproportionate or discriminatory punishment;
- f) denial of judicial redress resulting in a disproportionate or discriminatory punishment;
- g) punishment for refusal to perform military service in a conflict, where performing military service would

include crimes or acts falling under the exclusion clauses related to recognition as a refugee or as a beneficiary of subsidiary protection.

61. §

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

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

62. §

There may be the following actors behind persecution or serious harm:

- a) the state from which the applicant was forced to flee;
- b) a party or organisation controlling the state referred to in paragraph a) or a substantial part thereof;
- c) a person or organisation who or which is independent that of referred to in paragraph a) or b), provided that the state referred to in paragraph a) and the party or organisation referred to in paragraph b) are unable or unwilling to provide protection against persecution or serious harm.

63. §

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

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

64. §

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

- a) the concept of race shall in particular include considerations of colour, descent, or membership of a particular ethnic group;
- b) the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief;
- c) the concept of nationality shall not be confined to nationality or lack thereof but shall in particular include membership of a group determined by its cultural, ethnic, or

linguistic identity, common geographical or political origins or its relationship with the population of another state;

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

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

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

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

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

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

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

65. §

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

66. §

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

(2) The refugee authority shall discontinue the in-merit procedure if

a) the criteria set forth in Section 52, subsection (2), paragraph a), c) or d) are met;

b) the applicant refuses to issue a declaration and thereby hinders the in-merit assessment of the application;

c) based on Section 51, subsection (2), the application should have been rejected without an in-merit assessment, however, the refugee authority was made aware of the reason for refusal following the commencement of the in-merit procedure.

(3) If the refugee authority discontinues the in-merit procedure on the basis of subsection (2), paragraphs a)

and b), the provisions set forth in Section 52, subsections (3) to (8) shall duly apply thereafter.

(4) If the cause of discontinuation set forth in subsection (2), paragraphs a) or b) arises in the course of the conducting of the in-merit procedure on the basis of subsection (3), the refugee authority shall reject the application.

(5) A request may be filed for the court review of a resolution discontinuing the in-merit procedure on the basis of subsection (2), paragraph c) in accordance with the provisions set forth in Section 53, subsections (2) to (5).

67. §

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

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

68. §

(1) A court review of a decision rejecting the application may be requested.

(2) The statement of claim shall be submitted to the refugee authority within fifteen days of the communication of the decision. The refugee authority shall forward the statement of claim, together with the documents of the case and its counter-application, to the court without delay. The submission of the statement of claim shall have a suspensive effect on the implementation of the decision of the refugee authority, except in the case set forth in Section 54.

(3) The Municipal Court of Budapest shall decide on the statement of claim in a litigious (adversarial) procedure within sixty days of receipt of the statement of claim.

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

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

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

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

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

(6) The obligation of the refugee authority to inform the applicant as referred to in Section 67 subsection (2) applies also in cases where the court alters the decision of the refugee authority by recognizing the applicant as refugee or beneficiary of subsidiary protection.

Recognition as Refugee out of Special Consideration

69. §

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

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

Dublin procedure

70. §

(1) If, during the in-merit procedure, the conditions set forth for the application of the Dublin procedure prevail, the provisions stipulated by Section 49 subsections (2)-(9) and Section 50 subsections (1)-(2) shall be applied.

(2) If the Member State contacted does not take delivery of the applicant and the assessment of the application, the in-merit procedure will commence.

Rules Relating to the Applications of Beneficiaries of Temporary Protection

71. §

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

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

Airport Procedure

72. §

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

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

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

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

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

a) the preliminary assessment procedure is closed with a resolution referring the application to the in-merit procedure or

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

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

Revocation of Recognition as Refugee or Beneficiary of Subsidiary Protection

73. §

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

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

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

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

b) has departed for an unknown destination, or

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

74. §

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

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

75. §

(1) A request may be filed for the court review of a decision revoking recognition as a refugee or a beneficiary of subsidiary protection, unless the revocation is based on the waiving of the legal status by the holder.

(2) The statement of claim shall be submitted to the refugee authority within fifteen days of the communication of the decision. The refugee authority shall forward the statement of claim, together with the documents of the case and its counter-application, to the court without delay. The submission of the statement of claim shall have a suspensive effect on the implementation of the decision of the refugee authority.

(3) The Municipal Court of Budapest shall decide on the statement of claim in a litigious (adversarial) procedure within sixty days of receipt of the statement of claim.

- (4) The personal hearing of the applicant shall be mandatory in the court procedure. The personal hearing shall be dispensed with if the foreigner
- a) cannot be summoned from his/her place of residence, or
 - b) has departed for an unknown destination.
- (5) No legal remedy shall lie against a decision to close the procedure by the court.

Chapter IX

PROCEDURE AIMED AT RECOGNITION AS BENEFICIARY OF TEMPORARY PROTECTION

76. §

- (1) Based on the Government's proposal, the National Assembly shall adopt a decision with respect to the recognition of eligibility for temporary protection as defined in Section 19, paragraph b).
- (2) The decision under subsection (1) shall state the term upon the expiry of which or the fact upon the occurrence of which temporary protection shall cease.
- (3) In the procedure aimed at recognition as a beneficiary of temporary protection, the refugee authority and the court shall not obtain the report referred to in Section 41, subsection (2).
- (4) The provisions set forth in subsections (1) to (3) shall duly apply to a decision regarding the maintenance of temporary protection following the expiry of the term or the occurrence of the fact determined in Section 24, subsection (1).

77. §

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

78. §

- (1) In the course of the procedure aimed at recognition as a beneficiary of temporary protection, the refugee authority shall obtain the position of the Office for National Security as expert authority.

- (2) The Office for National Security shall meet the request of the refugee authority within thirty days. The administrative time limit of the procedure of the expert authority may not be extended.
- (3) The duration of the procedure of the expert authority shall be included in the administrative time limit (*set for the refugee authority*).

79. §

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

Revocation of Recognition as Temporarily Protected Person

80. §

- (1) If the refugee authority establishes the existence of any of the circumstances set forth in Section 25, subsection (2), it shall revoke the recognition as a beneficiary of temporary protection.
- (2) Legal remedy shall lie against the decision withdrawing recognition as a beneficiary of temporary protection, except as set out in subsection (3), in accordance with the provisions set forth in Section 75.
- (3) If recognition as a beneficiary of temporary protection was revoked on the basis of Section 25, subsection (2), paragraph a), no legal remedy shall lie against the decision revoking recognition.

Chapter X

DATA MANAGEMENT

81. §

- The refugee authority shall manage the personal details of refugees, beneficiaries of subsidiary and temporary protection and persons seeking recognition (hereinafter collectively referred to as "persons coming under the effect of the present Act") and the data related to their residence, the provisions and benefits which they are entitled to as well as any changes therein in the refugee records for the purpose of
- a) establishment of the existence of the legal status of refugee, beneficiaries of subsidiary or temporary protection and providing the benefits which are attached thereto,
 - b) establishment of the entitlement to the provisions and benefits determined in the present Act and in separate legal rule,
 - c) identification,
 - d) prevention of parallel procedures and
 - e) establishment of the multiple submission of applications.

82. §

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

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

83. §

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

- a)* natural identification data;
- b)* facial image;
- c)* fingerprints of persons older than fourteen years of age;
- d)* if the applicant is an unaccompanied minor, this fact;
- e)* if the applicant was taken over in the Dublin procedure, this fact and the date of the take-over;
- f)* the date of submission of the application for recognition as refugee or beneficiary of subsidiary or temporary protection as well as the date of the withdrawal of such application;
- g)* the fact and the date of recognition as refugee or beneficiary of subsidiary or temporary protection, the name of the authority or court issuing the recognition decision as well as the number of persons covered by the decision;
- h)* the fact, reason and date of rejecting the application for recognition, the discontinuation of the procedure and the revocation of the recognition; the deadline to comply with the obligation to leave the country, the name of the authority or court that made the decision, and the number of persons covered by the decision;
- i)* the fact and reason of the hand-over of the applicant in Dublin procedure, the dates of the resolution providing for the hand-over as well as of the actual hand-over, and the number of persons covered by the resolution;
- j)* marital status, occupation, education;
- k)* place of residence, place of stay and accommodation;
- l)* name of country of origin;
- m)* from among data relating to racial or ethnic affiliation, membership of particular social group, religion or political convictions, those which the person referred to in the reasoning part of his/her application;
- n)* data of identification and travel documents (identification mark and number of document, term of validity, date of issuance, name of issuing authority, place of issuance);

o) natural identification data of family members arriving together with him/her and the legal title of residence in Hungary;

p) data relating to his/her income and pecuniary situation which were contained in his/her declaration, the document supplied by him/her or in the data supplied by the tax authority and/or the agency fulfilling social security responsibilities.

(2) The refugee authority shall manage

a) the data determined in subsection (1), paragraphs a) to o) for a period of five years reckoned from the refusal of the application, or the discontinuation of the procedure or the cessation of recognition;

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

(3) The purpose of the recording and storage of fingerprints is to identify the person seeking recognition and to establish the multiple submission of applications. The proceeding authority shall, without delay, forward the fingerprints recorded, together with the natural identification data and nationality verified by the person seeking recognition or, in the absence of verification, stated by the person seeking recognition, as well as the designated place of accommodation, to the data processing agency referred to in subsection (4).

(4) For the purposes of the range of data determined in subsection (3), the agency determined in the ministerial decree shall be the data processing agency. The data manager shall be responsible for forwarding data to the central unit of Eurodac, for receiving and collating them.

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

84. §

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

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

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

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

85. §

(1) For the purpose of establishing entitlement to the provisions and benefits falling within his/her competence, as determined in the present Act and in separate legal rule, the notary with competence according to the place of residence, place of stay or accommodation of a refugee, beneficiary of

subsidiary or temporary protection shall keep records of the following details of the person falling within his/her competence entitled to benefits:

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

(2) The agencies disbursing benefits may manage data relating to the earning and pecuniary conditions of family members sharing a household with a person entitled to benefits falling within the competence of the notary if the existence of the criteria for the disbursement of benefits may be established on the basis thereof.

(3) The agencies disbursing benefits shall supply data to the refugee authority and the agencies authorised by law to request the data determined in subsection (2).

(4) The notary and the agencies disbursing benefits may manage the data determined in subsections (1) - (2) during the existence of the entitlement to benefits or the obligation of repayment.

86. §

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

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

87. §

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

- a)* court,
- b)* public prosecutor's office,
- c)* investigating authority,
- d)* national security service,
- e)* alien police authority,
- f)* tax and customs authorities,
- g)* expert authority involved in asylum procedure;
- h)* authority proceeding in nationality cases,
- i)* authority proceeding in cases related to the records of personal and residence data,
- j)* labour authority,
- k)* labour safety authority,
- l)* state administration agency responsible for health care,
- m)* registrar authority,
- n)* guardianship authority and
- o)* agencies disbursing benefits on the basis of a legal rule or contract.

(2) The refugee authority shall notify the central agency managing the records of personal and residence data of the recognition of a person as a refugee or as a beneficiary of subsidiary protection by communicating the natural identification data of the person concerned for the purpose of enabling the said agency to enter the person in the records and to furnish him/her with an identity card and an official card verifying his/her personal identifier and address.

(3) The data managed on the basis of the present Act may be used for statistical purposes and data may be supplied from the records containing such data for statistical purposes in a way which does not permit the identification of individuals.

(4) The following data may be delivered to the Central Statistical Office in the interest of data management for statistical purposes also in a way which allows for the identification of individuals:

- a)* from among data in Section 83, subsection (1), paragraph a): the surname and first name or names, the former surname and first name or names, place and date of birth, sex, the mother's surname and first name, data related to the current and former nationality or statelessness status, and
- b)* data stipulated by Section 83 subsection (1) paragraphs f), j)-l).

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

88. §

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

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

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

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

89. §

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

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

- a) the natural identification data of a person coming under the effect of the present Act;
 - b) the data of his/her identity and travel documents (identification mark and number of document, term of validity, date of issuance, name of issuing authority, place of issuance);
 - c) other data necessary for the establishment of the identity of the person seeking recognition;
 - d) data relating to residence permit or visa;
 - e) place and date of submission of application for recognition or any previous application for recognition, status of procedure and contents of decision made on the application;
 - f) data generated by the criminal law procedure.
- (3) The grounds which were stated by the person coming under the effect of the present Act to substantiate his/her application may only be disclosed as part of the data disclosure under subsection (1) with the written consent of the person concerned.
- (4) With the exception of the agencies authorised in subsection (1), personal data may only be disclosed to a foreign agency or person on the basis of the written consent of the person concerned. The person concerned shall be informed of the purpose of utilisation beforehand.

Chapter XI

CLOSING PROVISIONS

Provisions of Entry into Force and Discontinuations

90. §

- (1) The present Act shall enter into force on 1 January 2008 with the exception in subsection (2).
- (2) Section 94 of the present Act shall enter into force on 2 July 2007.
- (3) Simultaneously with the entry into force of the present Act,
- a) Act CXXXIX of 1997 on Asylum,
 - b) Sections 36 and 58 of Act LXXV of 1999 on the Rules of Intervention Against Organised Crime as well as Certain Related Phenomena and Amendments of the Law Related Thereto, c) Act XXXVIII of 2001 on the Amendment of Act CXXXIX of 1997 on Asylum,
 - d) Sections 44 to 56, the preceding chapter title "CHAPTER SEVEN" and title "On the Amendment of Act CXXXIX of 1997 on Asylum", Section 147 subsection (1) paragraph f), Section 142 subsection (2) paragraph d) and Section 147 subsection (3) of Act XXIX of 2004 on Certain Amendments of the Law Related to Hungary's Accession to the European Union, the Repeal of Statutory Provisions and the Establishment of Certain Statutory Provisions,
 - e) Section 93 of Act I of 2007 on the Entry and Stay of Persons with the Rights of Free Movement and Stay,
 - f) Section 113 of Act II of 2007 on the Entry and Stay of Third Country Nationals shall cease to have effect.

Temporary Provisions

91. §

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

92. §

- (1) The refugee authority shall review the legal status of persons authorised to stay furnished with residence permits for humanitarian purposes on the basis of the Act on the Entry and Stay of Foreigners within eighteen months of the entry into force of the present Act.
- (2) In the course of the review, the refugee authority shall conduct the procedure aimed at recognition as a refugee or as a beneficiary of subsidiary protection *ex officio*.

Provisions of Authorisation

93. §

- (1) The Government is hereby authorised to establish the following in a decree:
- a) the detailed rules of the asylum procedure;
 - b) the detailed rules relating to the delivery of asylum procedures to foreign refugee authorities as well as to the receipt of asylum procedures from foreign refugee authorities;
 - c) the types of provisions and benefits due to persons seeking recognition, refugees, beneficiary of subsidiary and temporary protection and the criteria of their availability;
 - d) the rules governing the reimbursement of the costs of the use of provisions and benefits;
 - e) the range of documents of refugees, beneficiaries of subsidiary and temporary protection;
 - f) the content and form of the document for the applicant, refugee, beneficiaries of subsidiary and temporary protection;
 - g) the detailed procedural rules of the issuance of travel documents to refugees, beneficiaries of subsidiary and temporary protection;
 - h) the designation of the agency in charge of providing country information;
 - i) the criteria of financial assistance that may be provided to ensure the expenses related to the travel in case of repatriation and settlement in a third country.
- (2) The Minister is hereby authorised to
- a) determine in a decree the structure of the organisational system, tasks and operating procedures of refugee affairs;
 - b) designate in a decree the agency authorised to process the data of the refugee records and the data referred to in Section 83 subsection (3).

Provisions to amend

94. §

(1) Section 110 of Act LXXIX of 1993 on Public Education shall be replaced by the following provision:

“Section 110

(1) A non-Hungarian citizen minor shall be entitled to kindergarten attendance, and/or to compulsory school attendance in Hungary, if s/he

a) is an asylum-seeker, refugee or beneficiary of temporary protection,

b) is practicing the right of freedom of movement and stay within Hungary according to the Act on the Entry and Stay of Persons with the Right of Enjoying the Free Movement and Stay,

c) is an immigrant or settled or has a permission to stay within the territory of the Republic of Hungary, and s/he falls under the scope of the Act on the Entry and Stay of Third Country Nationals.

(2) The fulfilment of criteria stipulated in subsection (1) shall be verified upon the admission of the pupil into the institution of education.

(3) If the stay in the territory of the Republic of Hungary

a) shall not exceed one year, upon request by the parent,

b) shall exceed one year, by force law,

the child shall become obliged to attend school education.

(4) As long as the non-Hungarian citizen fulfils the criteria stipulated in subsection (1), the same rules apply to his/her participation in kindergarten, school and college education – if s/he has become obliged to attend school education -, and to benefiting from the services provided by pedagogical institutions as Hungarian citizen do, as long as the obligatory school education applies, further to studies started in school age and continued after school age.

(5) Persons referred to in subsection (1) paragraph a) may practice the rights stipulated in subsection (4) and/or shall be obliged to start fulfil the obligatory school participation.

(6) Rights stipulated in subsection (4) shall be practiced according to subsection (1) paragraphs b)-c), if the parent is in possession of a residence permit authorising stay beyond three months and pursues income generating activities. These provisions shall be applied to the husband/wife and child of the person concerned respectively.

(7) Non-Hungarian citizens, holders of a letter of invitation by the Minister of Education shall enjoy the

services stipulated by the letter of invitation on equal footing with Hungarian citizens.

(8) Non-Hungarian citizens, not covered by subsections (1)-(7), unless international treaty stipulates otherwise, shall pay a fee for enjoying kindergarten, school and college education, and for benefiting from the services provided by pedagogical institutions. The fee shall not exceed the actual per capita cost of pedagogical services.

(9) The Minister of Education shall establish/launch pedagogical systems (pedagogical programs) for kindergarten and school education stipulated by subsection (1).”

(2) Section 122/A of the Act on Public Education shall be completed by the following paragraph c):

[The present Act serves compatibility with the following Community legal Acts:]

“c) Article 10 (1)-(2) of Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.”

Compatibility with European Union Law

95. §

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

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

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

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

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

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

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

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

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

i) Council Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers;

j) Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted;

k) Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status.

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

a) Council Regulation 343/2003/EC of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national;

b) 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 on the State responsible for examining applications for asylum lodged in one of the European Union Member States.

Laszlo Solyom
Katalin Szili
President
Speaker of Parliament