

**Act I of 2007
on the Admission and Residence of Persons with the Right of Free Movement and Residence and
the Government Decree 113/2007 (V.24) on the Implementation of Act I of 2007 on the
Admission and Residence of Persons with the Right of Free Movement and Residence**

[Written in **bold** is the text of Act I of 2007 and written in regular is the text of Government Decree 113/2007 (V. 24.).]

With a view to guarantee the right of free movement and residence afforded in the Treaty establishing the European Community, and to ascertain equal treatment for the family members of Hungarian citizens who do not have Hungarian citizenship, Parliament has adopted the following Act:

Pursuant to the authorization conferred under Subsection (1) of Section 86 of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence (hereinafter referred to as "FMRA"), the Government has adopted the following Decree:

Chapter I

GENERAL PROVISIONS

FRMA Section 1.

(1) Hungary shall ensure the right of free movement and residence in accordance with the provisions of this Act:

a) with the exception of Hungarian citizens, to nationals of any Member State of the European Union and States who are parties to the Agreement on the European Economic Area, and to persons enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area by virtue of an agreement between the European Community and its Member States and a State that is not a party to the Agreement on the European Economic Area with respect to the right of free movement and residence (hereinafter referred to as "EEA nationals");

b) to the family member of an EEA national who does not have Hungarian citizenship, accompanying or joining the EEA national (hereinafter referred to as "family members of EEA nationals");

c) to the family member of a Hungarian citizen who does not have Hungarian citizenship, accompanying or joining the Hungarian citizen (hereinafter referred to as "family members of Hungarian citizens"); and

d) to any persons accompanying or joining an EEA national or a Hungarian citizen, who:

da) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds;

db) had been dependants or members of the household of an EEA national in the country from which they are arriving, or who require the personal care of an EEA national due to serious health reasons,

and whose entry and residence has been authorized by the authority on grounds of family reunification.

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

(3) This Act shall not apply to persons to whom the Hungarian refugee authority has granted asylum, or placed under any subsidiary form of protection or under temporary protection schemes.

FRMA Section 2.

For the purposes of this Act:

a) 'third-country national' shall mean - with the exception of Hungarian citizens - any person who is not a citizen of the EEA, including stateless persons;

b) 'family member' shall mean:

ba) the spouse of an EEA national;

bb) the spouse of a Hungarian citizen;

bc) the direct descendants of an EEA national and those of the spouse of an EEA national who are under the age of 21 or are dependants;

bd) the direct descendants of a Hungarian citizen and those of the spouse of a Hungarian citizen who are under the age of 21 or are dependants;

be) - unless otherwise prescribed in this Act - the dependent direct relatives in the ascending line of an EEA national and those of the spouse of an EEA national; and

bf) the direct relatives in the ascending line of a Hungarian citizen and those of the spouse of a Hungarian citizen;

bg) the person who has parental custody of a minor child who is a Hungarian citizen;

bh) any person whose entry and residence has been authorized by the competent authority on grounds of family reunification;

bi) the partner, who is a third-country national, with whom the EEA national has contracted a registered partnership before the relevant Hungarian authority, or the authority of another Member State of the European Union,

bj) the partner, who is a third-country national, with whom the Hungarian citizen has contracted a registered partnership before the relevant Hungarian authority, or the authority of another Member State of the European Union;

c) 'gainful employment' shall mean:

ca) any work performed for others under contract of employment - as governed by law - for remuneration, which constitutes subordinate and superior positions;

cb) any work performed for remuneration in a self-employed capacity in accordance with the relevant statutory provisions, if such self-employed person provides for his own health insurance and pension insurance coverage in accordance with the relevant legal regulations; or

cc) any person other than those defined in Subparagraph cb), who is engaged in any gainful activity in the capacity of being the owner or director of a business association, cooperative or some other legal entity formed to engage in gainful employment, or is a member of the executive, representative or supervisory board of such entity;

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

e) 'Schengen State' shall mean any Member State of the European Union applying in full the Schengen acquis defined in Article 1 of the Protocol integrating the Schengen acquis into the framework of the European Union annexed to the Treaty on the European Union, to the Treaty establishing the European

Community and to the Treaty establishing the European Atomic Energy Community (hereinafter referred to as "Schengen Protocol") and in Council Decision 1999/435/EC, as well as the measures adopted by the institutions of the European Union in these fields, and any other State that is in association with the implementation, application and development of the Schengen acquis by virtue of Article 6 of the Schengen Protocol within the meaning of the Agreement concluded with the Council of the European Union.

f) 'visa for a validity period not exceeding three months' shall mean an authorization defined in Article 2(2) of Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (hereinafter referred to as "Visa Code").

Interpretative Provisions

Government Decree Section 1.

For the purposes of this Decree:

- a) 'EEA national' shall mean the person defined in Paragraph a) of Subsection (1) of Section 1 of the FMRA;
- b) 'EEA Member State' shall mean any Member State of the European Union and any State that is a party to the Agreement on the European Economic Area, furthermore, any other country whose citizens are enjoying the same treatment as nationals of States who are parties to the Agreement on the European Economic Area by virtue of an agreement between the European Community and its Member States and a State that is not a party to the Agreement on the European Economic Area with respect to the right of free movement and residence;
- c) 'Schengen State' shall have the meaning defined in Paragraph e) of Section 2 of the FMRA;
- d) 'household' shall mean the community of persons living with an EEA national or a Hungarian citizen under the same roof, and using this address as the registered permanent or customary residence.

Competent Authorities

Government Decree Section 2.

The administrative proceedings specified in the FMRA shall be conducted by the following authorities:

- a)
- b) the minister in charge of foreign policies;
- c) the Office of Immigration and Nationality (hereinafter referred to as "Office");
- d) the local branches of the Office (hereinafter referred to as "regional directorate");
- e) the consulate officer of Hungary authorized to issue visas (hereinafter referred to as "consulate officer");
- f) the Police.

Chapter II

RIGHT OF ENTRY AND RESIDENCE

Right of Entry and Residence for a Period Not Exceeding Three Months

FRMA Section 3.

(1) EEA nationals may enter the territory of Hungary with a valid travel document or a personal identification document.

(2) Third-country nationals accompanying an EEA national or a Hungarian citizen or joining an EEA national or a Hungarian citizen who reside in the territory of Hungary, who are family members, may enter the territory of Hungary with a valid travel document and - unless otherwise prescribed by any directly applicable Community legislation or an international agreement - with a visa for a validity period not exceeding three months.

(3) Third-country nationals may also enter the territory of Hungary with a valid travel document and - unless otherwise prescribed by any directly applicable Community legislation or an international agreement - a visa for a validity period not exceeding three months on the grounds of family reunification, who:

a) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds; or

b) had been dependants or members of the household of an EEA national in the country from which they are arriving, or who require the personal care of an EEA national due to serious health reasons.

(4) The persons referred to in Subsections (2) and (3) may enter the territory of Hungary without a visa, provided that they hold a document evidencing right of residence, or a residence card issued by States who are parties to the Agreement on the European Economic Area to family members of EEA nationals who are third-country nationals.

(5) The provisions set out in Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (hereinafter referred to as "Schengen Borders Code") shall also apply to the admissions specified above.

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

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

FRMA Section 4.

(1) Visas for a validity period not exceeding three months shall be issued in accordance with the procedures and under the conditions set out in the Visa Code.

(1a) If the person applying for a visa for a validity period not exceeding three months established the family relationship solely for the purpose of gaining entry, the benefits specified in this Act and in the decree adopted for the implementation of this Act shall not apply to the applicant.

(2) Multiple-entry visas for a validity period not exceeding three months are issued to family members of third-country nationals for an intended stay of a duration of not more than three months in any six-month period from the date of first entry.

FRMA Section 5.

EEA nationals holding a valid travel document or a personal identification document, and family members who are third-country nationals holding a valid travel document shall have the right of residence not exceeding three months from the date of entry for as long as the beneficiaries of the right of residence do not become an unreasonable burden on the social assistance system of Hungary.

Right of Entry and Residence for a Period Not Exceeding Three Months

Government Decree Section 3.

Prior to granting entry to the territory of Hungary the Police shall check compliance with the requirements set out in Subsections (1)-(4) of Section 3 of the FMRA.

Visas Issued to Members Who Are Third-Country Nationals

Government Decree Section 4.

The proceedings for issuing visas for a validity period not exceeding three months under Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (hereinafter referred to as "Visa Code") is conferred under the competence of:

- a) the minister in charge of foreign policies;
- b) the competent consulate officer;
- c) the Office;
- d) the minister in charge of immigration;

(hereinafter referred to collectively as "visa authority").

Government Decree Section 5.

Government Decree Section 6.

The minister in charge of foreign policies shall adjudge - in accordance with specific other legislation - the visa applications of the family members of persons enjoying diplomatic immunity or some other privilege under international law.

Government Decree Section 7.

(1) Applications for visas for a validity period not exceeding three months - governed under Chapter VI of the Visa Code - may be submitted at land, air or water border crossing points of Hungary (hereinafter referred to collectively as "border crossing points"), or at the Police.

(2) The Police shall forward applications for visas for a validity period not exceeding three months submitted at border crossing points - by way of electronic means - without delay to the Office.

(3) The Office shall promptly adopt a decision concerning the aforesaid applications, not to exceed three hours, and shall notify the applicant of its decision via the Police.

(4) If the application is approved, the visa for a validity period not exceeding three months shall be issued to the applicant by the Police.

(5) Decisions adopted for the refusal of applications submitted at border crossing points for visas for a validity period not exceeding three months may be appealed within three days following delivery of the decision, submitted at the border crossing point, the Office or to the minister in charge of immigration.

(6) The Police shall forward the appeals submitted at border crossing points to the Office without delay. The Office shall forward the appeal to the minister in charge of immigration by way of priority.

(7) The minister in charge of immigration shall render a decision within five days.

Government Decree Section 8.

Government Decree Section 9.

(1) Visa authorities shall presume the availability of financial means necessary for the entire duration of stay, or for the return or continued travel.

(2) In proceedings for the issue of visas for a validity period not exceeding three months the competent visa authority shall check the authenticity of family ties relying on the available documents and the findings of an on-site inspection, on interviewing the client and the family member, and on the examination of witnesses and experts.

(3) If the competent visa authority finds relying on the evidence specified in Subsection (2) above that the applicant established the family relationship solely for the purpose of gaining entry, a visa may be issued only if the applicant is able to satisfy the entry conditions set out in the Visa Code relating to third-country nationals for the issue of visas for other purposes.

Government Decree Section 10.

Government Decree Section 11.

The competent consulate officer shall adopt a decision concerning visa applications within fifteen days.

Government Decree Section 12.

(1) An appeal against a decision adopted in connection with an application for a visa for a validity period not exceeding three months may be submitted to the competent consulate officer within eight days.

(2) The appeal shall be decided by the minister in charge of foreign policies within fifteen days.

(3) If the visa application was refused pursuant to Subsection (6) of Section 3 of the FMRA, in the proceedings of the second instance the minister in charge of foreign policies shall contact the Office to obtain the prior consent prescribed in Subsection (6) of Section 3 of the FMRA. The Office shall notify the minister in charge of foreign policies on the granting or refusal of the prior consent within seven days following receipt of the request. If the Office decided not to grant its prior consent in the proceedings of the second instance, the issue of a visa for a validity period not exceeding three months may not be authorized.

Government Decree Section 13.

Government Decree Section 14.

(1) The minister in charge of foreign policies and the competent consulate officer may request the opinion of the Agency for Constitutional Protections and the Counter-Terrorism Center concerning any visa application.

(2) The Agency for Constitutional Protections and the Counter-Terrorism Center shall provide the aforesaid opinion within ten days.

Government Decree Section 15.

Government Decree Section 16.

- (1) The decision for the annulment or revocation of a visa for a validity period not exceeding three months before entry to Hungary lies with the visa authority that learns of any reason during its proceedings under which the visa has to be annulled or revoked.
- (2) The decision for the annulment or revocation of a visa for a validity period not exceeding three months according to Annex V, Part A of Regulation (EC) No. 562/2006 of the European Parliament and of the Council, as amended by Article 55 of the Visa Code, lies with the Police.
- (3) The decision for the annulment or revocation of the visa for a validity period not exceeding three months held by the family member of a third-country national who resides in Hungary lies with the competent regional directorate of jurisdiction by reference to the place where the home address, or failing this the customary residence of the family member of a third-country national is located.

Government Decree Section 16/A.

- (1) If the decision for the annulment or revocation of a visa for a validity period not exceeding three months was adopted by a consular officer, an appeal against such decision may be submitted within three days to the competent consulate officer. The consulate officer shall forward the appeal to the minister in charge of foreign policies without delay.
- (2) The appeal shall be decided by the minister in charge of foreign policies within five days.
- (3) If the decision rendered by the minister in charge of foreign policies is in favor of the appeal filed against the decision for the annulment or revocation of a visa, the consulate officer shall make out a new visa for the third-country national affected.

Government Decree Section 16/B.

- (1) Decisions adopted for the annulment or revocation - under Subsection (2) of Section 16 - of visas for a validity period not exceeding three months may be submitted at the Police within three days following delivery of the decision.
- (2) The appeal shall be decided by the police department of the second instance within five days.
- (3) If the decision rendered by the police department of the second instance is in favor of the appeal filed against the decision for the annulment or revocation of a visa under Subsection (2) of Section 16, a new visa shall be issued for the third-country national affected.

Government Decree Section 16/C.

- (1) If the decision for the annulment or revocation of a visa for a validity period not exceeding three months was adopted by a regional directorate, an appeal against such decision may be submitted within three days to the competent regional directorate. The regional directorate shall forward the appeal to the Office without delay.
- (2) The appeal shall be decided by the Office within five days.
- (3) If the decision rendered by the Office is in favor of the appeal filed against the decision for the annulment or revocation of a visa, the regional directorate shall make out a new visa for the third-country national affected.

Government Decree Section 17.

- (1) The duties conferred upon the central visa authority by Regulation (EC) No. 767/2008 of the European Parliament and of the Council (hereinafter referred to as "VIS Regulation"), by the Visa Code and the FMRA shall be discharged by the Office.

(2) If - according to Subsection (6) of Section 3 of the FMRA - the consent of the central visa authority is required for the issue of a visa for a validity period not exceeding three months, the competent consulate officer shall forward the application for such visa without delay upon receipt to the central visa authority.

(3) The central visa authority shall inform the competent consulate officer of its decision to grant or refuse consent for the issue of a visa for a validity period not exceeding three months:

a) within seven days upon receipt of the visa application if the consultation referred to in Subsection (7) of Section 3 of the FMRA is not required, or if the central visa authority decided to avoid the consultation procedure, or if consultation is carried out by the representing Member State according to the representation arrangements under Article 8 of the Visa Code;

b) immediately upon receipt of all replies or following the time limit prescribed for such replies in connection with the consultation referred to in Subsection (7) of Section 3 of the FMRA.

(4) The central visa authority shall avoid the consultation procedure specified in Subsection (7) of Section 3 of the FMRA if it comes to the conclusion following receipt of a visa application for a visa for a validity period not exceeding three months that it has to be refused.

(5) If according to the assessment of the central visa authority there are no grounds for the refusal of an application for a visa for a validity period not exceeding three months, it shall contact following submission of the visa application the central authorities of the Schengen States requesting consultation, to declare their position in connection with granting consent for the issue of the visa for a validity period not exceeding three months.

Government Decree Section 18.

(1) The central visa authority, prior to granting the consent under Subsection (6) of Section 3 of the FMRA and before the reply made upon consultation according to Paragraph *b)* of Subsection (6) of Section 86 of the FMRA, shall request the opinion of the Agency for Constitutional Protections and the Counter-Terrorism Center.

(2) The Agency for Constitutional Protections and the Counter-Terrorism Center shall comply with the request of the central visa authority and provide the aforesaid opinion within six days.

Local Border Traffic Permit Issued to Family Members Who Are Third-Country Nationals

Government Decree Section 18/A.

(1) The administrative proceedings for the issue of a local border traffic permit under Regulation (EC) No. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention as specified in the relevant international agreement (hereinafter referred to as “local border traffic permit”) shall fall within the competence of the consular officer of the consular post specified in the international agreement.

(2) The local border traffic permit shall be made out in card format in accordance with Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.

Government Decree Section 18/B.

(1) Applications for local border traffic permit shall be submitted on a standard form prescribed in specific other legislation.

(2) When lodging an application for a local border traffic permit the applicant shall present his/her valid travel document. The validity period of the travel document must not be less than one year from the date of submission of the application, plus thirty days, and must have at least one suitable page where the local border traffic permit can be installed.

(3) Applications for local border traffic permit must have enclosed:

a) one facial photograph;

b) a document in proof of lawful residence in a border area as defined in the relevant international agreement.

Government Decree Section 18/C.

(1) A local border traffic permit must be refused, or an existing local border traffic permit shall be withdrawn if the applicant or the holder of the local border traffic permit:

a) fails to comply with the requirements for the issue of a local border traffic permit;

b) has supplied false or untrue information in his/her application for a local border traffic permit;

c) has made an attempt to mislead the competent authority as far as the purpose of entry and residence is concerned.

(2) A local border traffic permit shall be considered cancelled if:

a) the local border traffic permit was withdrawn by final decision;

b) the data and information it contains are no longer legible;

c) it contains false or untrue information or has been forged;

d) the holder has died.

e) if the holder was granted Hungarian citizenship.

(3) An appeal against a decision adopted in connection with a local border traffic permit may be submitted to the competent consulate officer.

(4) The consulate officer shall forward the appeal to the minister in charge of foreign policies without delay.

(5) The appeal shall be decided by the minister in charge of foreign policies.

Right of residence for More Than Three Months

FRMA Section 6.

(1) All EEA nationals shall have the right of residence for a period of longer than three months if they:

a) intend to engage in some form of gainful employment;

b) have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family for such services as required by statutory provisions; or

c) are enrolled at an educational institution governed by the act on public education or the act on higher education, for the principal purpose of following a course of study, including vocational training and adult

education if offering an accredited curriculum, and they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their entire period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.

(2) The family members of EEA nationals who satisfy the requirements set out in Paragraph a) or b) of Subsection (1) shall have the right of residence.

(3) The spouse and dependent children of any EEA national who satisfies the requirements set out in Paragraph c) of Subsection (1) shall have the right of residence.

Verification of Conditions for the Right of Residence for a Period of Longer than Three Months

Government Decree Section 19.

(1) EEA nationals shall verify compliance with the conditions set out in the FMRA by the document evidencing right of residence or other appropriate document.

(2) In the application of the FMRA, the competent authority may accept the authentic instrument submitted by the applicant that was made out abroad without an official Hungarian translation and without diplomatic recertification.

FRMA Section 7.

(1) The family members of any Hungarian citizen who is engaged in gainful employment shall have the right of residence for a period of longer than three months.

(2) The right of residence for a period of longer than three months shall extend to the family members of a Hungarian citizen if:

a) they have sufficient resources for themselves or the Hungarian citizen has sufficient resources for such family members not to become a burden on the social assistance system of Hungary during their period of residence; and

b) they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.

(3) The right of residence for a period of longer than three months may be granted to a person who exercises parental custody of a minor child who is a Hungarian citizen in the absence of the requirements set out in Subsection (2).

Government Decree Section 20.

(1) If the purpose of stay is to engage in gainful employment, the applicant shall supply the following proof:

a) a document verifying the commencement of a relationship for the performance of work;

b) a valid contract or official copy of company records, certificate of incorporation or company certificate to verify that the applicant is engaged in any gainful activity in the capacity of being the owner or director of a business association, cooperative or some other legal entity formed to engage in gainful employment, or is a member of the executive, representative or supervisory board of such entity;

c) a valid private entrepreneur's license or similar authorization - issued by the competent authority of another Member State - to engage in business activities, or a private entrepreneur register number in the absence of a private entrepreneurial license;

d) for persons seeking employment, documents to evidence that he/she is actively seeking employment, and there is a probability of entering into gainful employment; or

e) any other verifiable means.

(2) For EEA nationals to whom the treatment afforded by Hungary is different from what is required under Articles 1-6 of Council Regulation (EEC) No. 1612/68 on the freedom of movement for workers within the Community, a work permit shall be enclosed.

FRMA Section 8.

(1) The competent authority may grant the right of residence to persons on the grounds of family reunification, who:

a) are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds; or

b) had been dependants or members of the household of an EEA national - who satisfies the requirements set out in Subsection (1) of Section 6 - in the country from which they are arriving, or who require the personal care of an EEA national due to serious health reasons.

(2) The right of residence of the person referred to in Subsection (1) shall terminate when their relationship is terminated.

(3) The person referred to in Subsection (1) shall have the same legal status as the family member during their period of lawful residence, with the exception that such right of residence may not be retained on these grounds:

a) in the event of the Hungarian citizen's death or if his citizenship is terminated;

b) in the event of the EEA national's death or if his right of residence is withdrawn, or if the EEA national no longer exercises the right of residence.

FRMA Section 8/A.

The competent authority shall - upon the guardian authority's request - *ex officio* grant the right of residence to a minor child who is a dependant or member of the household of a Hungarian citizen, if the child was born in Hungary, his/her nationality is unknown and there is no parent who has parental custody over the child in question.

Government Decree Section 21.

(1) Sufficient resources shall mean if the per capita monthly income in the applicant's household reaches at least the prevailing minimum old-age social security pension. A person shall be considered to lack sufficient resources if drawing:

a) social welfare for the elderly under Subsection (1) of Section 32/B of Act III of 1993 on Social Administration and Social Welfare Benefits (hereinafter referred to as "SAA"),

b) benefits provided to persons of active age under Section 33,

c) attendance allowance under 43/B of the SAA,

for any period of more than three months.

(2) If the per capita monthly income in the applicant's household is below the prevailing minimum old-age social security pension, the competent authority shall check the applicant's income and financial position to determine as to whether the applicant has sufficient resources for him/herself and his/her family members not to become a burden on the social assistance system of Hungary during their period of residence.

(3) If the purpose of residence is to pursue studies, the competent authority shall determine the availability of sufficient resources without the examination referred to in Subsection (2), if the applicant provides a statement declaring to have sufficient resources for him/herself and his/her family members not to become a burden on the social assistance system of Hungary during their period of residence.

(4) The examination referred to in Subsection (2) shall cover, in particular, the following criteria:

- a) number of family members of the household with any income or assets;
- b) number of dependant persons living in the household;
- c) as to whether the applicant is the owner, beneficial owner or user of the real estate property in which they reside.

(5) The applicant may verify of having sufficient means of subsistence with his/her financial assets or any regular income he/she receives in the form of:

- a) payments from the social security or social assistance system of any EEA Member State;
- b) income from funds or benefit plans financed by payment of membership dues or other regular contributions;
- c) income from a deposit account or contract registered in any EEA Member State or any other bank or investment asset, a bank guarantee provided by a credit institution established in any EEA Member State or that is guaranteed by a legal person established in any EEA Member State;
- d) income from maintenance or alimony supported by documentary evidence.

(6) The assets referred to in Subsection (5) may not comprise:

- a) articles of everyday use and household equipment and accessories;
- b) any property serving as the residence of the EEA national and his dependant family members;
- c) the vehicle of handicapped persons; and
- d) any assets which are required for the EEA national's gainful activity.

(7) The amount of monthly income shall be calculated as the monthly average of the sums:

- a) received during the three-month period prior to the registration of residence for regular income;
- b) received during the twelve-month period prior to the registration of residence for non-regular income.

(8) For the purposes of this Decree 'income' shall mean the income and assets defined, respectively, in Paragraphs a) and b) of Subsection (1) of Section 4 of the SAA.

Government Decree Section 22.

The persons to whom the FMRA applies shall be entitled to health-care services if, for their entire duration of residence in Hungary:

- a) financing for services similar to what is provided to Hungarian residents is ensured under any directly applicable Community legislation or an international convention or agreement; or failing this
- b) they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation.

Government Decree Section 23.

Where the purpose of residence is the pursuit of studies the applicant shall supply:

- a) a certificate of admission from an educational institution governed by the act on public education or the act on higher education;
- b) a document to verify his/her student status; or
- c) any other verifiable means.

Government Decree Section 24.

(1) Family members shall provide the following documents in proof of family relationship to verify family ties:

- a) birth certificate;
- b) marriage certificate;
- c) adoption document; or
- d) other verifiable means.

(2) Any reference made in this Decree to a registrar certificate shall also mean a similar or equivalent document issued by a foreign authority. A marriage certificate submitted by a family member of a Hungarian citizen who is a third-country national may be recognized after being recorded in the Hungarian registry.

Government Decree Section 25.

(1) With the exception set out in Subsection (2), EEA nationals and Hungarian citizens shall declare their commitment to support their family members using the standard form described in specific other legislation (hereinafter referred to as "declaration of support").

(2) No declaration of support is required if the EEA national or the Hungarian citizen is engaged in gainful employment.

(3) The declaration of support shall be enclosed with the registration of residence of the EEA national's family member, or with the application of family members who are third-country nationals for a residence card.

Government Decree Section 26.

(1) Family members of EEA national shall provide proof to verify that the EEA national whom they plan to accompany or join satisfies the condition set out in Paragraph a), b) or c) of Subsection (1) of Section 6 of the FMRA, unless the EEA national holds a registration certificate or a permanent residence card.

(2) Family members of Hungarian citizens shall provide proof to verify that they themselves or the Hungarian citizen in connection with whom the applicant's eligibility to reside in the territory of Hungary is established is in compliance with the conditions laid down in Section 7 of the FMRA.

Government Decree Section 27.

(1) Where applying for authorization to reside under Subsection (1) of Section 8 of the FMRA the applicant shall:

a) provide documentary evidence of being supported by a Hungarian citizen under a maintenance or life annuity contract, or an obligation of support described in specific other legislation, or a declaration of support according to Subsection (1) of Section 25, or if an EEA national is required to support him/her in accordance with statutory provisions or under contract;

b) a statement of his/her doctor to verify his/her health condition due to which nursing by the EEA national or Hungarian citizen in question is required;

c) provide documentary evidence, where applicable, in the form of an official certificate issued by the competent authority - or other verifiable means - of having been members of the household of an EEA national in the country from which they are arriving.

(2) The regional directorate shall consult the register of personal data and address records of citizens to verify as to whether the permanent or temporary residence of the applicant is the same as that of the Hungarian citizen, and has been so for the past year or more.

FRMA Section 9.

(1) An EEA national who is no longer engaged in any gainful employment as defined in Paragraph c) of Section 2 shall retain his/her right of residence obtained in accordance with Paragraph a) of Subsection (1) of Section 6 in the following circumstances:

a) he/she is temporarily unable to work as the result of an illness or accident requiring medical treatment;

b) he/she has registered as a job-seeker as prescribed in specific other legislation following termination of his/her gainful employment; or

c) he/she embarks on vocational training with a view to improve his/her professional aptitude, provided that he/she obtained the experience prescribed for vocational training in connection with his/her gainful employment.

(2) The EEA nationals referred to in Paragraph b) of Subsection (1) shall retain their right of residence on the grounds of gainful employment for an unlimited period, if the duration of their gainful employment exceeded one year.

(3) The EEA nationals referred to in Paragraph b) of Subsection (1) shall - if the duration of their gainful employment did not exceed one year - retain their right of residence on the grounds of gainful employment for the period of eligibility for job-seeking assistance as specified in specific other legislation, or in any case for at least six months.

Government Decree Section 28.

(1) Upon receipt of any information concerning the termination of gainful employment, in particular from the employer, the EEA national affected shall provide proof for the right of further residence when so requested by the competent regional directorate.

(2) Where an EEA national retains in accordance with Section 9 of the FMRA his/her right of residence obtained under Paragraph a) of Subsection (1) of Section 6 of the FMRA, he shall verify compliance with the conditions for residence by the following:

- a) a diagnosis provided by a body of medical experts concerning the loss of capacity to work, or a document supported by the assessment of a body of medical experts providing guidance to determine the degree of incapacity;
 - b) if the EEA national has registered as a job-seeker, a certificate issued by the relevant employment center concerning the payment of job-seeking assistance when requested by the regional directorate;
 - c) if the EEA national participates in vocational training, a document in proof of enrollment and the expected duration of the training course.
- (3) The certificate referred to in Paragraph b) of Subsection (2) shall indicate the projected date until which the job-seeking assistance will be provided.

FRMA Section 10.

(1) The right of residence referred to in Subsection (1) of Section 6 shall be retained, subject to the conditions defined therein, by the family member of an EEA national:

a) in the event of the EEA national's death

b) in the event of the EEA national's departure.

(2) The right of residence of an EEA national who is a family member of a Hungarian citizen shall be retained according to Subsection (1), in the case specified in Paragraph a) of Subsection (1).

(3) The right of residence of the spouse of an EEA national shall be retained according to Subsection (1), if the marriage was dissolved or annulled by the court.

(4) The right of residence of an EEA national shall be retained on the grounds of family reunification if he/she is a family member of a Hungarian citizen or a family member of an EEA national who satisfies the conditions set out in Subsection (1) of Section 6.

FRMA Section 11.

(1) The right of residence of third-country national family members of EEA nationals and Hungarian citizens shall be retained in the previous status in the event of the death of the EEA national or Hungarian citizen if:

a) they are engaged in gainful employment;

b) they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions; or

c) they exercise the right of residence as family members of a person who satisfies the requirements set out in Paragraph a) or b).

(2) The right of residence of a spouse who is a third-country national shall be retained in the previous status in the event of divorce or annulment of marriage where:

a) prior to the divorce or annulment of marriage the marriage has lasted at least two years, and the former spouse has resided at least one year in Hungary during the marriage as a family member of the EEA national or Hungarian citizen;

b) by court order the former spouse has custody of the child of an EEA national who resides in the territory of Hungary, or by agreement between the spouses has the right of access to a minor child;

c) this is warranted by particularly difficult circumstances, such as having been a victim of any willful criminal conduct by the spouse who is an EEA national or a Hungarian citizen while the marriage was subsisting, or if having the right of permanent residence prior to contracting marriage; or

d) by agreement between the spouses or by court order, the former spouse has the right of access to a minor child, provided that the court has ruled that such access must be in the territory of Hungary.

(3) In the case defined in Subsection (2) the right of residence of a family member who is a third-country national shall be subject to his/her compliance with the requirement set out in Paragraph a), b) or c) of Subsection (1).

(4) By way of derogation from Subsections (1) and (3) the right of residence of a spouse of a Hungarian citizen who is a third-country national shall be retained unconditionally if the spouse has custody of the child who was born during their marriage.

Government Decree Section 29.

(1) A spouse who is a third-country national may verify his/her right of residence retained under family status according to Subsection (2) of Section 11 of the FMRA:

a) with a marriage certificate to verify that their marriage has continued for at least two years;

b) by a court decision awarding custody or an agreement fixed in an authentic instrument agreement between the spouses for sharing custody;

c) by providing reliable proof concerning any particularly difficult circumstances, where this is applicable;

d) by a court decision or an agreement between the spouses for the right of access to a minor child.

(2) The regional directorate shall consult the sub-registers referred to in Paragraph a) or b) of Subsection (1) of Section 75 to verify as to whether the former spouse has resided at least for one year in Hungary during the marriage as a family member of an EEA national or Hungarian citizen.

(3) If a spouse who is a third-country national wishes to retain his/her right of residence under family status according to Subsection (2) of Section 11 of the FMRA, claiming to having been a victim of any willful criminal conduct by the former spouse, the regional directorate shall have the right to consult the register of convicted criminals in accordance with Paragraph b) of Subsection (1) of Section 82 of the FMRA in this respect.

(4) If a spouse who is a third-country national wishes to retain his/her right of residence under family status according to Subsection (2) of Section 11 of the FMRA, claiming to having the right of permanent residence prior to contracting marriage, the regional directorate shall consult the register of persons having the right of permanent residence.

FRMA Section 12.

In the event of the EEA national's death his/her right of residence shall terminate; furthermore, in the event of the EEA national's departure from Hungary the right of residence of his/her child shall be retained - irrespective of age - for the period of the pursuit of studies, if already and continuously engaged in such studies. The right of residence of the other parent who has custody of the child shall be retained for the period of studies of the minor child.

Government Decree Section 30.

(1) If the child of an EEA national retains the right of residence according to Section 12 of the FMRA, the child or his/her legal representative shall supply a certificate from the relevant educational institution twice in any academic year verifying that the child is continuing his/her studies, also indicating the projected date of completion.

(2) The child or his/her legal guardian shall present the aforesaid certificate at the regional directorate that has issued the child's residence card or registration certificate on the thirtieth day following the first day of the semester to which it pertains.

FRMA Section 13.

(1) The competent authority shall adopt a resolution to declare that the EEA national or any family member has abandoned his/her right of residence in the territory of Hungary if such EEA national or any family member has left the territory of Hungary and did not return for over six months before obtaining the right of permanent residence.

(2) The provisions contained in Subsection (1) shall not apply:

a) if the reason for the absence is in compliance with compulsory military service; or

b) if in connection with one absence of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting.

FRMA Section 14.

(1) The right of residence of EEA nationals or their family members shall terminate if:

a) no longer able to comply with the conditions for the exercise of such right;

b) they have disclosed false information or untrue facts in the interest of obtaining the document evidencing right of residence, on account of which they have been found guilty by a final court verdict; or

c) in the case of having been excluded from the territory of Hungary.

(2) The right of residence of a family member who is a third-country national shall terminate also if the family relationship was established solely for the purpose of obtaining the right of residence.

(3) The right of residence of a person who is a third-country national and has custody of a child shall terminate when the right to exercise parental care is terminated, and if such person is not entitled to further residence on any other ground.

FRMA Section 15.

(1) The competent authority shall adopt a resolution to declare the termination of the right of residence in the cases defined in Section 14.

(2) The EEA national whose right of residence had been terminated shall leave the territory of Hungary.

(3) The family member who is a third-country national, and whose right of residence had been terminated shall leave the territory of Hungary, except if granted the right to reside under specific other legislation.

(4) Compliance with the obligation to leave the territory of the country shall be carried out before the last day of the third month following the operative date of the resolution.

Government Decree Section 31.

(1) For the purposes of Subsection (1) of Section 13 and Subsection (1) of Section 15 of the FMRA, 'competent authority' shall mean the regional directorate of jurisdiction by reference to the place where the residence of the EEA national or family member is located.

(2)

Right of Permanent Residence

FRMA Section 16.

(1) Permanent residence status shall be granted to:

a) EEA nationals who have resided legally and continuously within the territory of Hungary for five years;

b) family members who have resided legally and continuously within the territory of Hungary for five years;

c) persons who have retained the right of residence in connection with their relationship to an EEA national or a Hungarian citizen, and who have resided legally and continuously within the territory of Hungary for five years; and

d) the children of a parent who has the right of permanent residence in the territory of Hungary.

(2) Permanent residence status shall be granted to:

a) the family members of Hungarian citizens - except the spouse - who have resided continuously within the territory of Hungary in the household of a Hungarian citizen for a period of at least one year;

b) the spouse of a Hungarian citizen if their marriage was contracted at least two years prior to the date when the application was submitted and they share the same household since.

(3) Where an EEA national or his/her family member has abandoned to exercise his/her right of residence in Hungary, and returned to the territory of Hungary for a period of over three months, the duration required for the right of permanent residence shall start over from this time.

Government Decree Section 32.

Government Decree Section 33.

(1) The condition set out under Paragraph d) of Subsection (1) of Section 16 of the FMRA shall be verified by the birth certificate.

(2) In the application of Subsection (2) of Section 16 of the FMRA, the regional directorate shall consult the register of personal data and address records to verify the permanent or temporary residence of Hungarian citizens and their family members for compliance with the requirements set out in the FMRA related to family relationship.

(3) The spouse of a Hungarian citizen shall supply a marriage certificate to verify that their marriage was contracted at least two years prior to the date when the application was submitted.

FRMA Section 17.

(1) In the absence of proof to the contrary, the first day of continuous residence in the territory of Hungary shall be deemed the date of registration of residence according to Section 21 or the date of submission of the application for the residence card described in Section 22.

(2) The following shall not be deemed as discontinuity of residence:

a) temporary absences from Hungary not exceeding six months a year;

b) absences for compulsory military service;

c) one absence of a maximum of twelve consecutive months for important reasons such as pregnancy and childbirth, serious illness, study or vocational training, or a posting.

(3) The departure of an EEA national or his/her family members from Hungary shall be treated as discontinuity of residence.

FRMA Section 18.

(1) Permanent residence status shall be granted to an EEA national who is engaged in gainful employment in the territory of Hungary after the five-year period of residence specified in Paragraph a) of Subsection (1) of Section 16 if:

a) having resided in the territory of Hungary continuously for more than three years from the time of entry and at the time of termination of his gainful employment has reached the age laid down by law for entitlement to an old-age pension, or ceased his gainful employment in order to take early retirement, provided that such person has been working in the territory of Hungary for at least the preceding twelve months before going into retirement with old-age pension or before taking early retirement;

b) having resided in the territory of Hungary for the purpose of gainful employment continuously for more than two years from the time of entry and stopped working due to incapacity to work as the result of an illness or accident requiring medical treatment;

c) his/her incapacity to work is the result of an accident at work or an occupational disease entitling the person concerned to a benefit specified in specific other legislation; or

d) after three years of continuous employment and residence in the territory of Hungary, taking up gainful employment in another State that is a party to the Agreement on the European Economic Area, while retaining his/her place of residence in the territory of Hungary.

(2) For the purposes of Subsection (1), periods of gainful employment shall also include the periods:

a) when the EEA national has registered as a job-seeker as prescribed in specific other legislation; or

b) when the EEA national did not work due to an illness or accident.

c) when the EEA national did not work due to reasons beyond his/her control.

(2a) In the application of Paragraphs a) and b) of Subsection (1), the duration of gainful employment shall also include the periods of gainful employment in the territory of any State that is a party to the Agreement on the European Economic Area.

(3) If the spouse of an EEA national residing in Hungary for the purpose of gainful employment is a Hungarian citizen, the conditions as to length of residence and employment laid down in Paragraphs a) and b) of Subsection (1) shall not apply and the EEA national shall be granted the right of permanent residence if:

a) eligible for old-age pension or early retirement; or

b) he/she is no longer engaged in gainful employment due to incapacity to work as the result of an illness or accident requiring medical treatment.

(4) Where an EEA national has acquired the right of permanent residence under Subsection (1), his/her family members holding the right of residence shall also have the right of permanent residence.

(5) If an EEA national who is engaged in gainful employment in the territory of Hungary dies before acquiring permanent residence status under Subsection (1), his/her family members who are residing with him shall acquire the right of permanent residence on condition that:

a) the EEA national had, at the time of death, resided continuously on the territory of Hungary for the previous two years; or

b) the EEA national's death resulted from an accident at work or an occupational disease.

Government Decree Section 34.

(1) Within the meaning of Subsection (1) of Section 18 of the FMRA the right of permanent residence may be verified by the following means:

a) a copy of the resolution on establishing old-age pension or early retirement, and an authentic instrument or other document to verify of being engaged in gainful employment in the territory of Hungary for at least the preceding twelve months before lodging the application for retirement with old-age pension or early retirement;

b) a diagnosis provided by a body of medical experts concerning incapacity to work as the result of an illness or accident requiring medical treatment, or a document supported by the assessment of a body of medical experts providing guidance to determine the degree of incapacity;

c) a copy of a resolution on awarding accident-related disability benefits due to incapacity to work as the result of an accident at work or an occupational disease;

d) a copy of an authentic instrument or other document to verify of having been engaged in gainful employment in an EEA Member State.

(1a) For the purposes of Subsection (2a) of Section 18 of the FMRA, gainful employment in any State that is a party to the Agreement on the European Economic Area shall be verified by a document issued by a foreign authority of competent jurisdiction, or a similar or equivalent document.

(2) Within the meaning of Subsection (3) of Section 18 of the FMRA the right of permanent residence may be verified:

a) by a copy of the resolution on establishing old-age pension or early retirement; or

b) by a diagnosis provided by a body of medical experts concerning incapacity to work as the result of an illness or accident requiring medical treatment, or a document supported by the assessment of a body of medical experts providing guidance to determine the degree of incapacity.

(3) Within the meaning of Subsection (5) of Section 18 of the FMRA the right of permanent residence may be verified by a copy of the occupational accident report on the circumstances of the death of the EEA national.

Government Decree Section 35.

(1) An EEA national or his/her family member shall be considered to have become an unreasonable burden on the social assistance system of Hungary if they draw:

a) social welfare for the elderly under Subsection (1) of Section 32/B of the SAA,

b) benefits provided to persons of active age under Section 33,

c) attendance allowance under 43/B of the SAA,

for any period of more than three months.

(2)

(3) For the purposes of determining as to whether an EEA national and his/her family member has become an unreasonable burden the competent authority shall take into account the personal circumstances of the person in question, such as the duration of residence in the territory of Hungary, the duration of payment of benefits and whether the difficulties are considered permanent or temporary.

FRMA Section 19.

(1) The right of permanent residence of EEA nationals and family members of third-country national shall be lost through absence for a period exceeding two consecutive years.

(1a) The right of permanent residence of family members of Hungarian citizens who are third-country nationals shall be lost:

a) through absence for a period exceeding two consecutive years;

b) in the case of having been excluded from the territory of Hungary;

c) if the family relationship was established solely for the purpose of obtaining the right of residence; or

d) they have disclosed false information or untrue facts in the interest of obtaining the document evidencing right of permanent residence, on account of which they have been found guilty by a final court verdict.

(2) In the cases referred to in Subsections (1) and (1a) the competent authority shall communicate the loss of the right of permanent residence by way of a resolution.

Chapter III

NOTIFICATION REQUIREMENTS AND DOCUMENT EVIDENCING RIGHT OF RESIDENCE

Visas Issued to Family Members Who are Third-Country Nationals

FRMA Section 20.

(1) The decisions adopted for the approval of applications for visas for a validity period not exceeding three months may not be appealed.

(1a) The decisions adopted for the refusal of applications for visas for a validity period not exceeding three months, or for the annulment and revocation of visas, may be appealed. There shall be no further appeal against the appeal judgment.

- (2) In visa proceedings the competent authority shall hear the applicant if he/she is a minor with limited legal capacity or if incompetent. Such hearing shall be attended by the applicant's legal representative or by a person of legal age with legal capacity who has been duly authorized by the legal representative.
- (3) The proceedings for the issue of visas for a validity period not exceeding three months are exempt from charges.

***Registration of the Residence of EEA Nationals for Periods of Longer Than Three Months;
Registration Certificates***

FMRA Section 21.

- (1) EEA nationals shall be required to register if wishing to exercise their right of residence for periods of longer than three months within ninety-three days from the time of entry by communicating their personal data. At the time of registration EEA nationals shall produce or enclose the documents to certify compliance with the requirements prescribed in specific other legislation for residence.
- (2) Upon evidencing compliance with the requirements prescribed in this Act the competent authority shall issue a certificate for the registration of residence (hereinafter referred to as "registration certificate") immediately.
- (3) The registration certificate shall attest the registration and the date of the registration.
- (4) The registration certificate shall be cancelled when the right of residence is terminated.

**Registration of the Residence of EEA Nationals for Periods of Longer Than Three Months;
Registration Certificates**

Government Decree Section 36.

- (1) EEA nationals shall be required to register if wishing to exercise their right of residence for periods of longer than three months at the regional directorate of jurisdiction by reference to their future residence.
- (2) At the time of registration EEA nationals shall produce their valid travel document or personal identification document and enclose the authentic instruments or other documents to certify compliance with the requirements prescribed in this Decree for residence.
- (3) The registration certificate shall be valid indefinitely, together with a valid travel document or personal identification document.

***Certificate of the Right of Residence of Any Family Member Who is a Third-Country National for
Periods of Longer Than Three Months***

FMRA Section 22.

- (1) The right of residence of family members who are third-country nationals for a period of longer than three months shall be evidenced by a document issued by the competent authority (hereinafter referred to as "residence card") for which the application shall be submitted within ninety-three days from the time of entry or from the date of initiation of the fact underlying the right of residence. The documents to certify compliance with the requirements prescribed in specific other legislation for residence shall be presented or enclosed with the application.
- (2) The competent authority shall forthwith issue a certificate of application to verify the right of residence of the family member who is a third-country national. In the application of Subsection (1) of Section 8, the competent authority shall forthwith issue a certificate upon receipt of the application to

verify that the family member who is a third-country national has submitted an application for a document evidencing right of residence. The certificate shall be valid for a period of three months, and it may be extended by three months at any one time until the final decision is adopted regarding the application.

(2a) The competent authority, upon receipt of an application for the issue of a residence card from a family member of a Hungarian citizen who is a third-country national, shall proceed in accordance with Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.

(3) Upon receipt of an application for a residence card the competent authority shall issue the residence card or shall reject the application by way of a resolution.

(4) In the proceedings for the issue of a residence card the competent authority shall adopt its decision within three months from the date of submission of the application.

(5) The residence card shall attest the right of residence of its holder during its period of validity.

FMRA Section 23.

(1) The validity of the residence card issued to family members of EEA nationals who are third-country nationals shall be determined based upon the duration of residence of the EEA nationals who have the right of residence. The residence card shall be issued for a maximum period of five years.

(2) The validity period of the residence card issued to family members of Hungarian citizens who are third-country nationals shall be five years.

(3) The residence card shall be cancelled in the event of the holder's departure from the territory of Hungary, or if his right of residence is terminated.

Certificate of the Right of Residence of Any Family Member Who is a Third-Country National for
Periods of Longer Than Three Months

Government Decree Section 37.

(1) Family members who are third-country nationals shall submit their application for a residence card at the regional directorate of jurisdiction by reference to their future residence.

(2) At the time of submitting the application the said family members shall produce their valid travel document and - if the visa for a validity period not exceeding three months was issued on a separate sheet - this separate sheet, and shall enclose the authentic instruments or other documents to certify compliance with the further requirements prescribed in this Decree for family relationship and the right of residence.

(3) If the residence card is issued for a period of less than five years, the family member who is a third-country national may apply for the extension of the residence card.

(4) The application for extension shall be submitted thirty or more days before the residence card expires at the regional directorate of jurisdiction by reference to the residence of the family member who is a third-country national.

(5) The proceedings for extension shall be governed by the provisions of Subsection (2), with the exception that the separate sheet is not required.

Certificate of the Right of Residence of EEA nationals and Their Family Members

FMRA Section 24.

- (1) The right of permanent residence of EEA nationals and their family members shall be evidenced by a document issued by the competent authority (hereinafter referred to as "permanent residence card").
- (2) Upon receipt of an application for a permanent residence card the competent authority shall issue the permanent residence card or shall reject the application by way of a resolution.
- (3) In the proceedings for the issue of a permanent residence card the competent authority shall adopt its decision within three months from the date of submission of the application.

FMRA Section 25.

- (1) The family member who is a third-country national shall submit the application for a permanent residence card before his/her residence card expires. Any applicant who submits the application after his/her residence card has expired, if unable to offer a plausible explanation therefore, shall be required to show that his/her right of permanent residence still exists.
- (2) The competent authority shall immediately issue a certificate of application for the permanent residence card to verify the right of residence of the family member who is a third-country national.

FMRA Section 26.

The permanent residence card shall be invalid in the event that the right of permanent residence has terminated.

Certificate of the Right of Residence of EEA nationals and Their Family Members

Government Decree Section 38.

- (1) EEA nationals and their family members shall submit their application for a permanent residence card at the regional directorate of jurisdiction by reference to their future residence.
- (2) At the time of submitting the application the applicants shall produce their travel document or personal identification document, and shall enclose the authentic instruments or other documents specified in this Decree to verify of having resided legally and continuously in Hungary.
- (3) The regional directorate, before issuing the permanent residence card, shall check the legal background, duration and continuity of residence.
- (4) The competent regional directorate shall automatically renew the permanent residence card issued to any family member who is a third-country national after ten years.
- (5) The permanent residence card issued to an EEA national shall be valid indefinitely, together with a valid travel document or personal identification document.

Common Provisions Relating to Documents Evidencing Right of Residence

Government Decree Section 39.

(1) A document evidencing right of residence shall be invalidated in the event of the EEA national's or his/her family member's departure from Hungary, or if the right of residence or permanent right of residence is terminated.

(2) Furthermore, a document evidencing right of residence shall be invalidated:

- a) if there are any changes in the particulars contained in the document, exclusive of the address;
- b) if the document has expired;
- c) if the document is damaged and the data it contains are no longer legible;
- d) if the document contains false or untrue information or has been forged;
- e) upon the holder's death;
- f) if the holder was granted Hungarian citizenship.
- g) if the family member who is a third-country national is granted an EC permanent residence permit;
- h) if the document is lost or stolen;
- i) if the EEA national or his/her family member surrendered the document evidencing right of residence to the competent regional directorate with a view to leaving the territory of Hungary permanently.

(3) A registration certificate and residence card shall be invalidated if the holder is issued a document evidencing right of permanent residence.

(4) Subject to the exceptions set out in Paragraphs *b), e), f)* and *i)* of Subsection (2), the issuing authority shall withdraw invalid documents evidencing right of residence. Withdrawal shall be ordered in the resolution declaring the document invalid.

(5) The regional directorate that ordered the withdrawal of a document shall provide for the invalidation of the document, and to have the reason and the date of withdrawal recorded in the appropriate sub-register referred to in Subsection (1) of Section 75 of the FMRA, furthermore, to have a new document issued in the cases specified in Paragraphs a)-c) of Subsection (2) of this Section.

Government Decree Section 40.

The minister in charge of foreign policies shall adjudge - in accordance with specific other legislation - the applications for documents evidencing right of residence of the family members of persons enjoying diplomatic immunity or some other privilege under international law.

Notification Requirements

FMRA Section 27.

(1) EEA nationals and their family members shall register - in accordance with the Act on Records of the Personal Data and Addresses of Citizens - their first residence in the territory of Hungary, their country of former habitual residence during the proceedings for the issue of the registration certificate or residence card.

(2) The competent authority shall disclose to the central body operating the register of the personal data and addresses of citizens the personal identification data and address of EEA nationals and their family members they have on record, as well as the information contained on their registration certificate or

residence card for the purpose of issuing the personal identification document and the official address card.

(3) The competent authority shall notify the central body operating the register of the personal data and addresses of citizens concerning the invalidation of any registration certificate and residence card.

Notification Requirements

Government Decree Section 41.

The competent regional directorate shall send the notice referred to in Subsections (2) and (3) of Section 27 of the FMRA directly, by way of electronic means.

FMRA Section 28.

(1) The EEA nationals and their family members, whose travel document, personal identification document, or residence card is lost, stolen, destroyed or has expired shall report it to the competent authority, as well as if any such document that was presumed lost and reported as such is found subsequently.

(2)

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

(4) EEA nationals shall be required to obtain a replacement travel document that was lost, stolen, destroyed or has expired, if they do not have a valid personal identification document.

Government Decree Section 42.

(1) The regional directorate shall make out a certificate to EEA nationals and their family members, whose travel document, personal identification document, or document evidencing right of residence is reported lost, stolen or destroyed, concerning the fact of reporting at no cost if any proof of citizenship is produced.

(2) If an EEA national or his/her family member reports the loss of his/her travel document or personal identification document to the police and files charges, the police shall forthwith notify the regional directorate concerning the loss of the travel document or personal identification document.

(3) When a document that was reported lost or destroyed is found by its rightful holder, and the replacement travel document or document evidencing right of residence is not yet issued, the person in question shall return the temporary certificate of right of residence to the authority where it was issued.

(4) If a document that was reported lost or destroyed is found by its rightful holder, and the replacement document is already issued, the person in question shall surrender the found document to the authority where it was issued.

(5) The authority to which a found travel document or personal identification document was surrendered shall forward it to the Office.

(5a) The Office shall provide for the forwarding of any travel documents found to the foreign mission accredited to Hungary of the State having jurisdiction according to the place of issue.

(6) The Office shall keep individual records on the travel documents, and the personal identification documents described in Subsection (1) on the documents evidencing right of residence, and on the blank forms of

documents evidencing right of residence which may be issued in the proceedings specified in the FMRA. These records shall contain the type and particulars, and the number, series and validity period of travel documents, personal identification documents and documents evidencing right of residence.

(7) The Office shall issue a warrant to locate the blank form of documents evidencing right of residence which may be issued in the proceedings specified in the FMRA if the whereabouts of such document is unknown.

FMRA Section 29.

EEA nationals and their family members exercising the right of residence for a period of longer than three months shall report, by communicating the personal data:

a) the death of a family member in their household;

b) any change of name,

if the death or change of name occurred outside the territory of Hungary.

FMRA Section 30.

EEA nationals and their family members may notify the competent authority when they no longer wish to exercise their right of residence, or if they intend to leave the territory of Hungary permanently, including the country of next habitual residence, and may turn in the document evidencing their right of residence.

FMRA Section 31.

(1) The family member shall notify any changes in his/her title of residence under the reasons specified in Sections 10 and 11, and shall provide proof for the right of further residence.

(2) The family member shall notify the termination of his/her relationship underlying his/her right of residence according to Subsection (1) of Section 8.

Government Decree Section 43.

(1) The family member shall notify any changes in his/her title of residence under the reasons specified in Sections 10 and 11 of the FMRA within thirty days following the occurrence of the underlying reason to the competent regional directorate with the relevant documents enclosed.

(2) EEA nationals and their family members shall notify the competent authority when they no longer wish to exercise their right of residence, and may turn in the document evidencing their right of residence, and their personal identification document and official address card to the regional directorate of jurisdiction by reference to their residence. The regional directorate shall forward the personal identification document and the official address card to the central body operating the register of the personal data and addresses of citizens.

FMRA Section 32.

(1) EEA nationals and their family members shall present their documents evidencing right of residence when so requested by the authority vested with powers to check their identity and their right of residence.

(2) Apart from the documents specified in this Chapter, EEA nationals and their family members may use other credible means to verify their right of residence.

Examination of EEA nationals and their Family Members

Government Decree Section 43/A.

In the event that any travel document is found in the possession of an EEA national or his/her family member that is issued to another person, and is held illegally by the EEA national or his/her family member, it shall be confiscated by the competent authority and - if no criminal charges are filed - sent to the Hungarian mission of the issuing State.

Chapter IV

RESTRICTIONS ON THE RIGHT OF FREE MOVEMENT AND RESIDENCE ON GROUNDS OF PUBLIC POLICY, PUBLIC SECURITY, PUBLIC HEALTH

FMRA Section 33.

The right of free movement and residence of the persons to whom this Act applies may be restricted in compliance with the principle of proportionality and based exclusively on the personal conduct of the individual concerned, where such personal conduct represents a genuine, present and sufficiently serious threat affecting public policy, public security, national security or public health.

FMRA Section 34.

(1) Foreign nationals may not be turned back or expelled to the territory of a country that fails to satisfy the criteria of safe country of origin or safe third country regarding the person in question, in particular where the foreign national is likely to be subjected to persecution on the grounds of his race, religion, nationality, social affiliation or political conviction, nor to the territory or the frontier of a country where there is substantial reason to believe that the expelled foreign national is likely to be subjected to torture or any other form of cruel, inhuman or degrading treatment or capital punishment (non-refoulement).

(2) Any foreign national whose application for refugee status is pending may be turned back or expelled only if his application is refused by final and executable decision of the refugee authority.

FMRA Section 35.

(1) The competent authority shall have powers to check compliance with the conditions for residence and with the requirements of notifications set out in this Act, if there is reason to believe that these conditions are not satisfied or that the person affected failed to comply with any requirement of notification.

(2) The competent authority shall be empowered to process the personal data of third-country nationals contained in the storage medium of the document evidencing their right of residence including biometric data, obtained by recording the physical attributes (facial image, fingerprint images) of such persons, by way of reading the personal data from the storage medium for the purposes specified in point 4 of Article 1 of Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.

(3) The competent authority shall be allowed to process fingerprint images taken for the purposes referred to in Subsection (2) for verifying the stipulations mentioned in point 4 of Article 1 of Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals, until the verification process is completed, after which the fingerprint images must be deleted immediately.

Public Health Regulations Pertaining to Residence

Government Decree Section 44.

(1) At the time of registration of residence, EEA nationals and family members who are third-country nationals shall - enclosed with their application for residence card - supply a statement as to whether they suffer from any infectious disease or contagious parasitic disease as specified in specific other legislation and considered to

constitute a threat to public health, or if they receive compulsory and regular treatment with regard to the said diseases.

(2) If, according to the EEA national's or his/her family member's statement the health condition specified in Subsection (1) exists, the regional directorate shall notify the micro-region (or Budapest district) institute of the government body in charge of the healthcare system of jurisdiction by reference to the residence of the EEA national or family member in question (hereinafter referred to as "Institution").

(3) The Institution may compel the EEA national or his/her family member to undergo the necessary medical examinations.

(4) If the Institution finds that the EEA national or his/her family member suffers from a disease that is considered to constitute a threat to public health, and he/she is in violation of the rules of conduct, official resolutions and legal regulations concerned with medical treatment or therapy, the Institution:

a) shall take the necessary disease control measures; or

b) shall - in accordance with Subsection (1) of Section 40 of the FMRA - initiate the expulsion of the EEA national or his/her family member and propose the duration of the exclusion.

Checking Family Members Who Are Third-Country Nationals in the Visa Information System

FMRA Section 35/A.

(1) The competent authority shall have powers to take the fingerprints of family members who are third-country nationals for the purpose of cross-referencing in the system for the exchange of visa data established under Council Decision 2004/512/EC (hereinafter referred to as "Visa Information System"), and for the purpose of verification under Article 19 and 20 of Regulation (EC) No. 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (hereinafter referred to as "VIS Regulation").

(2) The competent authority shall be authorized to process the fingerprints collected for the purposes mentioned in Subsection (1) for running the search under Article 19 and 20 of the VIS Regulation, until it is completed, and shall thereafter delete them without delay.

Refusal of Entry and Assisted Return

FMRA Section 36.

(1) The authority carrying out border checks shall refuse the entry of an EEA national or his/her family member who does not fulfil all the entry conditions laid down in Section 3, or if having been excluded from the territory of Hungary.

(2) The EEA national or his/her family member whose entry was refused shall be returned:

a) to the country of origin;

b) to the country that is liable to accept him/her;

c) to the country where his/her customary residence is located; or

d) to a third country prepared to accept him.

(3) The assisted return of a foreign national may only be ordered by a substantiated resolution stating the precise reasons and it shall take effect immediately, save the exception set out in Subsection (4). The resolution for assisted return may not be appealed.

(4) If entry is refused due to the absence of the conditions specified in Section 3 for entry, the authority carrying out border checks shall - upon request - provide the EEA national or his/her family member the opportunity to obtain the necessary documents within seventy-two hours from the time of the resolution for assisted return, or to provide other means of evidence for his/her right of entry.

(5) The provisions of Subsections (1)-(4) shall also apply to any person who is able to show proof of his/her identity and for being an EEA national.

FMRA Section 37.

(1) With the exceptions set out in Subsection (2), any person whose entry was refused and is turned back must remain on the means of transport that is scheduled to depart, or to transfer onto another means of transport of the carrier that is liable to provide return transport for the person in question.

(2) The person ordered to return shall remain in a designated place located in the frontier zone of Hungary for a maximum period of seventy-two hours, as instructed by the authority carrying out border checks, if:

a) the return procedure cannot be carried out in accordance with Subsection (1); or

b) the person ordered to return has submitted a petition according to Subsection (4) of Section 36.

(3) If the person ordered to return is able to obtain the necessary documents within seventy-two hours from the time of the resolution for assisted return, or is able to provide other means of evidence for his/her right of entry, the resolution for assisted return shall be withdrawn.

(4) If the return procedure cannot be carried out within the time limit specified in Subsection (2), the competent authority shall have powers to expel the person in question following his/her entry.

Prohibition of Return, and for Ordering and Carrying Out Expulsion Measures (Non-Refoulement)

Government Decree Section 45.

(1) The competent authority, before the implementation of measures for the return of an EEA national or his/her family member, before ordering or carrying out an expulsion order, and before the enforcement of a court-ordered expulsion shall investigate whether the restriction contained in Subsection (1) of Section 34 of the FMRA applies. In this process the competent authority shall request the opinion of the refugee authority. The refugee authority shall comply with the above request without delay.

(2) The restriction referred to in Subsection (1) of Section 34 of the FMRA shall not apply if the person affected is returned or expelled to the territory of an EEA Member State.

(3) If the EEA national's or his/her family member's country of origin or the country that is liable to accept him/her fails to satisfy the criteria of safe country of origin or safe third country, the measures specified in Subsection (1) cannot be ordered and/or executed.

(4) The principle of non-refoulement shall not apply with regard to detention prior to deportation and compulsory confinement of EEA nationals and their family members.

(5) The competent authority shall suspend any pending immigration related proceedings or the enforcement of such resolution, and shall request the regional directorate to issue a humanitarian residence permit to the person in question if it determines that the restriction specified in Subsection (1) of Section 34 of FMRA applies.

(6) The restriction specified in Subsection (1) of Section 34 of the FMRA may not be based solely on the grounds of refusal of the foreign mission of the country of origin of an EEA national or his/her family member to issue a travel document to permit re-entry for the person in question.

(7) The regional directorate shall monitor whether the restriction of return applies on a regular basis, or shall check it once a year by contacting the central immigration records office. Where the restriction of return no longer applies to an EEA national or his/her family member whose immigration related procedure has been suspended, the competent authority shall resume the proceeding.

Refusal of Entry and Assisted Return

Government Decree Section 46.

(1) A resolution for the refusal of entry and assisted return shall contain the results of the inquiry of non-refoulement, an indication of the country to which the person affected will be returned, and the measures implemented to ascertain that the return procedure is carried out.

(2) The time limits specified in Subsection (2) of Section 37 of the FMRA shall be calculated from the date of refusal of entry.

(3) If the Police confines an EEA national or his/her family member under Subsection (2) of Section 37 of the FMRA to a designated area of the frontier zone or the airport, the place set up in the airport transit zone or in the frontier zone shall be suitable to provide:

- a) accommodations,
- b) three meals a day, and
- c) personal necessities

for the person affected.

(4) Where Subsection (4) of Section 37 of the FMRA applies, the Police shall transport the EEA national or his/her family member to the competent regional directorate for the place of entry.

Exclusion Orders

FMRA Section 38.

(1) Exclusion orders shall be imposed in connection with any person who:

- a) must not be allowed to enter the territory of Hungary under international commitment; or**
- b) is to be excluded by decision of the Council of the European Union.**

(2) The competent authority shall - by way of a resolution - order the exclusion of any person whose whereabouts are unknown or who resides outside the territory of Hungary.

(3) Where exclusion is ordered in conjunction with expulsion, it shall be contained in the competent authority's resolution ordering the expulsion.

(4) The data administration agency referred to in this Act shall be notified of any exclusion measure imposed.

(5) Where expulsion is ordered by the court, the authority carrying out the expulsion shall provide for the registration of the relating exclusion order.

FMRA Section 39.

(1) The duration of an exclusion order imposed under Subsection (1) of Section 38 shall be determined by the imposing authority; it may not be longer than three years on the first instance, and may be extended by three additional years per occasion if the underlying circumstances still exist at the time of expiry of the exclusion order.

(2) The expulsion order shall be lifted if the underlying circumstances no longer exist.

(3) An exclusion order imposed under Subsection (1) of Section 38 may not be appealed.

Expulsion Ordered Under Immigration Laws and Exclusion

Government Decree Section 47.

(1) An EEA national or his/her family member who are subject to exclusion shall be admitted to Hungary by permission of the authority ordering the exclusion under special circumstances for a single entry and stay not exceeding three months, while the exclusion shall remain in effect.

(2) The request for such entry permit shall be submitted to the competent consulate officer.

Government Decree Section 48.

(1) The minister in charge of foreign policies shall notify the Office where exclusion to be ordered independently under Subsection (1) of Section 38 of the FMRA is deemed necessary.

(2) Subject to the exception set out in Subsection (2a), the regional directorate shall have authority to order exclusion independently, as well as expulsion under immigration laws.

(2a) In the case referred to in Subsection (1) of Section 38 of the FMRA, the Office shall have authority to order exclusion independently.

(3) Where expulsion is ordered on grounds of public health in accordance with Subsection (1) of Section 40 of the FMRA, it may be ordered by the public health authority only.

(3a) Expulsion may be ordered under Paragraph *c*) of Subsection (2) of Section 40 of the FMRA by the initiative of the Agency for Constitutional Protections or the Counter-Terrorism Center.

(4) After the enforcement of an expulsion order, the personal identification document and the official address card shall be returned to the central body operating the register of the personal data and addresses of citizens within thirty days.

Government Decree Section 49.

(1) The resolution for expulsion shall indicate the time when it will be carried out, and the country to which the person affected will be deported.

(2) The resolution for expulsion shall contain the results of the inquiry of non-refoulement according to Subsection (1) of Section 34 of the FMRA.

(3) In connection with an order of expulsion, the competent regional directorate shall provide for:

- a) the registration of expulsion together with the date and time when enforced, and also for the registration of exclusion, if applicable;
- b) the withdrawal of the document evidencing right of residence.

Government Decree Section 50.

If an expulsion measure cannot be executed due to the reason specified in Paragraph b) of Subsection (1) of Section 42 of the FMRA, the regional directorate shall contact the guardian authority to provide support and care for the unaccompanied minor.

Government Decree Section 51.

The duration of an exclusion measure shall be determined in years.

Expulsion

FMRA Section 40.

(1) The competent authority may - at the request of the public health authority - expel any EEA national or any family member for public health reasons who suffers from any infectious disease or contagious parasitic disease as specified in specific other legislation and considered to constitute a threat to public health, and who refuses to submit to the appropriate compulsory medical treatment, with the exception if the infectious disease or contagious parasitic disease is contracted after three months following the date of entry.

(2) The competent authority may expel an EEA national or his/her family member who:

- a) refuses to comply with an order to leave the territory of Hungary within the prescribed time limit;
- b) does not have the right of residence, and who has provided false or misleading information to the competent authority to verify his/her right of residence.
- c) represents a genuine, present and sufficiently serious threat affecting the internal security of Hungary, if granted the right of entry or residence.

(3) An expulsion order may be issued upon the initiative of law enforcement agencies delegated under the relevant government decree on the grounds referred to in Paragraph c) of Subsection (2) within the framework of discharging their duties relating to the protection public policies defined by law. Where expulsion is ordered on the grounds referred to in Paragraph c) of Subsection (2), the law enforcement agencies delegated under the relevant government decree shall make a recommendation as to the duration of exclusion in cases falling within their jurisdiction.

(4) A final verdict adopted in criminal proceedings may not in itself constitute grounds for expulsion under Paragraph c) of Subsection (2).

(5) EEA nationals and their family members with right of permanent residence may not be expelled from the territory of Hungary, save where Paragraph c) of Subsection (2) applies.

FMRA Section 41.

(1) Subject to the exceptions set out in Paragraphs a) and b) of Subsection (2) of Section 40 and Subsection (5) of Section 40, an expulsion order shall also entail the exclusion of the person affected for a period of between one to five years. Where the expulsion of EEA nationals and their family members is ordered under Paragraph a) or b) of Subsection (2) of Section 40, it shall also prescribe the obligation to leave the territory of the country.

(2) Where expulsion is ordered on grounds of public health, the public health authority shall communicate the proposed duration of exclusion.

(2a) If the competent authority orders expulsion under Paragraph c) of Subsection (2) of Section 40 upon the initiative of the law enforcement agency, the law enforcement agency affected shall make a recommendation as to the duration of exclusion.

(3) The duration of exclusion ordered in conjunction with expulsion under this Act shall commence as of the date when the expulsion is carried out.

(4) The reasons for exclusion if ordered in conjunction with expulsion shall be reviewed after two years from the date when the expulsion is carried out.

(5) Exclusion may not be ordered if:

a) expulsion was ordered because the assisted return could not have been carried out for reasons beyond the control of the person in question; or

b) the expulsion measure was taken against a minor.

FMRA Section 42.

(1) An expulsion measure may not be ordered against an EEA national or his/her family member who:

a) has resided in the territory of Hungary for more than ten years; or

b) is a minor, except if the expulsion is necessary for the best interests of the child.

(2) The data administration agency referred to in this Act shall be notified of any expulsion measure imposed.

FMRA Section 43.

An expulsion measure may not be imposed in connection with a criminal offense where the court sentence did not include expulsion.

FMRA Section 44.

In the cases specified in Subsection (2) of Section 40 an expulsion measure may be imposed upon weighing the following criteria:

a) the nature and gravity of the crime committed;

b) the age and health condition of the person affected;

c) the family situation of the person in question, duration of the family relationship;

d) number of children of the person in question and the ages of the children, relations with the children including visitation rights;

e) if there is another State where there are no legal obstacles for exercising the right to family reunification, the difficulties which the family members are likely to face if they had no other choice but to take up residence in this country;

f) the financial situation of the person affected;

g) the duration of residence in Hungary of the person in question;

h) the social and cultural integration of the person in question, and the extent of his/her links with the country of origin.

FMRA Section 45.

(1) The EEA nationals and their family members whose exclusion was ordered independently may enter the territory of Hungary only upon the consent of the ordering authority granted at the request of the court.

(2) The competent authority may authorize the entry of an EEA national or his/her family members being the subject of an exclusion measure ordered in conjunction with expulsion for the purpose of appearing before the court in the process of review of the expulsion order, if the court has summoned or consented for the person affected to appear.

FMRA Section 46.

(1) Expulsion and exclusion orders may not be appealed.

(2) In the event of judicial review, the court shall adopt a decision within eight days of receipt of the petition. The EEA national or his/her family members affected shall be provided the opportunity to present their views in person in the hearing. A personal audience is not required if the EEA national or his/her family members affected cannot be reached at the address on record, or if they have moved to a place unknown.

(3)

FMRA Section 47.

(1) EEA nationals and their family members who are subject to exclusion ordered in conjunction with expulsion may apply within one year from the date the expulsion was carried out for the exclusion to be lifted on grounds of changes in his/her state of health or family status in connection with which he/she is required to enter the territory of Hungary.

(2) The competent authority shall adopt a decision in connection with the aforesaid application within three months. If the competent authority cancels the exclusion measure it shall ensure that the exclusion is erased from the records.

FMRA Section 47/A.

In order to secure the enforcement of an expulsion measure the competent authority shall be authorized to confiscate the travel document of the EEA national or family member affected; this action cannot be contested.

FMRA Section 47/B.

Expulsion measures ordered against third-country nationals under Act XXXIX of 2001 on the Entry and Stay of Foreign Nationals and Act II of 2007 on the Admission and Residence of Third-Country Nationals, and the alerts issued on the basis of such expulsion orders in the Schengen Information System for the purposes of refusing entry and the right of residence (hereinafter referred to as "SIS alert") in accordance with Article 96 of the Schengen Implementation Convention shall be reviewed before the expulsion of family members of third-country nationals is carried out or during the proceedings for the issue of a document evidencing right of residence, taking also into consideration what is contained in Section 33. If keeping the expulsion order or the SIS alert in force is likely to bring unreasonable harm, the competent authority shall withdraw the resolution containing the order of expulsion. The competent authority shall carry out the procedure within twenty days and shall adopt a decision by way of a resolution.

Government Decree Section 51/A.

- (1) If an exclusion order have previously been imposed in connection with a family member who is a third-country national and he/she has submitted an application for a document evidencing right of residence, the regional directorate shall notify the immigration authority ordering the expulsion concerning the receipt of the application for conducting the review procedure prescribed in Section 47/B of the FMRA.
- (2) The immigration authority ordering the expulsion shall conduct the procedure prescribed in Section 47/B of the FMRA within twenty days of receipt of the notice referred to in Subsection (1), or if it becomes aware during the process of execution of a previous expulsion order that the third-country national is a family member accompanying or joining a Hungarian citizens or an EEA national, within twenty days of the date of a gaining knowledge thereof.
- (3) The authority ordering the expulsion shall - by way of priority - deliver its decision rendered upon the review procedure prescribed in Section 47/B of the FMRA to the authority of jurisdiction for examining the application of the third-country national family member for the issue of a document evidencing right of residence.
- (4) The unreasonable harm defined in Section 47/B of the FMRA shall be considered to exist in particular if keeping the expulsion order in force is not in the best interests of the minor or is likely jeopardize family unity.

Enforcement of Expulsion Orders

FMRA Section 48.

- (1) Where expulsion is ordered by the court it shall be carried out by the competent authority by way of a ruling; this measure may be contested.**
- (2) If expulsion cannot be carried out for reasons referred to in Section 34, the same reasons shall apply where expulsion is ordered by the court. In this case, expulsion shall be declared non-enforceable by the sentencing judge of the competent court.**
- (3) Where Subsection (2) applies, the person expelled may appeal directly to the sentencing judge to declare the expulsion non-enforceable. If the person expelled submits his request which was addressed to the sentencing judge to the immigration authority, the immigration authority shall forward it without undue delay to the competent sentencing judge with its opinion attached.**
- (4) The enforcement of expulsion shall be suspended for the duration of the proceeding of the sentencing judge.**

FMRA Section 48/A.

In order to secure the enforcement of an expulsion measure ordered by the court, the competent authority shall be authorized to confiscate the travel document of the EEA national or family member affected; this action cannot be contested.

FMRA Section 49.

- (1) If an expulsion ordered by the court - with the exception of imprisonment - is enforced more than two years after it was issued, the competent authority shall re-submit the case to the court ordering the expulsion to have the sentence reviewed.**
- (2) The court shall check as to whether any material change took place in the circumstances of the person expelled since the expulsion order was adopted, or as to whether the person concerned remains to**

constitute a serious and genuine threat to public policy or public security, and shall adopt a decision whether to retain or lift the expulsion order.

Enforcement of Expulsion Orders

Government Decree Section 52.

(1) The competent regional directorate shall order the enforcement of an expulsion ordered by final court decision. The ruling shall specify the time limit by which to leave the country, the border crossing point, the obligation of photographing and fingerprinting the EEA national or his/her family member affected, and the clause for deportation.

(2) The penal institution shall notify the regional directorate of jurisdiction by reference to the location of the penal institution to make the necessary preparation for the expulsion of an EEA national or his/her family member incarcerated six months prior to the prospective date of release.

(3) In connection with the enforcement of an expulsion measure ordered by the court, the competent regional directorate shall provide for:

a) the registration of expulsion together with the date and time when enforced, and also for the registration of exclusion, if applicable;

b) the withdrawal of the document evidencing right of residence.

Removal by Deportation

FMRA Section 50.

(1) An expulsion ordered by the court shall be enforced - save where Section 34 applies - by way of transporting the person affected under official escort (hereinafter referred to as “deportation”), if the court has the option to expel the person in question permanently due to lacking the right of free movement and residence.

(1a) An expulsion ordered by the court or under immigration laws may be enforced - save where Section 34 applies - by way of deportation, if the expelled person:

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

***b)* was expelled under immigration laws on the basis of Paragraphs *a)-c)* of Subsection (2) of Section 40, and failed to comply with the provisions set out in Section 61/A.**

(2) Deportation shall be ordered in the resolution ordering the expulsion measure under immigration laws or in a separate resolution. If expulsion is ordered by the court, deportation shall be ordered by way of a ruling on the execution of deportation by court order or in a separate ruling; these rulings may not be appealed, with the exception set out in Subsection (4).

(3) Suspension of the enforcement of a resolution or ruling ordering deportation may not be requested.

(4) The proposed means of deportation may be contested by the person affected.

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

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

***b)* the person deported requires urgent medical attention.**

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

Removal by Deportation

Government Decree Section 53.

- (1) Preparations for the enforcement of a deportation measure shall be made by the Police, with the exception set out in Subsection (2).
- (2) Where deportation is carried out by removal by air, preparations for the enforcement of such deportation measure shall be made by the Office.
- (3) Deportation shall be carried out by the Police.

Government Decree Section 54.

- (1) The EEA national or his/her family member ordered to be deported shall be escorted to the frontier of Hungary. If allowing the deported person to travel by air transport without safeguards is likely to jeopardize aviation safety or if prescribed under treaty (readmission agreement), the deported person shall be escorted to the country of origin or to another state liable for readmission.
- (2) The person affected shall be informed - in a language he understands - of the way deportation is to be carried out (hereinafter referred to as "enforcement") and of the opportunity to lodge a complaint. The information shall include:
 - a) the date of deportation, which is to be conveyed at least thirty-six hours in advance in the case of deportation by air transport;
 - b) the destination;
 - c) the means of transport planned to be used and as to whether or not deportation will be carried out under escort.
- (3) In the cases described in specific other legislation a psychologist or doctor may be called in to assist in the procedure, if the person affected - due to his/her mental condition or health - is unable to endure the trauma of deportation or he/she requires special assistance during the proceedings.
- (4) Deportation may only be carried out if in possession of and following the instructions contained in the ruling when expulsion is ordered by way of a resolution under immigration laws, or in the final court decision, where applicable.
- (5) Before and after the deportation procedure, the EEA national or his/her family member deported shall be examined for any marks of injury, and, if any, a medical report shall be obtained.

Government Decree Section 55.

- (1) The person affected may lodge a complaint in writing within eight days after detention is carried out against the mode of enforcement, to be sent by mail.
- (2) The ruling adopted by the body carrying out the deportation measure may be appealed, to be submitted to the competent superior body within eight days following the date when the ruling was delivered.
- (3) The competent authority shall adopt a decision concerning the appeal within fifteen days.

Government Decree Section 56.

(1) Entry of the person deported to the country of destination shall be considered to have failed, and deportation shall be suspended if:

a) the captain of the aircraft refuses to allow the deported EEA national or his/her family member to board the aircraft;

b) the deported EEA national or his/her family member carries marks of injury that were not documented or if the EEA national or his/her family member offers resistance of a degree that cannot be overcome by legal means and without jeopardizing or causing any impairment in the EEA national's or his/her family member's life, physical integrity or health.

(2) Deportation may not be enforced if the person deported requires urgent medical attention, and during deportation the medical or mental condition of the deported EEA national or his/her family member changes to a degree in which deportation, if carried out, is likely to impose a serious threat as to the EEA national's or his/her family member's life or physical integrity.

(3) A suspended deportation procedure shall be continued when the reasons specified under Subsection (5) of Section 50 of the FMRA no longer exist.

(4) Deportation shall be abolished by resolution of the competent authority if it is evident that it cannot be carried out. This resolution cannot be appealed. When the reason or reasons for abolishment cease to exist, deportation may be ordered once again.

(5) In the cases described in Subsections (1) and (2), the provisions contained in Subsection (2) of Section 37 of the FRSM shall apply, and the EEA national or his/her family member in question shall be installed - until further notice - in the designated airport section if deported by air transport, or in a designated area of the frontier zone if deportation was to be carried out by means of water, rail or road transport.

(6) The medical or mental condition referred to in Subsection (2) shall be diagnosed by a doctor or psychologist.

(7) The deportation procedure and its circumstances are governed in specific other legislation.

Detention Prior to Deportation

FMRA Section 51.

(1) In order to secure the enforcement of deportation, the competent authority shall have powers to apprehend the EEA national or his/her family member affected (hereinafter referred to as "detention prior to deportation"), whose deportation was ordered under Subsection (1) of Section 50. Minors may not be placed under detention.

(2) If deportation was ordered under Subsection (1a) of Section 50, the competent authority may place the EEA national or his/her family member under detention prior to deportation.

(3) The maximum duration of detention prior to deportation ordered by the competent authority is seventy-two hours, and it may be extended by the court of jurisdiction by reference to the place of detention until the deportation is carried out, or for maximum thirty days at a time.

(4) Detention prior to deportation shall be ordered by way of a formal resolution, and shall be carried out when communicated. Detention shall be terminated immediately:

a) when the grounds therefore no longer exist,

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

c) three months have elapsed since the date of the order.

Detention Prior to Deportation

Government Decree Section 57.

- (1) The resolution on ordering detention shall contain the dates of commencement and termination of detention and the place where it is to be executed, and it shall specify whether any provisional measure applies or not.
- (2) The duration of detention shall be specified in hours, with the exception set out in Subsection (3).
- (3) Any duration of extension of a detention order by the local court shall be specified in days, with any fraction of a day counted as a whole.

Requirements for Detention Facilities

Government Decree Section 60.

- (1) Hostels of restricted access shall satisfy the following criteria:
 - a) the living quarters of detainees must have at least 15 cubic meters of air space and 5 square meters of floor space per person;
 - b) they must have a common area for dining, for recreational purposes and for receiving visitors;
 - c) they must have separate washrooms and showers and toilets for men and women, with hot and cold running water, in sufficient capacity consistent with the number of detainees;
 - d) they must have an infirmary for providing basic medical care;
 - e) they must have a medical examination room and an isolation room;
 - f) they must have sufficient space for outdoor activities;
 - g) they must have lighting sufficient to satisfy the standards laid down in the national requirements concerning regional development and construction;
 - h) they must have an uninterrupted power supply;
 - i) they must have a separate room for receiving visitors;
 - j) they must have telephone facilities;
 - k) they must have natural ventilation in the living quarters and in the staff rooms, in the medical rooms, in the visitors areas, in the kitchen and in the dining room, and in the common areas.
- (2) Hostels of restricted access may not be installed in police detention facilities or in penal institutions.
- (3) Men placed under detention shall be housed in separate quarters from women.

Medical Care Provided to Detainees

Government Decree Section 61.

- (1) Any EEA national or his/her family member who is detained, if not covered by any social security system, shall be provided free of charge the health care services specified in Subsection (2) of Section 142 and in Paragraphs e) and i) of Subsection (3) of Section 142 of Act CLIV of 1997 on Health Care.

(2) After placement, the EEA national or his/her family member shall be entitled to receive the vaccinations specified in specific other legislation.

Government Decree Section 62.

(1) General medical care shall be provided to EEA nationals and their family member in the hostel of restricted access.

(2) Special medical care shall be provided by the health care provider responsible for the region in question.

(3) The authority operating the hostel of restricted access shall cover the costs of medical aids and pharmaceuticals provided by prescription and issued by a doctor who has an official stamp for authorization as laid out in specific other legislation, to prescribe medicinal products.

Government Decree Section 63.

(1) The authority operating the hostel of restricted access shall reimburse the costs of health care services, other than those described in Section 61, to the health care service provider carrying out the procedure, if Hungary did not agree to compensate such costs under international treaty.

(2) Health-care services may be obtained if having in possession a certificate of eligibility for provisions.

(3) The health care service provider shall report the provision of a service to the Országos Egészségbiztosítási Pénztár (National Health Insurance Fund) (hereinafter referred to as "OEP") using the standard form prescribed by the Government Decree on the Detailed Regulations Relating to the Financing of Healthcare Services from the Health Insurance Fund for the reporting and financial settlement of the service in question, for this branch to authorize payment and to forward the report to the OEP. Relying on these reports the OEP shall send a financial statement - broken down according to the type of health care services - each month to the authority operating the hostel of restricted access.

(4) The health care service provider shall present an aggregate invoice with a view to recovering the costs of medical services it has provided, made out to the name of the authority operating the hostel of restricted access containing the description, the price and the quantity of the medicinal preparation and - in connection with prescription drugs - with the prescription indicating the number of the document evidencing right of residence of the EEA national or his/her family member enclosed. The health care service provider shall submit the prescription and the invoice to the OEP.

Government Decree Section 64.

(1) The place of detention cannot be contested.

(2) The detailed provisions concerning the execution of detention shall be laid down in specific other legislation.

Complaints

FMRA Section 52.

(1) EEA nationals and their family members may not apply for the suspension of proceedings for ordering detention prior to deportation. Resolutions ordering detention prior to deportation may not be appealed.

(2) A person placed under detention prior to deportation may lodge a complaint for the judicial review of the resolution ordering his/her detention within seventy-two hours from the time when ordered.

(3) The person placed under detention prior to deportation may lodge a complaint in the event of the immigration authority's failure to comply with its obligations set out under Sections 58-59.

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

(5) The court shall adopt a decision:

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

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

FMRA Section 53.

(1) According to the court's decision:

a) detention prior to deportation shall be terminated forthwith if declared unlawful;

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

(2) The court's decision concerning the complaint shall also contain instructions - if requested by the competent authority - concerning the extension of detention prior to deportation beyond the seventy-two-hour time limit.

Government Decree Section 58.

Any complaint lodged by an EEA national or his/her family member verbally or in writing shall be forwarded without delay:

a) by the regional directorate if it pertains to a breach of the obligations specified in Subsections (2)-(3) of Section 58 of the FMRA;

b) by the body carrying out the detention if it pertains to a breach of the obligations specified in Subsection (1) of Section 58 or in Section 59 of the FMRA;

to the local court of jurisdiction by reference to the place where the detention is carried out.

Extension of the Duration of Detention Prior to Deportation by Court Order

FMRA Section 54.

(1) The authority ordering the detention of a foreign national prior to deportation shall file its request for an extension beyond the seventy-two-hour time limit at the local court within twenty-four hours from the time when ordered.

(2) The competent authority shall provide an explanation for the aforesaid request.

(3) The court may grant an extension of detention prior to deportation for a maximum duration of thirty days at a time. Any additional thirty-day extension of detention prior to deportation may be requested at the court by the competent authority, where the court must receive the request within eight working days prior to the due date for extension. The court shall adopt a decision forthwith concerning the motion for the extension of detention prior to deportation.

Common Provisions for Court Procedures

FMRA Section 55.

- (1) The court shall proceed with a single judge presiding in proceedings concerning complaints and for the extension of detention prior to deportation and shall conclude the case by way of a ruling.**
- (2) If the judge has dismissed a complaint or a motion for extension, another request or motion may not be lodged on the same grounds.**

FMRA Section 56.

- (1) The court shall appoint a representative ad litem for any EEA national or his/her family member who does not understand the Hungarian language and is unable to contract the services of a legal representative on his/her own.**
- (2) In any case concerning the extension of detention prior to deportation beyond the seventy-two-hour time limit by the court, and in proceedings relating to complaints and further extension of detention the detainee shall be granted a personal hearing upon request.**
- (3) The hearing may be conducted at the place of detention and in the absence of the legal representative.**
- (4) The court may disregard the holding of a hearing if the person under detention prior to deportation is unable to attend due to being treated in an in-patient medical institution, or if the complaint or the motion does not originate with a party entitled to do so.**
- (5) The EEA national or his/her family member, and the immigration authority shall present their evidence in writing or verbally during the hearing. Parties shall be given the opportunity to study the evidence presented. If the EEA national or his/her family member is not present, or the proponent authority is not represented, but they have submitted their comments in advance in writing, they will be introduced by the judge.**

FMRA Section 57.

- (1) The court's decision shall be delivered to the EEA national or his/her family member affected, and to the immigration authority. If the EEA national or his/her family member has a legal representative or a representative ad litem, they shall be informed as well. The court decision shall be announced verbally and shall also be delivered in writing without delay.**
- (2) The court's decision is final.**
- (3) The court proceedings are exempt from charges.**

Government Decree Section 59.

- (1) The duration of detention ordered by the regional directorate shall be limited to the least amount of time required for the conclusion of the proceedings.**
- (2) The request lodged by the authority ordering detention for an extension shall contain the information concerning the travel arrangements made for the EEA national or his/her family member affected. A copy of the request for extension shall be sent to the legal representative of the EEA national or his/her family member.**
- (3) If the duration of detention is extended by court decision, however the reason for detention no longer applies, the authority ordering the detention shall order the release of the person affected from custody and shall notify the court thereof.**

Execution of Detention Prior to Deportation

FMRA Section 58.

- (1) When admitted to the detention facility, the foreign national shall be informed of his/her rights and obligations in his/her native language or another language he/she understands.**
- (2) If so requested by the detained person or if so prescribed by a bilateral consular agreement, the authority ordering detention prior to deportation shall promptly inform the Hungarian consular or diplomatic mission of the detained person concerning his/her detention and the extension of the duration of detention.**
- (3) As a provisional measure, the authority ordering detention prior to deportation shall immediately provide for the placement of dependent family members of the person apprehended, who have remained without supervision, and/or for the safeguarding of his/her valuables which have been left unattended.**

FMRA Section 59.

- (1) The competent authority shall carry out the detention prior to deportation in places designated for this purpose.**
- (2) Men placed under detention prior to deportation shall be housed in separate quarters from women.**
- (3) Persons placed under detention prior to deportation shall have the right to:**
 - a) housing and nourishment, have the right to wear their own clothes or shall be provided with seasonal clothing if necessary, and emergency and basic medical care;**
 - b) consult their legal representative or a member of the consular representation of their host country without any censorship, and to be visited by relatives under censorship;**
 - c) send and receive packages and letters as specified in specific other legislation, and to receive visitors;**
 - d) supplement their diet at their own expense;**
 - e) practice their religion as specified in specific other legislation;**
 - f) use the educational and cultural facilities of the institution;**
 - g) make complaints and present any requests, protests or notifications of common interest;**
 - h) spend at least one hour each day outdoors.**
- (4) Persons placed under detention prior to deportation shall have the obligation to:**
 - a) abide by the house rules of the detention facility, and to obey the instructions received in that respect;**
 - b) conduct themselves so as not to injure the rights of other detainees, and not to disturb them;**
 - c) take part in cleaning the areas they use, without any compensation;**
 - d) subject themselves to any examinations, to permit the searching of their clothing, and not obstruct the confiscation of any contrabands.**

Photographing and Fingerprinting

FMRA Section 60.

(1) With a view to enforce compliance with exclusion orders the authority ordering expulsion ordered under immigration laws or carrying out the expulsion ordered by the court shall take the fingerprint and photograph of the person expelled by court order, or by the competent authority in conjunction with exclusion.

(2) The person referred to in Subsection (1) shall submit to have his/her fingerprint and a photograph of his/her face taken.

Requirements for Detention Facilities

Government Decree Section 60.

(1) Hostels of restricted access shall satisfy the following criteria:

a) the living quarters of detainees must have at least 15 cubic meters of air space and 5 square meters of floor space per person;

b) they must have a common area for dining, for recreational purposes and for receiving visitors;

c) they must have separate washrooms and showers and toilets for men and women, with hot and cold running water, in sufficient capacity consistent with the number of detainees;

d) they must have an infirmary for providing basic medical care;

e) they must have a medical examination room and an isolation room;

f) they must have sufficient space for outdoor activities;

g) they must have lighting sufficient to satisfy the standards laid down in the national requirements concerning regional development and construction;

h) they must have an uninterrupted power supply;

i) they must have a separate room for receiving visitors;

j) they must have telephone facilities;

k) they must have natural ventilation in the living quarters and in the staff rooms, in the medical rooms, in the visitors areas, in the kitchen and in the dining room, and in the common areas.

(2) Hostels of restricted access may not be installed in police detention facilities or in penal institutions.

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

Medical Care Provided to Detainees

Government Decree Section 61.

(1) Any EEA national or his/her family member who is detained, if not covered by any social security system, shall be provided free of charge the health care services specified in Subsection (2) of Section 142 and in Paragraphs e) and i) of Subsection (3) of Section 142 of Act CLIV of 1997 on Health Care.

(2) After placement, the EEA national or his/her family member shall be entitled to receive the vaccinations specified in specific other legislation.

Government Decree Section 62.

(1) General medical care shall be provided to EEA nationals and their family member in the hostel of restricted access.

(2) Special medical care shall be provided by the health care provider responsible for the region in question.

(3) The authority operating the hostel of restricted access shall cover the costs of medical aids and pharmaceuticals provided by prescription and issued by a doctor who has an official stamp for authorization as laid out in specific other legislation, to prescribe medicinal products.

Government Decree Section 63.

(1) The authority operating the hostel of restricted access shall reimburse the costs of health care services, other than those described in Section 61, to the health care service provider carrying out the procedure, if the Republic of Hungary did not agree to compensate such costs under international treaty.

(2) Health-care services may be obtained if having in possession a certificate of eligibility for provisions. Compensation shall be governed by Subsections (5)-(6) of Section 13 of Government Decree 25/1998 (II. 18.) Korm.

Government Decree Section 64.

(1) The place of detention cannot be contested.

(2) The detailed provisions concerning the execution of detention shall be laid down in specific other legislation.

Photographing and Fingerprinting

Government Decree Section 65.

The regional directorate shall take the fingerprint and photograph of the persons referred to in Subsection (1) of Section 60 of the FMRA.

Government Decree Section 66.

(1) Expulsion measures shall be carried out with a view to cause the least amount of expenses to the person expelled.

(2) The authority carrying out the expulsion shall provide for the obligation reimbursement specified in Section 62 of the FMRA in a ruling. The obligation shall be discharged within three months from the date when ordered.

Common Provisions in Connection with Restrictions on the Right of Residence

FMRA Section 61.

Expulsion and exclusion orders shall specify:

a) the criteria weighted in accordance with Section 44;

b) the duration of exclusion;

- c) the country to which the person in question is expelled;
- d) the deadline for leaving the country;
- e) the place of entry;
- f) the obligation for being photographed and fingerprinted in connection with exclusion.

FMRA Section 61/A.

Compliance with the obligation to leave the territory of the country shall be carried out by the last day of the first month following the operative date of the resolution ordering the expulsion measure.

FMRA Section 62.

The costs associated with expulsion shall be borne by the person expelled or - if lacking the financial means necessary in connection with his/her family members - by the EEA national or the Hungarian citizen. Where the expulsion cannot be carried out because the person liable to bear the costs does not have the financial means necessary, the competent authority shall advance the costs of departure.

Warrant of Arrest

FMRA Section 63.

(1) In order to locate a EEA national or his/her family member whose whereabouts are unknown, the competent authority may issue a warrant if the person in question:

- a) has escaped from detention prior to deportation; or
- b) has left the place of confinement designated under Subsection (2) of Section 37 to an unknown location.

(2) The warrant specified above shall be issued by way of a resolution, a copy of which shall be sent to the local police headquarters where the ordering authority is located.

(3) When the grounds for such a warrant cease to prevail, it shall be withdrawn forthwith by the ordering authority. A copy of the resolution of withdrawal shall be sent to the police headquarters defined in Subsection (2).

Warrant of Arrest

Government Decree Section 67.

A warrant of arrest may be issued by:

- a) the authority ordering detention in the case referred to in Paragraph a) of Subsection (1) of Section 63 of the FMRA;
- b) the authority ordering compulsory confinement in the case referred to in Paragraph b) of Subsection (1) of Section 63 of the FMRA.

Government Decree Section 68.

The notice mentioned in Subsection (2) of Section 64 of the FMRA and the travel document shall be sent to the regional directorate of jurisdiction by reference to the place where the restraining measures were carried out against the EEA national or his/her family member in criminal proceedings for taking measures:

- a) concerning the registration and cancellation of the prohibition of leaving the country;
- b) for confiscation or release of the travel document.

Restrictions on Exit

FMRA Section 64.

(1) EEA nationals and their family members shall not be authorized to exit the territory of Hungary if placed under pre-trial detention, if subject to house arrest or confined to quarters, if detained, placed under custody awaiting extradition, arrested for extradition, arrested for transfer, placed under provisional detention for transfer, or if placed under involuntary temporary treatment in a mental institution.

(2) The competent authority shall have powers to confiscate the travel documents of EEA nationals and their family members by way of a resolution, if notified by the court conducting the criminal proceedings, the public prosecutor or the investigating authority for having ordered any of the restraining measures specified in Subsection (1). The aforesaid resolution may not be appealed.

(3) The travel document shall be confiscated for the duration of the restraining measure to which the EEA national or his/her family member is subjected according to Subsection (1).

Vested Responsibilities

FMRA Section 65.

(1) Natural and legal persons and business associations lacking the legal status of a legal person authorized to operate some commercial form of passenger transport services (hereinafter referred to as "carrier") providing travel accommodations to family members who are third-country nationals by means of air, water or scheduled road transport shall be required to check the travel document and visa of their passengers before boarding for travelling to Hungary or to another country through the territory of Hungary to ensure that they have travel documents required for entry or for transit.

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

- a) if its passenger is refused admission to Hungary for lacking any of the requirements specified by law;
- b) if its passenger is refused admission to another country and is turned back to Hungary; or
- c) if the carrier to which the passenger was scheduled to be transferred refused to admit the passenger on his means of transport.

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

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

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

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

Vested Responsibilities

Government Decree Section 69.

(1) In application of Section 65 of the FMRA, the penalty for the protection of public policy to be imposed upon the carrier, and the liability of a carrier to return or finance the stay of its non-admitted passenger shall be established and/or ordered by the Police.

(2) If a carrier fails to fulfill its liability to return a non-admitted passenger within the deadline specified in Subsection (2) of Section 37 of the FMRA, the Police shall advance the cost of the return of such person and shall execute it by way of another carrier.

(3) If the carrier responsible refuses to repay the costs advanced by the Police, the Police shall seek recourse to recover such expenses under civil law.

(4) The obligation to return a non-admitted passenger may not be enforced if the family member who is a third-country national applies for asylum or for any subsidiary form of protection or temporary protection.

Government Decree Section 70.

(1) In the event of non-compliance with the control obligation referred to in Subsection (1) of Section 65 of the FMRA, a penalty for the protection of public policy shall be imposed upon the carrier in question for the forint equivalent of between 3000 and 5000 euro per person.

(2) The aforesaid penalty shall be imposed by the local branch of the Police at the place where entry to the territory of Hungary was attempted.

FMRA Section 66.

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

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

Government Decree Section 71.

(1) The penalty for the protection of public policy to be imposed under Section 66 of the FMRA shall be in the amount of the forint equivalent of between 3000 and 5000 euro. For any repeat infringement the penalty may be imposed cumulatively for each journey for which passenger data were not communicated or were communicated incorrectly.

(2) The aforesaid penalty shall be imposed upon the defaulting carrier by the local branch of the Police at the place where entry to the territory of Hungary was attempted.

FMRA Section 67.

(1) Employers shall be required to report within three days to the competent authority if the employment of an EEA national or a family member did not materialize, or if his/her employment is terminated.

(2) Any employer who fails to satisfy the obligation defined in Subsection (1) shall be subject to a penalty for the protection of public policy levied by the competent authority.

Government Decree Section 72.

(1) The regional directorate shall impose a penalty for the protection of public policy upon the employers who fail to satisfy the obligation defined in Subsection (1) of Section 67 of the FMRA in the amount of up to five hundred thousand forints per employee.

(2) The regional directorate shall not be authorized to impose the aforesaid penalty after one year following gaining knowledge of the event referred to in Subsection (1).

Government Decree Section 73.

(1) The amount of the penalties imposed under Sections 70-72 shall be determined having regard to all prevailing circumstances, such as any recidivism, where applicable.

(2)

(3) Appeals against the sanctions imposed under Sections 70-71 shall be adjudged by the Office, and appeals against the sanction imposed under Section 72 shall be adjudged by the central body of the Police.

FMRA Section 68.

Carriers and employers may not request suspension of any proceeding aimed to determine their liability.

Chapter V

COMMON PROVISIONS

FMRA Section 69.

The competent authority shall inform the parties affected - in the language the person in question understands - of their rights and obligations conferred in this Act, in particular their right to legal recourse, claim for compensation, and the means for enforcing their rights.

FMRA Section 70.

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

(2) If the request the client has submitted in the proceedings referred to in Subsection (1) is incomplete, the competent authority shall promptly make out a notice for requesting the missing information.

(3) In those proceedings where the applicant is required to appear in person, the client shall not be authorized to communicate with the authority by way of electronic means.

FMRA Section 71.

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

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

a) resolutions;

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

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

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

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

(5) If exclusion is ordered under Subsection (1) of Section 38, the operative part of the resolution shall be displayed on a website specified in the relevant legislation. The resolution shall be considered delivered at the time of publication.

FMRA Section 72.

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

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

FMRA Section 73.

(1) In proceedings for the issue of visas for a validity period not exceeding three months the costs of translation and interpreting services, and the fees of a sign language interpreter (hereinafter referred to as "costs of language services") shall be borne by the applicant.

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

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

FMRA Section 74.

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

Chapter VI

DATA PROCESSING

FMRA Section 75.

(1) In order to monitor the right of residence of foreign nationals, the immigration authority shall keep the following sub-registers - within the central immigration register - on the personal data of EEA nationals and their family members:

- a) register of EEA nationals holding registration certificates;**
- b) register of holders of residence cards;**
- c) register of holders of permanent residence cards;**
- d) register of EEA nationals and family members subject to expulsion or exclusion;**
- e) register of EEA nationals and family members subject to restriction of personal freedom;**
- f) register of EEA nationals and family members whose travel document or personal identification document was reported lost.**
- g) register of family members of third-country nationals holding a visa for a validity period not exceeding three months.**

(2) The body operating the central immigration register shall be authorized to process the personal identification data of persons holding registration certificates or residence cards for reasons of contact with the body operating the register of personal data and address records of citizens and for disclosure to law enforcement authorities.

(3) Where an EEA national or his/her family member has acquired Hungarian citizenship, the data relating to him or her shall be deleted without delay from the sub-registers on the data of EEA nationals and their family members.

Data Processing

Government Decree Section 74.

The Office shall function as the body operating the central immigration register (hereinafter referred to as "central data administration agency").

FMRA Section 76.

The sub-registers relating to the documents evidencing right of residence, referred to in Paragraphs a)-c) of Subsection (1) of Section 75, contain the following data of the data subjects relating to their documents evidencing right of residence:

- a) birth name and married name, personal identification number and the address shown on the registration certificate, and the country of previous habitual residence;**
- b) the time of registration, and the time of submission of the application for the residence card;**
- c) data from the travel document or personal identification document;**
- d) the number, type and validity of the document evidencing registration or the right of residence, and the duration of any extension;**

- e) the date and reason for the withdrawal of the document evidencing registration or the right of residence, where applicable;
- f) the date of turning in the document evidencing registration of the right of residence, where applicable, and the country of next habitual residence;
- g) an indication if the document evidencing registration or the right of residence had been exchanged, replaced, lost or destroyed, or if returned when found;
- h) the EEA national's marital status, if it concerns the right of residence of another person.

FMRA Section 76/A.

- (1) The sub-register referred to in Paragraph *b*) of Subsection (1) of Section 75 also contains the facial images and fingerprint images of family members of Hungarian citizens who are third-country nationals.
- (2) The competent authority shall be allowed to process the data referred to in Subsection (1) insofar as the binding and enforceable decision is adopted relating to the application of family members of Hungarian citizens who are third-country nationals for the issue of a document evidencing right of residence, after which the data in question must be deleted immediately.

FMRA Section 76/B.

- (1) The competent authority shall process the following data of family members of third-country nationals in connection with applications for visa for a validity period not exceeding three months and the visa issued, or document in place of visas (in this Section hereinafter referred to collectively as “visa”):

- a*) surname and forename (names);
- b*) surname and forename (names) at birth;
- c*) any previous surname and forename (names);
- d*) place and date of birth;
- e*) sex;
- f*) mother’s surname and forename (names) at birth;
- g*) nationality (nationalities) or stateless status;
- h*) facial image;
- i*) particulars of the travel document;
- j*) the purpose of entry and the planned duration of stay;
- k*) particulars of the documents provided in support of the conditions required for entry and stay;
- l*) the fact and reasons for the refusal of a new visa or for the renewal of an existing one, and for the withdrawal of a visa;
- m*) the number and validity period of the visa issued (extended), and information relating to limited territorial validity;

***n)* the date and place of entry and exit;**

***o)* address of place of accommodation.**

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

FMRA Section 76/C.

FMRA Section 76/D.

The competent authority shall be allowed to process the facial images and fingerprint images taken for the purposes of local border traffic permits in accordance with Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals, and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals insofar as the binding and enforceable decision is adopted relating to the application for local border traffic permit, after which the data in question must be deleted immediately.

Government Decree Section 75.

(1) The regional directorate shall forward the data specified in Section 76 of the FMRA to the central data administration agency.

(2) The visa issuing authority and the consular officer issuing the local border traffic permit, the Police and the regional directorates shall forward the data specified, respectively, in Section 76/B, Paragraph *n)* of Subsection (1) of Section 76/B, and Paragraph *o)* of Subsection (1) of Section 76/B of the FMRA to the central data administration agency.

FMRA Section 77.

Data may be processed in the sub-registers maintained on documents evidencing right of residence for five years following termination of the right of residence or the date of registered departure of the data subject.

FMRA Section 77/A.

(1) In connection with visa applications submitted at any land, air or water border crossing points of Hungary under Chapter VI of the Visa Code, the competent immigration authority shall take the applicant's fingerprint and shall forward it to the immigration authority in charge for the assessment of visa applications for having the immigration authority in charge for the assessment of visa applications entering the data in the Visa Information System in accordance with Article 9 of the VIS Regulation.

(2) The immigration authority having collected the fingerprint shall be authorized to process such fingerprint data until it is forwarded to the immigration authority in charge for the assessment of visa applications. Thereafter the fingerprint data must be deleted without delay.

(3) The immigration authority in charge for the assessment of visa applications shall be authorized to process the fingerprint data until it is entered in the Visa Information System. Thereafter the fingerprint data must be deleted without delay.

FMRA Section 78.

(1) The register of persons subject to expulsion or exclusion contains the following information:

- a) the EEA national's and the family members' name, data and place of birth, mother's name, nationality, personal identification code;
- b) the legal grounds and the duration of expulsion or exclusion;
- c) the date and time when the measure was carried out;
- d) the name of the ordering authority;
- e) the date and place of exit;
- f) the facial photograph and fingerprint of the EEA national and his/her family members.

(2) Upon request, the person who is subject to exclusion shall be informed of his/her data kept on record. If justified on the grounds of national security or criminal investigation, the immigration authority may refuse to disclose such information subject to a reasoned decision.

(3) The immigration authority shall have the right to process data specified in Subsection (1) - with the exception set out in Subsection (4) - for five years after the expulsion or exclusion is lifted.

(4) The competent authority shall have the right to process the data specified in Paragraph f) of Subsection (1) for as long as the exclusion is in force.

Government Decree Section 76.

(1) The regional directorate shall forward the data specified in Subsection (1) of Section 78 of the FMRA to the central data administration agency.

(2) The photographs and fingerprints taken according to Subsection (1) of Section 60 of the FMRA shall be processed by the body designated by decree of the minister in charge of immigration.

(3) The photographs and fingerprints taken according to Subsection (1) of Section 76/A and Section 76/D of the FMRA shall be processed by the central data administration agency.

FMRA Section 79.

(1) The register of foreign nationals under some form of confinement and those affected by some form of emergency (death, accident), and which is maintained for the purpose of compliance with the obligation of notification specified in international agreements with a view to ensure consular protection, contains the following information:

- a) the EEA national's and the family member's name, date and place of birth, mother's name, nationality, and personal identification code;
- b) the particulars of the criminal proceedings (the legal definition and description of the crime, the date when committed, the date when the court's decision was delivered), case number;
- c) the particulars and the case number of the emergency;
- d) the name of the acting authority;
- e) the date and time when the measure was carried out.

(2) The data specified in Subsection (1) may be processed for a period of three years following the discharge of the notification obligation or the termination of the confinement.

Government Decree Section 77.

The regional directorate shall forward the data:

a) specified in Paragraphs a)-b) of Subsection (1) of Section 79 of the FMRA upon being notified by the competent investigating authority or law enforcement agency;

b) specified in Paragraphs a), c)-e) of Subsection (1) of Section 79 of the FMRA upon being notified by the Police,

to the central data administration agency.

FMRA Section 80.

(1) The register of EEA nationals and family members whose travel document or personal identification document was reported lost contains the following information:

a) the EEA national's and the family member's name, date and place of birth, mother's name, nationality, and personal identification code;

b) type and number of the travel document that was reported lost, stolen or destroyed and the type and particulars of the personal identification document, and an indication if an alert has been issued in the Schengen Information System;

c) the date and time when reported;

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

e) the type, number and validity of the document evidencing right of residence, and the name of the issuing authority;

f) the type, number and validity of the new travel document or personal identification document.

(2) The immigration authority shall have the right to process the data relating to the loss of the travel document until it is found, or for a period of five years from the date when reported lost.

Government Decree Section 78.

The regional directorate shall forward the data specified in Subsection (1) of Section 80 of the FMRA to the central data administration agency.

FMRA Section 81.

(1) The competent authority shall be allowed to disclose information - to the extent necessary to discharge its duties conferred by law - from the sub-registers specified in Subsection (1) of Section 75, subject to the exception set out in Subsection (2), to the law enforcement and criminal investigation agencies, the national security services, the tax authority, the authority handling citizenship-related duties, the refugee authority and to the employment and labor authority, and from the sub-registers specified in Paragraphs a)-c) and g) of Subsection (1) of Section 75 to the central body operating the register of the personal data and addresses of citizens, the bodies of municipal governments vested with regulatory capacity, document bureaus, and the pension insurance administration agency, with the legal basis and purpose indicated.

(2) The employment and labor authority may request information from the sub-registers specified in Paragraphs a)-c) and g) of Subsection (1) of Section 75 only with respect to the persons to whom the treatment afforded by Hungary is different from what is required under Articles 1-6 of Council Regulation (EEC) No. 1612/68 on the freedom of movement for workers within the Community.

(3) Data may be supplied in accordance with an international agreement or any directly applicable Community legislation to the agency defined therein.

(4) The data processed on the basis of this Act may be used for statistical purposes and such data may be supplied by the body operating the central immigration register for statistical purposes, in a manner so as not to allow the identification of specific individuals. Data may be released from sub-registers specified in Paragraphs a)-c) and g) of Subsection (1) of Section 75 for the Central Statistics Office for statistical purposes in a manner allowing for the identification of individuals.

(5) The immigration authorities defined in specific other legislation shall have access to the Visa Information System for the purposes referred to in Articles 15-20 of the VIS Regulation.

Immigration Authorities with Access to the Visa Information System

Government Decree Section 78/A.

According to the VIS Regulation the following authorities shall have access to the system for the exchange of visa data established under Council Decision 2004/512/EC:

a) the authority referred to in Section 4 functioning as the visa authority referred to in Article 15 of the VIS Regulation, as well as the Police as required for the proceedings specified in Subsection (4) of Section 7 and Subsection (2) of Section 16;

b) the Office functioning as the central visa authority referred to in Article 16 of the VIS Regulation;

c) the authority referred to in Section 4 functioning as the visa authority referred to in Article 17 of the VIS Regulation;

d) the Police, the Office and the regional directorate functioning as the control authorities referred to in Articles 19 and 20 of the VIS Regulation.

FMRA Section 82.

(1) The competent authority may request data - subject to the exception set out in Subsection (2) - for the purpose of monitoring the right of residence of EEA nationals and their family members from:

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

b) the register of convicted criminals;

c) the watch list;

d) the register of persons with work permits;

e) the register of companies;

f) the register of private entrepreneurs;

g) the real estate register.

(2) The competent authority may request data from the register referred to in Paragraph d) of Subsection (1) only with respect to the EEA nationals and their family members to whom the treatment afforded by Hungary is different from what is required under Articles 1-6 of Council Regulation (EEC) No. 1612/68 on the freedom of movement for workers within the Community.

FMRA Section 83.

(1) The central body operating the register of the personal data and addresses of citizens shall notify the central data administration agency concerning:

- a) the death of an EEA national or his/her family member in Hungary, or their change of name;**
- b) the termination of registered residence of an EEA national or his/her family member;**
- c) the termination of processing of the data of an EEA national or his/her family member.**

(2) The competent authority shall inform the central body operating the register of the personal data and addresses of citizens concerning:

- a) the termination of the right of residence or the date of registered departure of a data subject;**
- b) the death of an EEA national or his/her family member abroad, or their change of name.**

FMRA Section 84.

(1) Any disclosure of data from the sub-registers defined in Subsection (1) of Section 75 shall be recorded in the data transfer records.

(2) The data transfer records shall be maintained by the operator of the register.

FMRA Section 85.

(1) The data transfer records shall indicate:

- a) the EEA national's and the family member's name, date and place of birth, mother's name, nationality, and personal identification code;**
- b) the data processor's identification code;**
- c) the date and time of transfer;**
- d) the purpose and legal basis for disclosure and the data disclosed;**
- e) the name of the requesting entity.**

(2) Unless otherwise prescribed by law, the data subject shall have the right to consult the data transfer records to monitor any movement of his/her data.

(3) The data transfer records shall be made available for inspection by the competent authority and the Nemzeti Adatvédelmi és Információszabadság Hatóság (National Authority for Data Protection and Freedom of Information).

(4) The data transfer records shall be retained for five years following the date of transfer of data.

Biometric Data Processing

Government Decree Section 78/B.

(1) In connection with applications for local border traffic permits the biometric identifiers defined in Section 76/D of the FMRA shall be recorded by the competent consulate officer.

(2) In connection with applications for residence card by the family members of Hungarian citizens who are third-country nationals the biometric identifiers defined in Subsection (1) of Section 76/A of the FMRA shall be recorded by the competent regional directorate.

(3) The Government designates the Office for discharging the official duties relating to national document-signatory functions and nation-wide signatory attestation functions, and the official functions of national document certification and attestation bodies.

(4) In connection with the issue of local border traffic permits and residence cards issued to family members of Hungarian citizens who are third-country nationals the Office shall:

a) carry out the personalization of local border traffic permits and residence cards, and the loading of data into the storage medium containing biometric identifiers (hereinafter referred to as “storage medium”);

b) discharge the national document-signatory functions and nation-wide signatory attestation functions;

c) execute the nation-wide signatory attestation functions, and the official functions of national document certification and attestation bodies.

(5) The Office, in its capacity as the national document-signatory authority shall make out the document-signatory certificate, and shall install it in the storage medium.

(6) The Office, in its capacity as the signatory attestation authority, shall:

a) make out the certificate referred to in Subsection (5),

b) compile and maintain - with a view to controlling local border traffic permits and residence cards issued to family members of Hungarian citizens who are third-country nationals with storage mediums containing biometric identifiers - the certificates of the national document-signatory authorities of all Member States of the International Civil Aviation Organization (hereinafter referred to as “ICAO”) and their certificate revocation lists, and the distribution points of certificate revocation lists,

c) send the certificates it has issued, and the related revocation lists - electronically - via the minister in charge of foreign policies to the national signatory attestation authorities of the other ICAO Member States.

(7) The Office, in its capacity as the certification and attestation authority, shall:

a) make out a certificate for the national document certification and attestation authority,

b) issue certificates to foreign document certification and attestation authorities that issues certificates for the means of control of foreign authorities empowered to read out data protected by enhanced access control.

(8) The Office, in its capacity as the national document certification and attestation authority shall provide for the issue of certificates for the means of control of Hungarian authorities empowered to read out data protected by enhanced access control stored electronically in local border traffic permits and residence cards issued to family members of Hungarian citizens who are third-country nationals.

(9) Third-country nationals holding local border traffic permits or residence cards issued to family members of Hungarian citizens who are third-country nationals may request the regional directorate at any time to check the data on the storage medium containing biometric data during the document’s period of validity.

Chapter VII

CLOSING PROVISIONS

Authorizations

FMRA Section 86.

(1) The Government is hereby authorized to decree:

- a) the authorities vested with competence in cases relating to the residence of EEA nationals and their family members, their jurisdiction and the rules for their proceedings;
- b) the detailed regulations for the procedures relating to the registration of residence and issue of residence cards, and for the processing of the data of EEA nationals and their family members on the basis of this Act;
- c) the duties, competence and jurisdiction of visa authorities, the detailed regulations for the issue of visas, and the types of visas;
- d) the amount limits of the financial penalties to be imposed on carriers and employers under this Act, and the procedure for levying them;
- e) the regulations concerning the designation of compulsory places of confinement;
- f) the rules concerning the provisions and support granted to persons placed under detention prior to deportation and those placed under compulsory confinement;
- g) the rules of conduct for persons placed under compulsory confinement;
- h) the detailed public health regulations pertaining to the residence of EEA nationals and their family members in Hungary, and the financial requirements for health care services and the means of certification.
- i) the designation of the law enforcement agencies vested with powers to initiate expulsion orders and to make recommendations as to the duration of expulsion.

(1a) The Government is hereby authorized to designate the authorities appointed to carry out the authentication of storage mediums containing the biometric data of documents evidencing right of residence issued under Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals.

(2) The minister in charge of immigration is hereby authorized to decree:

- a) the validity and form of the documents specified in this Act, including the information they are to contain;
- b) the regulations for the enforcement of detention prior to deportation;
- c) the regulations for carrying out deportation measures; and
- d)

(3) The minister in charge of immigration is hereby authorized to decree, in agreement with the minister in charge of taxation, the fees for the proceedings conducted under this Act.

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

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

(6) The minister in charge of immigration is hereby authorized to decree - in agreement with the minister in charge of foreign policies, the minister in charge of supervising the national security services and the

minister overseeing civil intelligence activities - the cases where, for reasons of public security and national security:

a) the consent of the central visa authority is required for the issue of a visa for a validity period not exceeding three months; and

b) the central visa authority is required to consult with the central authorities of other Schengen States requesting consultation prior to granting consent for the issue of a visa for a validity period not exceeding three months.

(7) The minister in charge of immigration is hereby authorized to decree - in agreement with the minister in charge of foreign policies, the minister in charge of supervising the national security services and the minister overseeing civil intelligence activities - the list of third countries, where the central visa authority is to request information of visas issued to the nationals of such third countries in accordance with Article 31(1) of the Visa Code.

Entry into Force

FMRA Section 87.

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

(2) Subsection (6) of Section 3 and Subsection (6) of Section 86 of this Act shall enter into force on the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full.

(3)

Entry into Force

Government Decree Section 79.

(1) This Decree - with the exceptions set out in Subsection (2) - shall enter into force on 1 July 2007.

(2) Of this Decree,

a) Subsection (2) of Section 16,

b) Sections 17 and 18

shall enter into force on the day determined in the Council Decision for authorizing Hungary to apply the Schengen acquis in full.

(3)-(4)

Transitional Provisions

FMRA Section 88.

(1) EEA nationals shall enjoy the rights granted to holders of registration certificates inside the validity periods of their long-term visa, residence permit or EEA residence permit issued before the time of this Act entering into force, until their expiry.

(2) The long-term visa, residence permit, immigration permit and authority to reside issued to a family member before the time of this Act entering into force shall afford the right of residence consistent with the above-specified permits and authorizations for as long as they remain valid.

(3) At the request of an EEA national or his/her family member with a long-term visa or a residence permit, the competent authority - without prejudice to the rights obtained under Subsections (1) and (2) - shall issue a document evidencing right of residence as defined in this Act under the validity period of the permit in question.

(4) At the request of an EEA national or his/her family members holding an authority to reside or an immigration permit a document evidencing right of permanent residence shall be issued irrespective of whether or not the relevant requirements are satisfied.

(5) The applications of EEA nationals and their family members submitted before the time of this Act entering into force for residence permits or for authority to reside pending in the first instance shall be adjudged according to the provisions of this Act.

(6)-(8)

FMRA Section 89.

(1)

(2)

FMRA Section 90.

(1)

(2)

FMRA Section 91.

(1)

(2)

(3)

FMRA Section 92.

(1)

(2)

FMRA Section 93.

(1)

(2)

FMRA Sections 94-126.

FMRA Section 127.

(1)

(2)

FMRA Section 128.

(1)

Approximation Clause

FMRA Section 129.

(1) This Act contains regulations that may be approximated with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC together with the decrees adopted for the implementation of this Act.

(2) This Act contains provisions for the implementation of the following legislation of the Communities:

a) Articles 5 and 13 of Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders [Sections 3 and 36];

b) Articles 6, 9, 19 and 20 of Regulation (EC) No. 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) [Sections 35/A and 77/A];

c) Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) [Sections 2, 4, 20 and 86].

d) Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals and Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals (Sections 22, 35, 76/A and 86)

e) Regulation (EC) No. 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection.

Approximation Clause

Government Decree Section 80.

(1) This Decree contains regulations that may be approximated with Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No. 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC together with the FMRA.

(2) Section 70 of this Decree contains regulations that may be approximated with Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data.

(3) This Decree contains provisions for the implementation of the following legislation of the Communities:

1. Regulation (EC) No. 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (Sections 18/A-C);
2. Regulation (EC) No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders [Subsection (2) of Section 16];
3. Regulation (EC) No. 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) [Subsection (1) of Section 17 and Section 78/A];
4. Council Regulation (EC) No. 380/2008 of 18 April 2008 amending Regulation (EC) No. 1030/2002 laying down a uniform format for residence permits for third-country nationals (Sections 18/A and 78/B);
5. Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) [Sections 4, 7, 12, 16, 16/A-16/C, 17 and 18].

Schedule No. 1-2 to Government Decree 113/2007 (V. 24.)

Schedule No. 3 to Government Decree 113/2007 (V. 24.)