

Government Decree 113/2007 (V. 24.) Korm.

on the Implementation of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence

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:

Interpretative Provisions

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

Section 2.

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

- a) the minister in charge of immigration;
- 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.

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

Section 3.

Prior to granting entry to the territory of the Republic 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

Section 4.

Issuing the visa referred to in Subsection (1) of Section 4 of the FMRA (hereinafter referred to as "visa") is conferred under the competence of:

- a) the minister in charge of foreign policies;
- b) the competent consulate officer;

c) the Office;
(hereinafter referred to collectively as "visa authority").

Section 5.

Visa applications - with the exceptions set out in Sections 6 and 7 - are adjudged by the competent consulate officers.

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.

Section 7.

(1) Under special circumstances visas may be issued at road, air and water border crossing points of the Republic of Hungary (hereinafter referred to as "border crossing points") to family members who are third-country nationals, provided that they are able to satisfy the requirements set out in Subsection (1) of Section 4 of the FMRA, and if able to verify that they were prevented from obtaining a visa in advance.

(2) The Police shall forward visa applications 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 - electronically.

(4) The Office shall operate a non-stop customer service department to ensure the continuity of visa services.

(5) If the application is approved, the visa shall be issued to the applicant by the Police.

Section 8.

(1) With the exception set out in Subsection (2), visa applications may be submitted to any consulate officer of Hungary, or to the foreign mission of any nation that is authorized to accept visa applications in the name and on behalf of the Republic of Hungary or any other place authorized to accept such applications.

(2) Where Section 7 applies, visa applications shall be submitted at the border crossing point.

Section 9.

(1) Visa applications shall be submitted on a standard form, a model of which is contained in Schedule No. 1 of this Decree.

(2) Visa applications may be submitted within three months prior to the planned date of travel.

(3) When lodging the visa applications the applicant shall present his/her valid travel document. The travel document - with the exception set out in Section 13 - must have at least one suitable page where the visa can be installed.

(4) Documents that justify the purpose of intended stay shall be attached to the visa application.

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

Section 10.

Whenever a visa application is submitted, the competent visa authority - with the exception if the applicant holds a diplomatic, service or other official passport, and not including applications for visas submitted according to Section 7 at border crossing points - shall record it in the form of an entry in the applicant's travel document along with the place and date where and when it was submitted, the code of the visa requested, and the name of the authority receiving the application.

Section 11.

The competent consulate officer shall adopt a decision concerning visa applications within fifteen days from the time of receipt.

Section 12.

Visas shall be issued in the form and with the content specified in Point 1 of Schedule No. 2 to this Decree.

Section 13.

(1) If the Republic of Hungary refuses to recognize the travel document of a third-country national family member who is subject to a visa requirement, a visa shall be issued in the form and with the content specified in Point 2 of Schedule No. 2 to this Decree on a form for affixing a visa (hereinafter referred to as "separate sheet"), provided that the person in question meets the requirements set out in Article 5 (1) c)-e) 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.

(2) The provisions contained in Subsection (1) shall also apply if the travel document of the applicant third-country national family member who is subject to a visa requirement, is recognized by the Republic of Hungary, however, the travel document does not have any free space for affixing the visa.

Section 14.

(1) The minister in charge of foreign policies and the competent consulate officer may request the opinion of the National Security Agency concerning any visa application.

(2) The National Security Agency shall provide the aforesaid opinion within ten days.

Section 15.

A visa shall be considered cancelled if:

- a) the data and information it contains are no longer legible;
- b) it contains false or untrue information or has been forged;
- c) the holder was issued a document evidencing the right of free movement and residence;
- d) the holder is granted Hungarian citizenship or citizenship in a country whose nationals are not required to obtain a visa for entry to the territory of the Republic of Hungary by virtue of any directly applicable Community legislation or an international agreement;
- e) the holder has died.

Section 16.

(1) Where a visa authority learns of any reason during its proceedings under which the visa has to be invalidated, he shall withdraw the visa in question and, where Paragraph a) of Section 15 applies, provide for a replacement.

(2) Where a visa issued by another Schengen State is withdrawn, the issuing Schengen State shall be notified without delay.

Section 17.

(1) The duties conferred upon the central visa authority in the FMRA shall be discharged by the Office.

(2) The Office shall contact the central authorities of the Schengen States requesting consultation to declare their position in connection with granting consent for the issue of a visa.

(3) If either of the central authorities contacted refused to grant consent for the issue of a visa, the Office may grant its consent for the issue of such visa only with limited territorial validity.

(4) Where a contacted central authority fails to reply within seven days from the day when the request was forwarded or within the extended time limit, where applicable, its consent shall be considered granted.

(5) The contacted authority may extend the time limit within which to reply. The Office shall so inform the competent consulate officer or other body that is authorized to accept visa applications.

Section 18.

(1) Where the central authority of any Schengen State is required to consult with the Office prior to granting consent for the issue of a visa - according to the decree adopted under Subsection (6) of Section 86 of the FMRA -, the Office shall declare its position in connection with granting consent for the issue of the visa within seven days from the date when contacted.

(2) Under exceptional circumstances linked to the complexity of the case on hand, the Office may request the central authority of the requesting Schengen State to extend the time limit for reply. The request for extension must be properly justified.

(3) The central visa authority shall request the opinion of the National Security Agency before the reply is made upon consultation concerning the issue of a visa.

(4) The National Security Agency shall provide the aforesaid opinion within seven days.

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

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 the form specified in Point 3 of Schedule No. 2.

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.

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.

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

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, as a substantiating document in the absence of the requirements set out in Subsection (2) of Section 52 of Act CXL of 2004 on the General Rules of Administrative Proceedings and Services.

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;

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 the Republic of 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.

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) regular social aid under Paragraph a) or b) of Subsection (1) of Section 37/A of the SAA, including any periods of suspension and reinstatement of the payment of regular social aid, or

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 the Republic 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 the Republic 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.

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.

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.

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.

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.

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 the Republic of Hungary is established is in compliance with the conditions laid down in Section 7 of the FMRA.

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 of having been members of the household of an EEA national in the country from which they are arriving, for a period of at least one year.

(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.

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.

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 the Republic of 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.

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.

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 that has issued the residence card or registration certificate.

(2) Where the residence of an EEA national or his/her family member represents a threat and is potentially dangerous to the national security of the Republic of Hungary, the National Security Agency shall contact the competent regional directorate to adopt the resolution referred to in Subsection (1) of Section 15 of the FMRA.

Section 32.

EEA nationals and their family members shall verify - enclosed with the application for a permanent residence card - according to Sections 19-30 of having resided legally and continuously in the Republic of Hungary before the application was submitted.

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.

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 the Republic 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.

(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.

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 the Republic of Hungary if they draw:

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

b) regular social aid under Paragraph a) or b) of Subsection (1) of Section 37/A of the SAA, including any periods of suspension and reinstatement of the payment of regular social aid, or

c) attendance allowance under 43/B of the SAA,
for any period of more than three months.

(2) If the benefits referred to in Subsection (1) are not provided on a regular basis, the period mentioned in Subsection (1) shall be calculated with any duration of any subsequent payment period and any payment period within one year prior to the first day of payment included.

(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 the Republic of Hungary, the duration of payment of benefits and whether the difficulties are considered permanent or temporary.

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

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

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, or the separate sheet specified in Section 13, 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

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 the Republic of 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 after ten years.

Common Provisions Relating to Documents Evidencing Right of Residence

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 the Republic of 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.

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

(4) 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.

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

Section 41.

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

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 competent 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.

(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.

Section 43.

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.

Public Health Regulations Pertaining to Residence

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.

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

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-refoulment 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 competent 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

Section 46.

(1) A resolution for the refusal of entry and assisted return shall contain the results of the inquiry of non-refoulment, 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.

Expulsion Ordered Under Immigration Laws and Exclusion

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.

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) The regional directorate shall have authority to order exclusion independently and expulsion under immigration laws.

(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.

(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.

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.

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 competent guardian authority to provide support and care for the unaccompanied minor.

Section 51.

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

Enforcement of Expulsion Orders

Section 52.

(1) The competent regional directorate shall order the enforcement of an expulsion ordered by final court decision by way of resolution. The resolution 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.

Removal by Deportation

Section 53.

(1) Preparations for the enforcement of a deportation measure shall be made by the Police.

(2) Deportation shall be carried out by the Police.

Section 54.

(1) The EEA national or his/her family member ordered to be deported shall be escorted to the frontier of the Republic 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 resolution when expulsion is ordered 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.

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 superior body shall adopt a decision concerning the appeal within fifteen days following the day of receipt.

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

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.

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.

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.

Requirements for Detention Facilities

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

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.

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.

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.

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

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.

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. In the event of non-compliance with this deadline, the provisions on administrative enforcement shall apply.

Warrant of Arrest

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.

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.

Vested Responsibilities

Section 69.

(1) Where the Police levies a penalty on a carrier in connection with Section 65 of the FMRA it shall be issued by resolution; liability of a carrier to return or finance the stay of its non-admitted passenger shall also be issued by resolution, and shall be executable with immediate effect.

(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.

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 the Republic of Hungary was attempted.

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 the Republic of Hungary was attempted.

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).

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) The proceedings for the collection of the penalties imposed under Sections 70-72 shall be governed by the provisions on administrative enforcement.

(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.

Data Processing

Section 74.

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

Section 75.

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

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.

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.

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.

Entry into Force

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 the Republic of Hungary to apply the Schengen acquis in full.

(3)-(4)

Approximation Clause

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) Sections 18/A-18/C of this Decree contain regulations for the implementation of 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.

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

Photograph

Schengen visa application
This form is free of charge

Seal of embassy or consulate

1. Surname(s)		<p>For embassy or consulate only</p> <p>Date of application:</p> <p>Officer:</p> <p>Documentary evidence:</p> <input type="checkbox"/> Valid passport <input type="checkbox"/> Financial resources <input type="checkbox"/> Invitation <input type="checkbox"/> Means of transport <input type="checkbox"/> Health insurance <input type="checkbox"/> Other:
2. Surname(s) at birth [Previous surname(s)]		
3. Forename(s)		
4. Date of birth (day-month-year)	5. Personal identification code (optional)	
6. Place of birth (including country)		
7. Present citizenship(s)	8. Original nationality (at birth)	
9. Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	10. Marital status: <input type="checkbox"/> Single <input type="checkbox"/> Married <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed <input type="checkbox"/> Other	
11. Father's name	12. Mother's name	
13. Type of passport: <input type="checkbox"/> Private passport <input type="checkbox"/> Diplomatic passport <input type="checkbox"/> Service passport <input type="checkbox"/> Travel document (1951 Convention) <input type="checkbox"/> Foreign passport <input type="checkbox"/> Seaman's passport <input type="checkbox"/> Other travel document (please specify):		
14. Passport number	15. Issued by	
16. Date of issue	17. Validity period	
18. If not residing in the country of origin, do you have a re-entry permit? <input type="checkbox"/> No <input type="checkbox"/> Yes (number and validity period)		
* 19. Present employment		
* 20. Employer's name, address and phone number. Name and address of school for students.		
21. Final destination	22. Type of visa: <input type="checkbox"/> Airport transit <input type="checkbox"/> Transit <input type="checkbox"/> Short-term stay <input type="checkbox"/> Long-term stay	23. Visa <input type="checkbox"/> Individual <input type="checkbox"/> Group
24. Number of entries requested <input type="checkbox"/> Single entry <input type="checkbox"/> Two entries <input type="checkbox"/> Multiple entry		25. Duration of stay days.
26. Other visas (issued during the past three years), and their validity periods		<input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> Multiple entry.
27. If in transit, do you have an entry permit for the country of final destination? <input type="checkbox"/> No <input type="checkbox"/> Yes, valid: Issuing authority:		Valid from until
* 28. Previous visits to this Schengen State or in other Schengen States		Valid:

* Family members of EU and EEA nationals are not required to answer the questions marked with an * (spouse, child or dependant descendant). Family members of EU or EEA nationals shall produce documentary evidence to verify this relationship.

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

Visa documents

1) 'Visa document' shall mean a document made out in the form and with the contents specified in Council Regulation (EC) No. 1683/95 of 29 May 1995 laying down a uniform format for visas.

2) 'Form for affixing a visa' shall mean a document made out in the form and with the contents specified in Council Regulation (EC) No. 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognized by the Member State drawing up the form.

Local border traffic permit document

3. 'Local border traffic permit' shall mean a document made out in the form specified in Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals.

Document format: sticker.

Comment: issued for use in local border traffic.

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