



# Legal Migration Fitness Check

Evidence base for practical  
implementation

Member State summary

**Hungary**

*Annex 2 HU*

Written by ICF Consulting Services  
Limited

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## **LEGAL NOTICE**

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## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Hungary** and provides a summary of the detailed questionnaires filled in for each stage of the migration process. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant. Under each phase, the following aspects are examined:

**Legal transposition of the EU legal migration acquis:** including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive;

**Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases;

**Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

### Equivalent national statuses

Hungary has an equivalent national status only in respect to Long-Term Resident Directive status. The Interim Permanent Residence Permit is the guaranteed status for persons who have the LTR Directive based status in another Member State.

**Permits equivalent to the Single Permit in Hungary:** Residence permit for the purpose of gainful employment.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme		National Permanent Residence Permit  It must be mentioned that there are two further statuses which are similar but not equivalent to the Directive’s guaranteed status:  Interim Permanent Residence				

Permit which is the guaranteed status for persons who have the Directive based status in another Member State.

National Permanent Residence Permit Granted for National Economy Considerations which is only a variant of the National Permanent Residence Permit but the legal base and the procedure is very special.

Hereafter, we will only deal with the National Permanent Residence Permit which is the national version of the Long-term Residence permit.

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Options implemented?

Pupil  
Trainee  
Volunteer

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**Main differences between EU statuses and the respective national parallel schemes**

The main difference concerns the LTR, in which case long-term residence in other EU Member States is not allowed.

## 1 Pre-application phase

### 1.1 Legal transposition of the EU legal migration acquis

Hungary has complied with the legal transposition of the EU legal migration acquis, and there are no major non-compliance issues. However, in some areas, where the transposition is not obligatory, Hungary has chosen not to transpose measures. The most important example is that school children and trainees are not subject to the Student Directive in Hungary.

### 1.2 Practical application of the EU legal migration acquis

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research ers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Language	National language	Add if different				
	English					
	Other					
The information is easy to find*	2	2	2	2	2	2

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4: Disagree; 5: Strongly disagree

Information can be found on the following aspects of the application procedure:

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	Yes	

### Information upon request

The Immigration and Asylum Office (hereinafter: IAO) and the consular services are responsible to provide information upon request. In the first case, in IAO, every necessary information are available at information desks. In the case of the consular services, it depends upon the given consular office. We requested information from Abuja, Nigeria that the applicant can be informed about the procedure through face-to-face consultation. However, it cannot be considered as a general procedure. It might depend on consular officers or consulate offices.

The main application issues arising in Hungary are the following. With regards to all Directives, it is not clear what the minimum level of acceptable financial situation is. The IAO web-site says (based on the Hungarian legislation) that “[a] third-country national is considered to have sufficient resources to cover his/her subsistence for residence for a stay exceeding ninety days within a one hundred and eighty-day-long period if his/her lawful income or assets or his/her family member’s income or assets is sufficient to cover their living expenses, including accommodation, return travel, and if necessary, healthcare.” However, there is no proper landmark for defining sufficient resources. All this said, we have not found anything that could be considered a de facto infringement of the Directive, and there are no substantial differences at the level of legislation between the EU legal migration Directives and their national equivalents. Where similar provisions exist at the level of legislation between an EU legal migration Directive and its national equivalent, we have found no relevant differences between them. There are minor differences in the application forms, but the procedures are practically the same.

### **1.3 Differences between national statuses and the EU legal migration acquis**

The national equivalent statuses offer neither more or less favourable rights and conditions than the EU legal migration Directives. The only national equivalent status does not offer more favourable rights and conditions. However, it must be noted that there is a very controversial issue in Hungary, i.e. that of the National Permanent Residence Permit Granted for National Economy Considerations (hereinafter: NPRPGNEC), which is very similar to the national status equivalent to the Long-Term Directive based status. NPRPGNEC is not evaluated as equivalent to any of them since its base is very special.<sup>1</sup> However, NPRPGNEC has been terminated as of 30 June 2017.

## **2 Preparation phase**

### **2.1 Legal transposition of the EU legal migration acquis**

There are no issues with the legal transposition of the EU legal migration acquis. As far as the practical application of the EU legal migration acquis, the main challenges are the following:

Only the IAO provides sufficient information. The Consular Service does not do so in every case.

Hungarian consular offices in different countries do not have the same quality and efficiency in giving information.

IAO doesn’t even provide written information in relevant languages like Persian, Chinese, Russian, Turkish, Serbian, etc.

The call centre of IAO is good, but their officers are not ‘customer oriented’; they rather respond in traditional bureaucratic manner.

Information from the National Employment Service is available only in Hungarian.

There is no collected official information about skills shortages or jobs available, universities, research institutions, which might be relevant for TCNs who wish to apply for residency.

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<sup>1</sup> NAGY, Boldizsár. (2016) “In Whose Interest? Shadows over the Hungarian Residency Bond Program.” Available at: [http://www.nagyboldizsar.hu/uploads/2/6/7/7/26778773/in\\_whose\\_interest\\_shadows\\_over\\_the\\_hungarian\\_residency\\_bond\\_program\\_v2...20170112.pdf](http://www.nagyboldizsar.hu/uploads/2/6/7/7/26778773/in_whose_interest_shadows_over_the_hungarian_residency_bond_program_v2...20170112.pdf) (Accessed on 3 July 2017)

## 2.2 Practical application of the EU legal migration acquis

There is only one application per directive/national statuses. Application forms are available at the web-page of the IAO for every statuses. These forms are obviously different for every statuses but there is only one application form per status.

Third-country nationals may apply for an entry visa for receiving a residence permit before admission to the country in the application for residence permit, without having to lodge a separate application.

If the decision of the regional directorate is in favour of the application for residence permit, it shall constitute approval for the issue of an entry visa for receiving a residence permit, of which the competent consulate officer shall be notified. The entry visa for receiving a residence permit shall be issued by the competent consulate officer based on the regional directorate's decision.

Ease of the application procedure:

Step	FRD	LTR	SD	RD	BCD	SPD
The information that applicants need to complete is not extensive	2	2	2	2	2	NI
The application form is user-friendly	2	2	2	2	2	NI

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes, T, C, R				
Continuous legal residence		No			
Sufficient resources	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R (students)	Yes, T, C, R	
Accommodation/Address in territory	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Sickness insurance	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R
Work contract (for RD host agreement)				Yes, T, C, R	Yes, T, C, R
Minimum salary threshold					
Professional qualifications				No	
(Pre-) Integration measures	No	No			



Pre-departure conditions	Yes, T, C, R (students) Yes, T, C, R (volunteers)				
Proof no threat to public	No	No	No	No	No
Medical examination certificate	No		No	No	No
Valid travel document	Yes, C, R	Yes, C, R	Yes, C, R	Yes, C, R	Yes, C, R
Entry visa	Yes, C, R		Yes, C, R	Yes, C, R	No
Other	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R

*Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.*

We have found no relevant differences between the examined national status and the EU legal migration acquis.

Our experience, in general, is that the IAO handles the examined and non-examined national statuses in the same procedure, as since both sorts of statuses are based on the same national law (acts and governmental decrees) thus there is no difference between national and EU acquis based statuses.

### **2.3 Differences between national statuses and the EU legal migration acquis**

## **3 Application phase**

### **3.1 Legal transposition of the EU legal migration acquis**

The most important finding is that there are no issues with the legal transposition of the EU legal migration acquis. However, a few relevant findings are identified related to the FRD:

Under IRM Decree 25/2007, *the family member* of the sponsor can apply for residence permit on the grounds of family reunification.

The application can be submitted from territory of Hungary, based on (i) exceptional equity, (ii) the applicant is a citizen of a country which is enlisted in Annex II of 539/2001/EC regulation. It is clarified that exceptional equity must be based on the following grounds: A fact which is concerning family reunification or medical treatment or gainful activity *and* it is not imputable to the applicant *and* impedes him/her to submit the application as it is regulated by the general rules.

Only the family member has the right to mount a legal challenge where an application for family reunification is rejected or a residence permit is either not renewed or is withdrawn or removal is ordered.

And to the RD:

The application can be submitted from territory of Hungary based on (i) exceptional equity, (ii) the applicant is a citizen of a country which is enlisted in Annex II of

539/2001/EC regulation. It is clarified that exceptional equity must be based on the following grounds: A fact which is concerning family reunification or medical treatment or gainful activity *and* it is not imputable to the applicant *and* impedes him/her to submit the application as it is regulated by the general rules.

[...] the regional directorate shall adopt a decision concerning applications for residence permits within 21 days from the time of receipt. Special procedures:

[...] The applications for a residence permit of third-country nationals shall be adjudged within fifteen days if the purpose of entry is: the pursuit of studies; or **research**; or seasonal work [...]

#### **4 Practical application of the EU legal migration acquis**

An application for [a residence permit] may be submitted to any consulate officer of Hungary, or at any other place authorized to accept applications for residence permit located in the country where the applicant's permanent or temporary residence is located, or in the country of the applicant's nationality. Therefore, being present in person is obligatory.

There is a possibility to make an exception if the applicant is lawfully staying in the territory of Hungary and there is a reason for exceptional discretion (e.g. sickness or other serious reasons). In the case of LTR, the application for EC permanent residence permit is to be submitted at the branch of the regional directorate of the IAO responsible for the place where the applicant's future Hungarian residence is located.

Four different Member State authorities are involved in the processing of lodged applications and for issuing the permit(s). Another location authorised to accept applications for residence permits shall be understood as an honorary consul, or trade mission, or an external service provider authorised to accept applications. In the case of the EU Blue Card, also the National Employment Service is involved.

The applicant is informed of a decision via the consulate if is staying abroad (it is not regulated how the consulate should inform him/her) either via post or phone if the applicant is staying in Hungary.

For notifying the applicant of a decision the Member State issues one administrative act or decision.

In case of a rejection of the application, the reasons for the rejection are provided in writing, in Hungarian.

If the applicant is the employer rather than the third-country national, the third-country national is involved in the application process and s/he is notified of the decision. It should be mentioned that an application for the issue or extension of a residence permit may be submitted – in the case of preferred employer – by the prospective employer as well, provided that the client has consented in writing. In that case the immigration authority may communicate with the employer as well, however, the client will be notified of all procedural steps taken.

Regarding the concept of administrative silence, it does not exist in the Member State.

<b>Directive</b>	<b>General</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Application from third country	Yes / No	Add if different					

Permit received in third country	No	Add if different					
Number of authorities involved in the application	4	Add if different					
Number of authorities involved in the issuance of the residence permit	From 1 to 3						
Application modalities	In person	Add if different					
Existence of a standard application form for all statuses	Separate	Add if different					
Language of the application form	National language(s) English Other	Add if different					
Fees charged		60 euro or 18000 HUF	10000 HUF	60 euro or 18000 HUF	60 euro or 18000 HUF	60 euro or 18000 HUF	60 euro or 18000 HUF
Other fees charged?		No	No	No	No	No	No
Fees charged for permit issuance		No	No	No	No	No	No
Fees charged for renewal / replacement of the permit		10000 HUF	10000 HUF	10000 HUF	10000 HUF	10000 HUF	10000 HUF

The processing times are as follows:

Directive	FRD	LTR	SD	RD	BCD	SPD
Processing time /deadlines (according to law)	21	70	15	15	21	70
Processing time (in practice)	NI	NI	NI	NI	NI	NI

As far as the practical application of the EU legal migration acquis, the main challenges are the following:

The requirement of translating certain documents into Hungarian is sometimes unnecessary. Documents in English, at least, should be recognized.

Adequate accommodation had to be underpinned by a copy of the property's title deed, which was unnecessary. This has now been solved, after many years. During the examination period the IAO has access to the database of the Department of Land Administration and Geoinformation.

Sometimes it is not absolutely clear what health insurance will be accepted by the IAO. It would be better to collect all the acceptable (public and private) insurances on the IAO's website.

A prior agreement specimen concerning the work related status is available online only in Hungarian. It would be desirable to publish bilingual (at least in English) specimens too.

Concerning the Long-term permits (either national or directive based), the biography that is necessary might be evaluated as an integration measure. It is a bit problematic that the criteria are not elaborated.

#### **4.1 Differences between national statuses and the EU legal migration acquis**

As for differences between national statuses and the EU legal migration acquis, in the case of the national settlement permit (equivalent national status to Long-term Residence Permit), the requirement of a clear criminal record from the country of origin can pose a significant challenge, depending on the given country. This requirement is different from the Long Term Residency Directive (hereafter LTR) based Long-term Residence Permit. There is no such requirement in the case of LTR based applications.

### **5 Entry and travel phase**

#### **5.1 Legal transposition of the EU legal migration acquis**

No major transposition issues were identified however, a relevant finding is identified related to the SPD:

- Article 4 (1) of the SPD says that Member States shall determine whether applications for a single permit are to be made by the third-country national or by the third-country national's employer. Member States may also decide to allow an application from either of the two. The Hungarian regulation might be favourable in a few cases but not always since it ensures that application for the issue or extension of a residence permit may be submitted – in the case of preferred employer – by the prospective employer as well, provided that the client has consented in writing. In that case the competent authority may communicate with the employer as well, however, the client will be notified of all procedural steps taken. The preferred employers are defined very strictly: (1) an employer having signed a strategic partnership agreement with the Government; (2) any employer that plans to employ in Hungary a third-country national from a country neighbouring Hungary in any of the professions provided for in a communication by the Ministry of National Economy; (3) any employer who implements an investment project of preferential status for national economy considerations; (4) any host entity that plans to provide employment to an intra-corporate transferee in Hungary.

#### **5.2 Practical application of the EU legal migration acquis**

As the third-country national is not yet in the possession of a residence permit, the Member State issues a visa and has put a specific timeframe for issuing the latter.

The employer is the main applicant but the third-country national needs to request the visa.

The Member State allows country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit.

The third-country national is allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document.

The Member State does not impose specific entry requirements to third-country nationals of a visa free country.

Third-country nationals do not encounter any obstacles in practice to leave the third country, transit and/or enter the Member State.

Upon arrival, third-country nationals are required to register with IAO, since they have to take their residence permit (earlier, they have only the visa).

As far as the practical application of the EU legal migration acquis, the main challenges are the following:

Electronic submission of applications would be desirable and practical. Original document can be mailed in such cases.

A list with addresses of consular offices would be useful to be published on the IAO web-site.

There is only a small chance of making a successful appeal against the decision of the IAO without professional legal consultation. The second instance decision is made within the same authority. It is possible to turn to the courts to appeal an unlawful second instance decision but it is more difficult and cannot be successful without relevant and specific legal knowledge. This process should be more sophisticated and client-oriented.

There is one unclear question in the LTR directive based EC permanent residence permit's application form. This is the following: Regarding data of applicant's future residence in Hungary (Q XII/3 in the application form): Number of rooms and floor area used only by Applicant? Even the call centre of the IAO was not able to provide a sure answer about our question concerning the interpretation of a situation in which a married couple use one bedroom but only one of them is an applicant.

Overall, there are challenges which make the clients' situation more difficult. Entry and travel regulation should be more client-orientated based on the current EU and national law.

### **5.3 Differences between national statuses and the EU legal migration acquis**

We have found no relevant differences between the examined national status and the EU legal migration acquis.

## **6 Post-application phase**

### **6.1 Legal transposition of the EU legal migration acquis**

The most important finding is that there are no serious issues with the legal transposition of the EU legal migration acquis. However, a relevant finding is identified related to the FRD:

- Article 13 of the FRD says the Member State concerned shall grant the family members a first residence permit of at least one year's duration but minimum period is not yet clarified in the Hungarian legislation, only the maximum durations are regulated precisely.

And to the SD:

- The validity period of a residence permit issued for the purpose of voluntary service activities shall correspond to the duration of the voluntary services provided in the public interest, not to exceed two years. It is more generous than it defined in the SD (as one year).

And a concern related to the BCD:

- The minimum duration is not clarified precisely in the Hungarian regulation [Act II of 2007, section 20/A, para. (3)-(4)] as it should be in line with the BCD.

## **6.2 Practical application of the EU legal migration acquis**

<b>Directive</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Minimum validity of the first permit	NI	NI	12	The duration of the hosting agreement	12	NI
Maximum validity of first permit	60	60	24	60	48	Depends on status
Minimum validity of permit renewal			12		For the duration of the work contract. 3 months, in case of fixed-term work contract	12
Maximum validity of permit renewal	4 years maximum, and it may be extended by up to 4 additional years at a time, if the sponsor has an EU Blue Card;  - 5 years maximum, and it may be extended by up to 5 additional years at a time, if the sponsor has an EC permanent residence permit on account of holding an	NA	24	60	48	The term specified in the specialist authority's assessment or depends on the given purpose

EU Blue Card; or  
- 3 years maximum – except as provided above –, and it may be extended by up to 3 additional years at a time.

The Member State does not have a set timeframe to deliver the permit following the notification of the decision.

The employer might be the main applicant too but is not involved in the delivery of the permit.

As far as the practical application of the EU legal migration acquis, the main challenges are the following: Since the registration of residence permit holders with the local authority is not necessary, challenges can emerge later on. E.g. residence permit holders don't have an address card. Access to medical services might be problematic without this card in cases in which the residence permit holders have national health insurance based on their circumstances (mostly due to their employment).

### **6.3 Differences between national statuses and the EU legal migration acquis**

We have found no relevant differences between the examined national status and the EU legal migration acquis.

## **7 Residency phase**

### **7.1 Legal transposition of the EU legal migration acquis**

As far as the legal transposition of the EU legal migration acquis, the main challenges are the following related to the FRD:

Minimum period of Residence Permit for the Purpose of Family Reunification is not yet clarified in the legislation. It might be problematic in some cases regarding the Article 13 para. (2) of the FRD.

Article 6 (2) says that *residence permit may not be withheld and removal from the territory may not be ordered [...] on the sole ground of illness or disability suffered after the issue of the residence permit*. Based on the Act II of 2007, Section 13, para. (1) subpara. h), if the sickness causes a threat to public health, it can be a proper ground to withdraw the status.

Certain permissions for sponsors' family members might be necessary in order to have access to employment and self-employment activities. Obtaining these permission makes the situation of family member more difficult which is not strictly in line with Article 14 of FRD.

Relating to the SD:

Based on the Article 17 (4) the SD, *Member States may require students to report, in advance or otherwise, to an authority designated by the Member State concerned, that they are engaging in an economic activity. Their employers may also be subject*

to a reporting obligation, in advance or otherwise. The Section 16 of Government Decree 445/2013 on the employment of third-country nationals in Hungary oblige the employer to report but we could not find a summary or any database of these reports. It would be desirable to let this database openly available without personal data.

Relating to the RD:

The equal treatment requirement (Art. 12) cannot prevail in some cases. Residence permit holders are not always entitled to all supports based on the Act LXXXIV of 1998 on Family Support as it has been defined in Section 2 of this law.

Relating to the BCD:

Minimum duration of Blue Card is not strictly regulated in one year

The equal treatment requirement (Art. 14) cannot prevail in some cases. Residence permit holders are not always entitled to all supports based on the Act LXXXIV of 1998 on Family Support as it has been defined in Section 2 of this law.

Relating to the LTR:

Article 11 of the LTR allows the Member States to *require proof of appropriate language proficiency for access to education and training. Access to university may be subject to the fulfilment of specific educational prerequisites.* Unfortunately, universities have courses mostly in Hungarian. (English and German language courses are also available in limited number. However, their numbers have been growing.) Only very few foreigners are able to speak Hungarian in a suitable level after 3-5 years residence. It causes a practical barrier.<sup>2</sup>

Relating to SPD:

The equal treatment requirement (Art. 12) cannot prevail in some cases. Residence permit holders are not always entitled to all supports based on the Act LXXXIV of 1998 on Family Support as it has been defined in Section 2 of this law. Section 5 enlists the supports concerned. These are the following: (a) family allowance, b) childcare benefit, c) maternity allowance

## **7.2 Practical application of the EU legal migration acquis**

### **a. Use of the permit:**

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on the Member State's territory.

The Member State allows third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory.

The permit is required as a legal document for the following other administrative procedures:

Access to education	Access to healthcare	Registration with PES	Fixed telephone subscription	Utility subscription	Open a bank account	Social security registration
X	X	X			X	

<sup>2</sup> See in Hungarian: SZOCIOMETRUM. (2017) *Harmadik országbeli diákok a budapesti egyetemeken: egy mikro-kutatás eredményei.*



**b. Renewals of the permit:**

National or EU law does not impose a direct or indirect requirement to renew a valid residence document.

The renewal process follows a single procedure, involving more than one authority. A different authority is involved as in the first application procedure.

**c. Change of status and naturalisation**

Status changes are always possible based on the previously mentioned equity. It is possible in other cases too from the third country since status change are considered as new applications. The LTR based status are exceptions from this point of view since change from any other residence permit to an LTR based residence permit is possible in Hungary. The procedure for requesting a status change is different from the first application procedure.

In order to obtain citizenship, the third-country nationals needs to comply with the following conditions:

The applicant has continuously lived in Hungary for a specified period [8, 5 or 3 years. It depends on various circumstance e.g. humanitarian status, Hungarian relatives] of time and must have had a permanent residence (residence card) – as an immigrant, a permanent resident [meaning: ONLY PERSONS WITH LONG-TERM RESIDENCY], a person recognised as a refugee and a person entitled to freedom of movement and stay.

- The applicant has no criminal record and is not under prosecution.
- The applicant's accommodation and subsistence are assured in Hungary.
- The applicant's naturalisation does not violate the public and national security of Hungary.
- The applicant must pass an examination in basic constitutional studies in Hungarian language. (See the exemptions above.) (IAO web-page)

What are the procedures for third-country nationals to apply for naturalisation:

The application for naturalisation shall be submitted in person

- to the district (capital district) office of the capital and county government offices,
- to the integrated customer service of the capital and county government offices,
- to the Hungarian consular officials, or
- to the regional directorates of the Office of Immigration and Nationality (IAO web-page)

Required attachments are:

- the applicant(s)' 2 passport-size photographs (one for the application for naturalisation, and one for the identity card application form),
- the original birth certificate and original documents proving family status, e.g. marriage or death certificate, final divorce decree. (The documents issued in a foreign language shall be accompanied by a certified Hungarian translation and – unless otherwise provided by the terms of an international agreement – shall be furnished with diplomatic or consular legalisation).
- Proof of accommodation and subsistence in Hungary

Documents suitable as proof of accommodation in Hungary:

- In case of own real property the certificate of ownership or a copy of the purchase contract.
- In case of a rented apartment, the lease agreement and the certificate of ownership proving the landlord's ownership right.
- In case of persons admitted by another person, the declaration of acceptance and the certificate of ownership proving the admitting person's ownership right.

Documents suitable as proof of subsistence in Hungary, amongst others:

- Certificate of income issued by the National Tax and Customs Administration (NAV) for the applicant (and his/her spouse) for the preceding three years and the employer's certificate containing the income of the last three months.
- For retired persons the photocopy of the decision on the pension assessment (issued for the current year)
- In case of a dependant person, the declaration of support and the certificate of income (as described above) of the supporting person.
- In case of children adopted by a Hungarian citizen the final decision of the Hungarian guardianship authority,
- Certificate of the examination in basic constitutional studies (citizenship examination) or the document certifying the exemption from examination. The certificate shall not be attached if the applicant declares that he/she requested the metropolitan government office to notify the authority proceeding in naturalisation matters (Office of Immigration and Nationality) about his/her passing the examination in basic constitutional studies,

The consideration of the application shall be expedited if the applicant attaches the decision regarding the immigration permit or permanent residence permit, or the decision of the asylum authority, as well as the photocopy of the permanent residence permit.

Examination in basic constitutional studies:

The applicant may enter for the exam at the metropolitan government office in person or via mail by filling in the application form.

The examination fee is the amount corresponding to fifty percent of the statutory minimum monthly wage (minimum wage) in effect.

The following persons shall be exempted from the examination:

- persons with no legal capacity or with limited legal capacity,
- a person who graduated from a Hungarian-language educational or higher educational institution and he/she attaches to the application the copy of the certificate attesting the qualification or the diploma/degree, certified by a notary public or the institution which issued the document,
- a person over 60 years of age at the time of submission of the application,
- a person who provides proof that due to a permanent and irreversible deterioration of health he/she is not capable of passing the examination and he/she attaches to the application the statement thereof issued by the health institution competent according to the nature of the disease. (IAO web-page)

#### **d. Employment rights on the basis of the permit**

In general, a work-related permit is linked to a certain employer. When changing employer, the third-country national needs to request a change to the permit.

**e. Equal treatment**

There are identified restrictions and/or obstacles for third-country nationals in enjoying equal treatment compared to nationals: residence permit holders are not always entitled all supports based on the Act LXXXIV of 1998 on Family Support. Furthermore, it must be mentioned that a language barrier and lacking information can cause problems in any area but it is not a legal barrier or obstacle. Nonetheless, no obstacle emerges in the cases of LTR directives.

With regard to identifying labour exploitation, the Member State does not have a mechanism in place to monitor the exploitation of third-country nationals.

**f. Integration:**

There is no integration procedure in Hungary, only the EU AMIF (Asylum, Migration and Integration Fund granted). It must be mentioned that these are strictly project based and financed mostly by the EU.

As far as the practical application of the EU legal migration acquis, the main challenges are the following:

There is no information about social benefits/insurance on the web-site of IAO. It would be desirable to inform all TCNs planning to apply for any status about their rights regarding to these topics.

The Central Administration of National Pension Insurance is not ready to inform TCNs about their rights in English via its web-site. It would be good to develop web-sites of every national office in order to make all information available at least in English. (Further languages might also be desirable.)

It is a relevant barrier that IAO case-officers don't have the knowledge about social benefits/insurances, therefore they are not able to inform their clients. It would be desirable to develop this informative side of the IAO regarding non-immigration specific cases which might concern TCNs as well (like the pension system, the health care system, the education system, etc.)

The minimum duration of the Blue Card is not strictly regulated to be 1 year.

There is no relevant and sufficient information about status changes on the IAO's web-site. In order to get general information, the legislation must be examined profoundly or specific questions must be asked of the IAO call centre.

It is not clear how a Blue Card holder can prove his or her residence in another Member State if he/she wishes to apply for long-term residency in Hungary.

It is not clear which changes of the already existing employment contract require a new employment related status.

The whole naturalization process is extremely complicated. The key issue is that only the period of long-term residency can be calculated in order to acquire the necessary time for naturalization.<sup>3</sup> Residing as a refugee or a stateless person also have relevance but those statuses are out of the scope of this examination.

Equal treatment should be evaluated in practice as well. In this examination the legal side was more important. A focus group based research might be a good idea to get

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<sup>3</sup> In order to get a clear and precise picture about this vague process the following study is recommended: GYULAI, Gábor (2016). The Black Box of Nationality. Available at: <http://www.helsinki.hu/wp-content/uploads/The-Black-Box-of-Nationality-HHC-2016.pdf> (Accessed on 3 July 2017).

information about equal treatment issues in practice, as lack of information, xenophobia, and language barriers can cause relevant troubles.

There is no state guaranteed integration measure related to the examined residence permit holders at all except the Asylum, Migration and Integration Fund supported projects.

### **7.3 Differences between national statuses and the EU legal migration acquis**

We have found no relevant differences between the examined national status and the EU legal migration acquis.

## **8 Intra-EU mobility phase**

### **8.1 Legal transposition of the EU legal migration acquis**

The most important finding is that there are no issues with the legal transposition of the EU legal migration acquis. However, a relevant finding is identified related to the SD:

Article 8 of SD says that residence permit in cases of student mobility shall be admitted by the receiving Member State *within a period that does not hamper the pursuit of the relevant studies*. There is no special regulation in Hungary for these cases but the general deadline (15 days) seems to be in line with this requirement.

Another finding related to RD:

There is a favourable procedure concerning residence permit for research. It is regulated in 15 days. (General deadline is 21 days.) It seems fitting to the Article 13 (4) of RD but concerns may occur in certain cases.

Two concerns relating to BCD:

Article 18 (1) of BCD regulates that *after eighteen months of legal residence in the first Member State as an EU Blue Card holder, the person concerned and his family members may move to a Member State other than the first Member State for the purpose of highly qualified employment under the conditions set out in this Article*. The Act II of 2007. does not state that the person concerned and his family members may move to a Member State other than Hungary for the purpose of highly qualified employment.

According to article 18 (3), *the EU Blue Card holders can move to other MSs and they can apply for a residence permit to the second MSs from their first MSs*. If they wish to move to Hungary from another MSs they shall turn to the consular service not to the IAO.

### **Practical application of the EU legal migration acquis**

For short-term mobility, the Member State:

- Does not require the third-country national to notify
- Does not require the third-country national to ask for authorisation.

As far as the practical application of the EU legal migration acquis, the main challenges are the following:

It is very rare for a TCN to wish to move from another Member State to Hungary for a longer term. At the end of 2016, only 11 persons had interim permanent residence

permits, a status for TCNs who have long-term residence permits in another Member State and have resided in Hungary longer than 90 days.<sup>4</sup> Although not only long-term residence permit holder TCNs can come to Hungary, only their numbers can be defined, and this is a good indication of the extent of this flow.

### **Differences between national statuses and the EU legal migration acquis**

We have found no relevant differences between the examined national status and the EU legal migration acquis.

## **8.2 End of legal stay / leaving the EU phase**

### **Legal transposition of the EU legal migration acquis**

There are no issues with the legal transposition of the EU legal migration acquis and there is no specific procedures in place for third-country nationals who choose to leave the Member State.

### **Practical application of the EU legal migration acquis**

There are no specific procedures in place for third-country nationals who choose to leave the Member State.

The Member State allows third-country nationals to export certain social security benefits. The transferable benefits are the following:

- Health care social insurance cash benefit (e.g. pregnancy-confinement benefit, child-care fee, sickness benefit or work accident sickness benefit, work accident annuity)
- Old-age benefits

Information on the portability of social security benefits is not easy to find and not clear.

The Member State does not have measures or a scheme in place to allow circular migration.

The consequences of deliberate overstay of the duration of the residence permit is that he/she will be call upon to leave the country within a given deadline. If he/she does not do so, after several steps, the deportation is possible.

As far as the practical application of the EU legal migration acquis, the main challenges are the following:

- It would be very useful if the IAO put information on its web-site about leaving Hungary by TCNs with any residence status and about overstaying. The requirements and consequences should be clear before they occur.

## **8.3 Differences between national statuses and the EU legal migration acquis**

We have found no relevant differences between the examined national status and the EU legal migration acquis.

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<sup>4</sup> Statistics of IAO. Issue 2015 - 2016 Annual statistics. Published 26 January 2017. Available at: [http://www.bmbah.hu/index.php?option=com\\_k2&view=item&layout=item&id=492&Itemid=1259&lang=en](http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=492&Itemid=1259&lang=en) (Accessed: 3 July 2017)

## **9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State**

There are no major challenges concerning the legal implementation of EU acquis. However, political attitudes toward migrants might influence the intentions of potential immigrants. Furthermore, their residence in Hungary might be more problematic because of the Hungarian Government's political messages concerning migration: a general anti-immigrant attitude has been formed since the beginning of 2015 when the Hungarian Prime Minister began to talk about migration and migrants posing a real danger.<sup>5</sup>

A further methodology-related challenge during the research was the fact that statistical datasets published by the IAO are not full-fledged.

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<sup>5</sup> See: SIMONOVITS, Bori and BERNÁT, Anikó Eds (2016): *The Social Aspects of the 2015 Migration Crisis in Hungary*. Available online: [http://www.tarki.hu/hu/news/2016/kitekint/20160330\\_refugees.pdf](http://www.tarki.hu/hu/news/2016/kitekint/20160330_refugees.pdf) (Accessed: 3 July 2017)

## **Annex 1 References**

### Legislation consulted:

- Act II of 2007 on the Entry and Stay of Third-Country Nationals
- Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals
- Act CXL of 2004 on the General Rules of Administrative Proceedings and Services
- Government Decree 445/2013 on the employment of third-country nationals in Hungary.
- Ministerial Decree of Justice and Law Enforcement 25/2007 on executive rules of Act I of 2007 and Act II of 2007
- Government Decree No 181/2007 on the Accreditation of Research Organisations Admitting Third-Country National Researchers and on Admission Agreements

### Relevant websites:

- IAO: <http://www.bmbah.hu/index.php?lang=en>
- Consular Service: <http://konzuliszolgalat.kormany.hu/en>
- National Employment Service: <http://en.munka.hu/> (limited in English)
- Central Administration of National Pension Insurance:  
<https://www.onyf.hu/en/international-pension-cases/international-application-forms.html>

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