



Annual Report on Asylum and Migration Statistics 2007

Annual Report on Asylum and Migration Statistics for Hungary

Reference Year: 2007



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1. INTRODUCTION

In 1989 Hungary acceded to the Geneva Convention as the first among the countries of the eastern socialist bloc. Hungary acceded to the Geneva Convention with a geographical reservation. The first Hungarian Asylum Act was adopted by the Hungarian Parliament in 1997 and entered into force on 1 March 1998. The Asylum Act (1997:CXXXIX) lifted the geographical limitation made to the Geneva Convention and contained detailed provisions on the refugee status determination procedure and on the legal status of asylum-seekers, refugees and beneficiaries of temporary protection. Until 1997, Hungary accepted refugees only from European countries. Immediately after lifting this limitation, nearly half of the asylum applications were submitted by non-European citizens (mostly from Afghanistan, Bangladesh and Iraq). The other half came from Yugoslavians fleeing the Kosovo crisis. In 1999, there were 11,500 applications (5,100 submitted by Yugoslavians and 6,000 by non-European citizens). Since then, the number of European applicants dropped; in 2002 they amounted to only seven percent of all applicants. Following the entry into force of the first Asylum Act the composition of the asylum-seekers went through significant changes. With the evolvement of the peace process at the Balkans the majority of the ethnic Hungarian refugees and temporarily protected persons returned home while others settled down in Hungary and gained Hungarian citizenship.

The Hungarian Parliament amended the first Asylum Act several times following its passage. A more extensive amendment was required in connection with Hungary's accession to the European Union, as part of the process of legal harmonisation, in 2001. In 2004, the year of Hungary's accession to the EU, some other modifications were needed, so the following modification of the Asylum Act entered into force in 2004. (Act 2004: XXIX) These revisions at the time did not necessitate the creation of new laws as it was possible to integrate the changed provisions into the structure of the legislation so only the number of the Act was changed.

The Act XXIX of 2004 is the relevant legislation for the present statistical analyses (for the reference year 2007). This modification introduced the Dublin procedure, EURODAC system into the national legislation as implementation of the necessary legal harmonisation at



that time. This Act introduced another and even more **significant change into the Hungarian asylum system concerning the appeal system**. Before the modification the asylum procedure had four instances: two administrative and two judicial, so there was redress on both levels, administrative and judicial. The new legislation simplified the appeal procedure with the aim to make it quicker and more effective by introducing only one administrative and one judicial instance. This means that since 2004, in the **two-instance asylum procedure**, an asylum seeker can lodge an appeal against the negative decision of the asylum authority to the Budapest Metropolitan Court, which has exclusive and country-wide jurisdiction over asylum appeals. According to this modification **the appeal procedure** before the Budapest Metropolitan Court **became litigious**. (The previous appeal procedure was non-litigious, which means that the court decided on the basis of the documents and personal hearing was optional and exceptional). In a litigious procedure the asylum applicant must be heard personally in a trial before the judgement. (The personal hearing may be omitted only in some exceptional cases enumerated by the Asylum Act.) The Asylum Act also stipulated that a foreigner seeking recognition as a refugee is entitled to stay in the territory of the Republic of Hungary. According to this regulation an asylum seeker has the right to stay in Hungary during the whole asylum procedure including judicial redress, so the submission of an appeal against a negative decision has a suspensive effect on expulsion. The time limit within which the court had to make a decision was 30 days but in practice the court could not keep this deadline. Appeal procedures lasted on average for one year. Another fact that the Asylum Act did not contained any restrictions on the number of asylum applications or any sanctions or consequences concerning subsequent applications.

This legal background created a **pull effect by 2005 and 2006** for asylum seekers from two countries of origin: Vietnam and China. The applicants from these countries misused the system because despite of being economical migrants submitted asylum applications, so they obtained the right to stay in the territory and to receive a residence permit for at least one year. After the court had brought its negative judgement so the asylum procedure had been ended, the rejected asylum seekers (mostly Vietnamese and Chinese nationals) submitted a subsequent application to receive a new residence permit valid for the whole period of the repeated asylum procedure and so legalised their stay and also prevented their expulsion. These Vietnamese and Chinese applicants typically lived in the capital in private accommodations and worked illegally on one special market, where they generally traded in





clothes. They needed residence permit (pending asylum procedure) to be able to continue their trading activity.

To get a whole picture about the statistical trends in Hungary in the field of asylum we also have to mention the significant development of the legislation which occurred with the entering into force of the **Act LXXX of 2007 on Asylum** on the 1st January 2008. This new act came into effect as a replacement of the former refugee law. The new legislation was passed by Parliament on 25th June 2007. The creation of the new asylum act was necessary partly because of obligations to harmonise legislation within the European Union, and partly to resolve the deficiencies in the former legislation in order to improve the efficiency of asylum procedures. Hungary has completely fulfilled its obligation regarding harmonisation of legislation with the implementation of the new asylum act. In the interests of filtering subsequent applications and of preventing abuse of the asylum procedure, the new legislation states that if an applicant who has already had two applications officially rejected puts forward a new application, the applicant will not be entitled to several rights during the third procedure (the right to remain in the territory of Hungary, support and lodging, and the right to work in the state). Furthermore the application is considered unacceptable if, following the official rejection of the application, the same person is making the same application on the same factual basis.

Although the new asylum act entered into force in January 2008, it had **some impacts on the asylum trends in 2007**. In the months preceding the implementation of the new legislation – in November and December 2007 – more than 1000 applicants took advantage of the “old asylum act” by submitting subsequent asylum applications. **These circumstances resulted in an exceptionally high, atypical number of applicants in 2007, while the true tendency can be established from the data which removes the subsequent applications.**

The secondary movement of asylum seekers towards Western Europe was previously a very common phenomenon (with around 60% of applicants absconding during the procedure and not even waiting for the first decision in the case). This tendency appears to be decreasing since 2007, and an increasing number of asylum seekers are remaining in Hungary throughout the duration of the asylum procedure.



On the basis of an intergovernmental agreement between Hungary and the USA 28 Cubans arrived to Hungary in October 2007, who were granted refugee status by the Minister of Justice and Law Enforcement on humanitarian grounds in the framework of a special procedure (ministerial recognition).

Important steps were taken in 2007 concerning the legislation on immigration too. On 1st of July 2007 two new pieces of legislation with regard to immigration entered into force which replaced the previous single Act XXXIX of 2001 on the Entry and Stay of Foreigners (hereinafter referred to as previous Aliens Act). Act I of 2007 and its executing Government Decree regulate the entry and residence of persons enjoying the right to free movement and the entry and residence of their family members; whereas Act II of 2007 and its executing Government Decree regulates the entry and residence of third-country nationals. In addition to that an important milestone occurred in December 2007 when the country joined the Schengen area which required legislative, structural changes and technical – including IT – developments.

1.1. Methodology

Outline methodology followed in the production of your National Report, including in the verification of your data (e.g. sources used for data), their reliability, any changes in definitions compared to previous years, what (if any) caveats should be applied and any difficulties encountered. If possible, include also whether it was (yet) possible to provide data consistent with the Migration Statistics Regulation.

The methodology followed in this section was to take the annual reports on asylum of the Office of Immigration and Nationality (hereinafter referred to as: OIN) as a basis because these reports are the official and therefore reliable analyses of asylum data and to use those parts of these reports which are relevant for the questions of the EMN Annual Report on Asylum and Migration Statistics. The OIN databases were used as sources for all figures, illustrations or additional data for this report. **In the reference year 2007 there were no changes in the definitions compared to the previous years concerning statistical data collection or methodology except for the data on subsequent applications. Before 2007 subsequent applications was interpreted and counted as first applications, while from 2007 on statistical data differentiate between the two categories.** Concerning the reference



year of 2007 it was not possible to provide data consistent with the Migration Statistics Regulation. Caveats should be applied concerning asylum data from the judicial phase. Difficulties were faced when collecting data on asylum decisions brought by the court, because the Budapest Metropolitan Court does not collect specific data on asylum decisions (e.g.: the nationality of the recognised person or the reason for recognition). Compared to 2006, where only data on the number of final (judicial) decisions were available collected only by the OIN, in 2007 also data on final (judicial) decisions broken by citizenship was made available by the UNHCR Regional Representation for Central Europe. The problem however with these data is that the ones collected by OIN do not match with that of the UNHCR. **Concerning this study only the data provided by OIN can be regarded as official.** Data provided by UNHCR in this regard can be seen as highly indicative. Another difficulty was that if a person submits an application for asylum in 2007 it easily may occur that the judicial phase of this asylum procedure extends over the following year, therefore a possible ‘final’ positive decision will not appear in the statistics of the year when the application was lodged.

2. ASYLUM

In the field of asylum no significant changes could be observed from 2006 to 2007. The data and trends concerning the number of applications remained the same (gradually increasing), only the main countries of origins of asylum seekers altered a little bit in this period. The legal background did also not change since 2004.

2.1. Analysis and interpretation of asylum statistics

2.1.1 Please describe trends in first-time asylum applications (on the basis of persons,¹ e.g. dependant children² should be included, but counted separately) in 2007 compared to the previous year. Are these trends related to legislative or administrative developments/ changes?

In 2007 2048 persons submitted a first application for asylum in Hungary, which, compared to the number of first applicants in 2006 (2117 persons), is a 4% decrease in the number of

¹ If this is not possible, add a note stating this and clarifying on what basis the asylum data are provided.

² A *dependant child* refers to a person below the age of 18 years who claims asylum with their dependants (e.g. parents, guardians) and would then be counted as an individual person. In addition, their dependant(s) would also be counted as separate person(s).



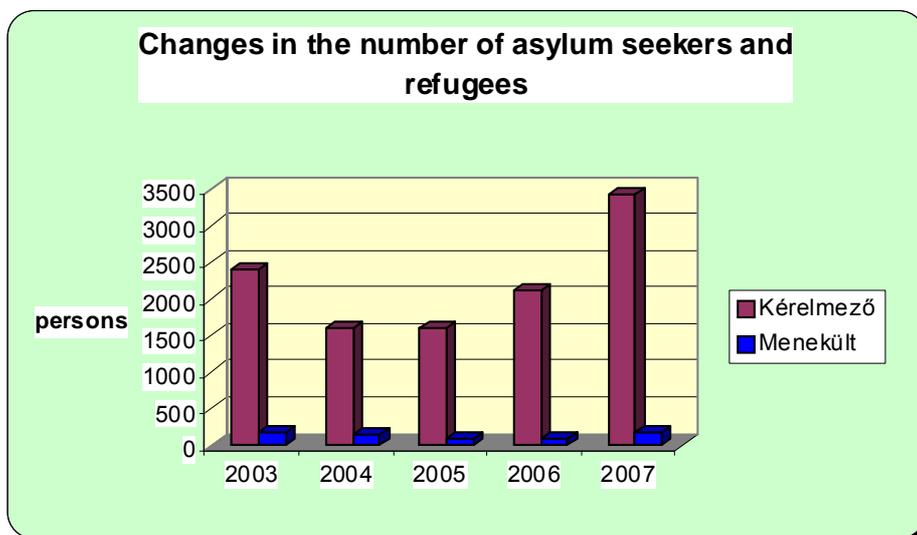
first asylum applicants. But as in 2006 the data on first applications included subsequent applications as well, the real trend is a **32% increase** in the number of first asylum applicants from 2006 to 2007. (In 2006 728 persons submitted subsequent applications out of 2117 persons, which means that there were 1389 first asylum applicants in 2006.)

In Hungary this trend of increase in the number of asylum seekers is remarkable, not because of the high numbers, but because besides the main receiving target Member States of the European Union (e.g.: France, Germany, Austria, Spain etc.) the number of asylum applicants increases alone in Hungary in the region. One factor of this trend is that in 2007 the number of applicants submitting subsequent applications compared to the total number of applicants was still high in Hungary (1372 persons). As it was mentioned in the introductions the reason for this that in the months preceding the implementation of the new legislation – in November and December 2007 – more than 1000 applicants took advantage of the “old asylum act” by submitting subsequent asylum applications. These were mostly Vietnamese and Chinese applicants living at private accommodations in Budapest, who, after revoking their previous asylum applications, submitted a subsequent application in order to avoid the sanctions introduced by the new law to filter subsequent unfounded applications.

Changes in the number of asylum applicants from 2003 to 2007

The number of asylum applicants is illustrated by the purple columns.

The number of recognized refugees is illustrated by the blue columns.



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Source: OIN database

In 2007 some changes occurred in the main countries of origin compared to 2006. Beside Serbian, Chinese, Vietnamese and Georgians the number of **Iraqi and Somali** applicants submitting first time applications increased.

Changes in first asylum applications by main countries of origin from 2006 to 2007:

	2006	2007
1.	Vietnam (406 persons)	Serbia and Montenegro (797 persons)
2.	Serbia and Montenegro (384 persons)	Vietnam (215 persons)
3.	China (275 persons)	China (131 persons)
4.	Georgia (175 persons)	Iraq (123 persons)
5.	Nigeria (109 persons)	Georgia (98 persons)
6.	Iraqi (68 persons)	Somalia (97 persons)

Source: OIN database

The number of unaccompanied minor applicants increased from 61 to 70 from 2006 to 2007, which is not a significant change.

2.1.2. What is the total number of first and final positive decisions (again on the basis of persons) in 2007, disaggregated by the citizenship of the person concerned? Please explain changes in the total number of positive decisions in comparison to the previous year.

On the basis of the system of the two-instance asylum procedure entered into force in 2004 (see detailed description above in 1. Introduction), Hungary interprets **‘first’ positive decision** as recognition as a refugee or a person authorised to stay (on the basis of the principle of non-refoulement) by the OIN in the administrative phase and **‘final’ positive decision** as recognition as a refugee or a person authorised to stay (on the basis of the principle of non-refoulement) by the Budapest Metropolitan Court in the judicial phase.

‘First’ positive decisions





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In 2007 **169 persons** were recognised as refugees by the OIN by first positive decisions. These persons were mostly Iraqis and Somalis, fleeing from crisis-zones. Out of this 99 recognised refugees 11 persons were unaccompanied minors (Somalis, and Iranians).

This number means a **5% refugee recognition rate**. This relatively low refugee recognition rate can be explained by the high number of subsequent applications which cause a shift in the proportion on the one hand and the high number of economic migrants who submit asylum applications to legalise their stay this way on the other.

In 2007 the OIN established that 83 persons can not be sent back on the basis of the non-refoulement principle, so **83 persons** were recognised as persons authorized to stay by a first positive decision. Out of this 83 persons authorised to stay 3 persons were unaccompanied minors (1 Ethiopian, 1 Somali, 1 Zimbabwean).

These data on positive decisions mean **altogether 252 ‘first’ positive decisions and a 7,4% recognition rate** (including recognition as refugee and person authorised to stay).

The data on ‘first’ positive asylum decisions did not changed significantly from 2006 to 2007. Although the number of first decisions on refugee recognition increased with 58% in 2007, the refugee recognition rate stayed almost the same compared to 2006. In 2007 less persons (17% decrease) were recognized as persons authorized to stay than in 2006, and the overall recognition rate also decreased with 1,9% from 2006 to 2007.

In 2006 **the refugee recognition rate was 4,6%. 99 persons** were recognised as refugee out of these persons 8 were unaccompanied minors (6 Somalis, 1 Nigerian and 1 Iranian). and mostly Somalis (29 persons), Iraqis (15 persons) and Afghans (5 persons), fleeing from crisis-zones. were recognised. **99 persons** were recognised as persons authorised to stay out of them 6 persons were unaccompanied minors (3 Afghans, 1 Guinean, 1 Iranian, 1 Zimbabwean). Altogether **198 ‘first’ positive decision** were brought in 2006, which equals a **9,3% recognition rate** (including recognition as refugee and person authorised to stay).

Top 5 nationalities among refugees recognised by ‘first’ positive decision in 2006 and 2007

	2006	2007
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1.	Somali (29 persons)	Iraqi (64 persons)
2.	Iraqi (15 persons)	Somali (30 persons)
3.	Iranian (6 persons)	Cuban (28 persons)
4.	Afghan (5 persons) Turkish (Kurdish) (5 persons)	Unknown (9 persons)
5.	Nigerian (4 persons) Russian (4 persons)	Kurdish from Turkey (5 persons)

Source: OIN database

As the tables show the Iraqi became the main nationality concerning refugee recognition rate by 2007 but the number of Somali recognized refugees also remained high. Afghan, Iranian Nigerian and Russian disappeared from the top 5 nationalities by 2007. These changes can be explained by the development of different crisis zones from 2006 to 2007. Due to the intergovernmental agreement between Hungary and the USA the number of Cuban recognized refugees was high.

Top 5 nationalities among persons authorized to stay recognised by ‘first’ positive decision in 2006 and 2007.

	2006	2007
1.	Serbian and Montenegrin (26 persons)	Serbian and Montenegrin (25 persons)
2.	Afghan (12 persons)	Ivory Coast (9 persons)
3.	Iraqi (11 persons)	Afghan (5 persons) Nigerian (5 persons) Iraqi (5 persons)

4.	Armenian (8 persons)	Turkish Kurdish (3 persons) Ethiopian (3 persons)
5.	Iranian (3 persons) Turkish (Kurdish) (3 persons)	Sudanese (2 persons) Palestinian (2 persons) Congolese (D.R.) (2 persons) Kenyan (2 persons)

Source: OIN database

According to the data of these tables it can be stated that for two years Serbian and Montenegrin was the main nationality concerning person authorized to stay. This category contains several ethnics (Albanian, Hungarian, Serbian, Roma, Bosnian). Most of these people flee from the poverty or weak security conditions with the aim of finding a better life abroad. Armenians and Iranians disappeared from the top 5 nationalities of persons authorized to stay by 2007. The positions of Afghans, Iraqis and Turkish Kurdish did not change significantly in these two years. The appearance of persons from Ivory Coast, Sudanese, Congolese (D.R.), Palestinians, Kenyans, or Ethiopians among the top 5 nationalities depends on the political or ethnical conflicts that might take place in these countries of origins.

'Final' positive decisions

As the Budapest Metropolitan Court does not collect specific data on asylum decisions (e.g.: the nationality of the recognised person or the reason for recognition), the following data, which were collected by the OIN and the UNHCR Regional Representation for Central Europe are the only ones available concerning 'final' positive asylum decisions.

In 2007 the Budapest Metropolitan Court changed the negative 'first' decision of the asylum authority **10 times**. According to the data of the OIN out of these 10 decisions the court recognized 5 persons as refugees and established concerning 5 persons that the non-refoulement principle applies (so on the basis of these decisions 5 person was recognised as person authorised to stay by the immigration authority). On the basis of the UNHCR's data among the persons recognized as refugees by the Budapest Metropolitan Court there was 1

Serbian, 1 Afghan, 1 Iraqi, and 1 Russian of origin, and among those whom in connection with the court established that the non-refoulement principle applies there were 1 Azerbaijan person.

In 2006 on the basis of the data provided by OIN the Budapest Metropolitan Court **recognized 3 persons as refugees and 4 persons as person authorised to stay.**

Regarding the data available on 'final' positive decisions, the number of positive decisions brought by the Budapest Metropolitan Court increased from 7 to 10 from 2006 to 2007.

2.1.3 When compared with the previous year, can you observe changes in the statuses regularly granted to particular citizenship groups? How do you explain these changes or continuity?

While in 2005 the **Serbian Montenegrin** were recognised as refugees mostly on the basis of membership of ethnic minority in a great number according to which they were the fourth main nationality among recognised refugees, in 2006 and 2007 no **Serbian and Montenegrin** was recognised as refugee, but this nationality was the first among the nationalities of persons authorised to stay in 2006 and in 2007. The reason for this change was that the reasons for asylum application of Serbian and Montenegrin had been changed. Their grounds for seeking refuge were mostly to flee from the poverty or weak security conditions in their country of origin with the aim of finding a better life abroad.

As **Iraqis and Somalis** fled from serious crises some kind of international protection – mostly refugee status – was continuously provided for them in 2006 and 2007. If it could not be established on the basis of a case by case and individualized assessment that the Iraqi or Somali asylum seeker qualified as a refugee, the status of person authorized to stay had been granted for them anyway. Almost every Somali was granted refugee status in both years.

Despite of the fact that in 2006 **Iranian** was the third and **Afghan** was the fourth nationality among recognized refugees, in 2007 these nationalities dropped out from the top 5 nationalities of recognized refugees. While Iranian and Afghan were to be found among the top 5 nationalities of persons authorized to stay in 2006, Iranian disappeared and Afghan was pushed back from second to third place concerning these figures. While in 2006 **Nigerian** was one of the top 5 nationalities of recognized refugees, in 2007 it is only among the top 5



nationalities of persons authorized to stay. Taking into account that the number of recognized refugees of Afghan, Iranian or Nigerian origin was very low – under 10 – in both years we can not really establish any tendency concerning the changes in recognition. The asylum authority always examines the asylum applications individually on a case by case basis.

The reason for the appearance of new nationalities among the top 5 nationalities of persons authorized to stay is the changing political situation of these countries of origins (Ivory Coast, Sudanese, Kenyan, Congolese (D.R.), Ethiopian).

2.2. Contextual interpretations (legal, political and international factors)

2.2.1 New or amended laws effective in 2007

Please describe briefly any new or amended laws on asylum and relevant case law effective in 2007. Have there been important changes in comparison with the previous year?

Not applicable, because the last modification was in 2004. Although the new asylum act entered into force in January 2008, it had some impacts on the asylum trends in 2007. In the months preceding the implementation of the new legislation – in November and December 2007 – more than 1000 applicants took advantage of the “old asylum act” by submitting subsequent asylum applications. These circumstances resulted in an exceptionally high, atypical number of applicants in 2007, while the true tendency can be established from the data which removes the subsequent applications. (see above in 1. ‘Introduction’, and point 2.1.1).

2.2.2. Procedural changes effective in 2007

Please explain briefly administrative or legal changes in the application, decision, or appeals process contributing to any numerical changes. Have there been important changes in comparison with the previous year?

Not applicable.

2.2.3 Can you identify European / international factors explaining certain changes regarding asylum trends in 2007 in your Member State? Has the situation changed in comparison with the previous year?





Not applicable.

3. MIGRATION

The Act XXXIX of 2001 on the entry and stay of foreigners (hereinafter referred to as New Aliens Act) that replaced the Act LXXXVI of 1993 on aliens was passed by the Hungarian Parliament at the end of May 2001. The Act and the Government decree no. 170/2001 on its implementation entered into force on 1 January 2002. The migration related regulations were amended several times following their passage which was required by preparations for Hungary's accession to the European Union as part of the process of legal harmonization. Rules pertaining to residence permits have changed significantly.

The temporary resident permit authorizing to stay for a period of no longer than one year, the long-term resident permit that entitles to a residence of longer than one year and the former permanent immigration permit have been replaced by two other permits. The New Aliens Act has introduced the **unified residence permit** and the **permanent residence permit**. The unified residence permit may be issued for up to 2 years or exceptionally for 4 years and may be extended for 2 additional years. The previous immigration permit was replaced by the permanent residence permit that entitles to a residence of an indefinite period.

The category of so-called **“person authorized to stay”** has been withdrawn from the protection categories listed by the Act on Asylum, and **is included in the personal scope of the New Aliens Act**. This category provides temporary protection to foreigners who, according to the 1951 Geneva Convention, do not qualify as refugees but cannot be returned to their countries owing to the serious risk of violation of their human rights. Similar to the practice of some Member States, these persons are permitted to remain in Hungary on a humanitarian basis.

Important steps were taken in 2007 concerning legislation on immigration. **On 1st of July 2007 two new pieces of legislation with regard to immigration entered into force** which replaced the previous single Act XXXIX of 2001 on the Entry and Stay of Foreigners. The Act I of 2007 and its executing Government Decree regulate the entry and residence of persons enjoying the right to free movement and the entry and residence of their family members; whereas Act II of 2007 regulates the entry and residence of third-country nationals. The latter distinguishes between the right of residence for less than three months within a six-



month period and the right of residence for a period of longer than three months. After Hungary's accession to the European Union, the next important milestone occurred in December 2007 when the country joined to the Schengen Area which required legislative, structural changes and technical – including IT – developments.

3.1. Analysis and interpretation of migration statistics

Note that, in accordance with Article 3 of the Migratory Statistics Regulation (862/2007), asylum applicants should be counted among flow and stock data if they stay effectively one year or more in your Member State (or if they intend to stay one year or more) like for other migrants. The data provided from Eurostat is in accordance with this. However, if this is not the case for your Member State, provide a note explaining this.

3.1.1. Migration Flows

How did migration flows in your Member State change compared to the previous years, from 2002 onwards? Please explain the reasons for changes. Did the migration trends observed in this field reflect immigration policies at the time?

According to the data given by the Central Statistical Office the number of migrants coming to the territory of Hungary in 2005 increased with 15% in comparison to the data given in 2004. The reason for the increase could be – as mentioned above – that Hungary joined to the European Union in 2004 and its southern and eastern border became one segment of the EU's external border, which prompted the development of a migration strategy, and amendments of acts with regard to migration. However, from 2005 to 2007 a slight decrease can be observed when it comes to the immigration and from 2004 a slight increase in the emigration can also be observed. Therefore the net migration increased from 2002 to 2005 and decreased from 2005 to 2007.

Migration flows 2002-2007

	2002	2003	2004	2005	2006	2007
Legally resident population	10 174 853	10 142 362	10 116 742	10 097 549	10 076 581	10 066 158

Recorded immigration*	17 972	19 365	22 164	25 582	23 569	22607
Recorded emigration*	2 388	2 553	3 466	3 320	3 965	4133

Source: EUROSTAT modified by the Hungarian Central Statistical Office (HCSO)

Data refers to the data on 1st of January of the given year

The table includes only the number of foreign citizens

	2002	2003	2004	2005	2006	2007
Net migration	15 584	16 812	18 698	22 262	19 613	18 474

3.1.2 Population by Citizenship in 2007

As well as giving the total number of third country nationals residing in your country, provide information on the largest groups³ (by citizenship) of third country nationals in 2007? If significant changes occurred in reference to the size of particular groups of third country nationals in 2007, what were the underlying causes of these changes (e.g. legal, political, economical, other)?

	1-01-2007
Total Population	10 066 158
Nationals	9 900 128
Other EU(-27) Nationals	101 044
of which other EU-10 Nationals (EU-9)	7 576

³ Normally up to and including at least the 10 largest nationality groups on the basis of the number of third country national persons is sufficient. More can be provided if you consider relevant, e.g. a particular interest in a specific nationality at EU-level.

of which EU-2 (BG, RO) Nationals		68 074
Total Non-EU(-27) (3rd country) nationals		64 986
<i>Most important third country nat.:</i>		
	Ukraine	15 866
	Serbia and Montenegro	12 638
	China	8 979
	Vietnam	3 095
	Russia	2 760
	United States of America	1 931
Others		14 546

The number of **foreigners who stay in Hungary** for more than a year has been stable at **around 1.1 to 1.7 per cent** of the native population over this decade. In Hungary, the immigration records reveal a stable pattern of immigrants arriving from key countries in the region. In 2007, the overwhelming majority (round 84 per cent) of immigrants is of European origin, and an additional 12 per cent come from Asia. Immigration from other parts of the world is marginal.

The migration flows of third country nationals have been **dominated by returning ethnic Hungarian minorities from neighbouring countries**, and as a result of this in the recent years policy debates have focused on simplified visas and facilitated naturalisation procedures for these preferred groups. Among the European immigrants, 47% are of Romanian citizens (66 951 persons) (mostly ethnic Hungarians), 9 % are of Serbian-Montenegrin (12 706 persons), 11% are of Ukrainian origin (15 866 persons) (also partly ethnic Hungarians) and nearly 32 % come from other various EU countries. Around half of the Asian immigrants come from China (8 979 persons) and a smaller part from Vietnam (3 095 persons).



**Foreigners residing in
the territory of
Hungary on 1st of
January 2007**

	country	male	female	total
Africa	Libya	159	89	248
	Other African country	1 211	324	1 535
America	USA	1 084	847	1 931
	Canada	154	115	269
	Other American Country	447	428	875
Asia	Iran	547	304	851
	Israel	672	391	1 063
	Japan	455	416	871
	China	4 937	4 042	8 979
	Mongolia	320	737	1 057
	Syria	581	184	765
	Vietnam	1 644	1 451	3 095
	Other Asian Country	1 743	1 309	3 052
Europe	Austria	1 413	812	2 225
	Belgium	235	140	375
	Denmark	87	59	146

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Finland	230	199	429
France	912	594	1 506
Greece	261	160	421
Nederland	679	417	1 096
Ireland	151	76	227
Luxemburg	12	8	20
UK	1 282	629	1 911
Germany	7 104	7 933	15 037
Italy	805	215	1 020
Portugal	66	28	94
Spain	118	82	200
Sweden	364	323	687
Switzerland	266	282	548
Romania	33 401	33 550	66 951
Serb-Montenegrin	6 972	5 734	12 706
Croatia	463	350	813
Slovenia	69	46	115
Slovakia	1 761	2 515	4 276
Ukraine	7 573	8 293	15 866
Russia	1 089	1 671	2 760
Poland	1 025	1 656	2 681

	Norway	144	249	393
	Turk	685	201	886
	Other European country	2 617	4 821	7 438
Australia	Other and unknown	125	84	209
Other and unknown	Other and unknown	210	193	403
total		84 073	81 957	166 030

From the total number of foreigners, 49% is female, and 51% is male.

3.1.3 Residence Permits: annual total of first issuing in 2007

How did the total number of residence permits issued for the first time in 2007 change? Please explain the reasons for this (legal, political, administrative changes, etc.). Note that this section should refer only to the first issuing of residence permits and not any subsequent extensions to a residence permit issued in previous years.

Annual total number of residence permits issued according to the main categories

			2006		2007	
			Pos. decisions		Pos. decisions	
			Total	sub-total	Total	sub-total
Total			83 373		38 149	
Family formation/reunification			9 147		6 856	
	- spouse			:		
	- children < 18 years			:		3 198
	- other family members			:		3 658
Study			8 680		8 233	
	- pupils			:		:
	- students			:		:
Employment			47 653		21 727	
	- self-empl. persons			855		243
	- employed persons			46 798		21 484
Other categories			17 893		1 333	

1. The permit figures refer to persons.
2. The data refer only to *third country nationals*.
3. The data from 2005 to 2006 include those *applications for C (short stay visa) and D (extended stay) visas* which were submitted to the Office of Immigration and Nationality. Data from 2007 include the number of visas which entitles their holder to stay in the territory of Hungary for a period of more than three months submitted on the basis of the New Aliens Act.
4. The source concerning the data on the purpose of resident permits is the Office of Immigration and Nationality.
6. The table contains only the *residence permits* which authorize the holder for a limited, duly defined period of time to stay in the territory of Hungary. The table does not include the number of applications for transit visa and airport visa submitted on the basis of the previous Aliens Act, the number of applications for visas which entitles their holder to stay in the territory of Hungary for a period less than three months submitted on the basis of the New Aliens Act, settlement permits (permanent residence permits), residence cards and permanent residence cards given to third country national family members.

According to the **previous Aliens Act**, from 2001 to 1st July 2007 the following authorizations for entry and stay were issued; **visa; residence permit; immigration permit and permanent residence permit.**

- **Short-term entry visa**⁴ meant an authorization for single or multiple entries within a six-month period, and stay for maximum ninety consecutive days from the date of entry, or, in respect of multiple entry, for maximum ninety days on the aggregate within a period of six months from the date of first entry (type "C" visa).
- **The extended stay visa**⁵ also referred to as 'long-term visa' –meant an authorization for single or multiple entry and stay in the Republic of Hungary for a period in excess of ninety days and for a maximum period of one year for a specific purpose (type "D" visa).
- **Residence permit** were issued on the request of a foreign national staying in Hungary under a valid extended stay visa to extend the period of stay. The residence permits of members of diplomatic and consular representations in Hungary were issued and renewed by

⁴ rövid időtartamú beutazóvízum



the minister. The validity of residence permits was for the duration specified in the application within a maximum period of two years and could be extended for an additional two years. Residence permits requested for the purpose of employment or other gainful activity could be issued for a period of maximum four years when issued for the first time. The validity period of residence permits issued to foreign nationals participating in vocational training or academic training could be the period of studies but could not exceed one year, and could be extended one year at a time.

- **Permanent residence permits** were issued for an indefinite period. Foreign nationals in possession of such an authorization were entitled to the rights afforded to holders of residence permits specified in separate legislation.

As it was mentioned above, **the New Aliens Act entered into force on 1st of July 2007** and changed the system of authorisations to a great extent. The latter distinguishes between the right of residence for less than three months within a six-month period and the right of residence for a period of longer than three months.

The types of visas for a validity period not exceeding three months are the following ones:

- airport transit visa: for entering the international areas of the airport and for remaining there until the departure of the flight to the destination country;
- transit visa: for single or multiple entry and stay for maximum five days;
- short stay visa: for single or multiple entry and stays not exceeding three months.

The types of visas for a validity period for longer than three months are the following;

- **visa for stay** which was from 21st of December (Schengen accession) changed into **visa entitling the holder to receive a residence permit**, which is valid for single or multiple entry, and stay in the territory of the Republic of Hungary for a period of longer than three months,
- **seasonal employment visa**, which is valid for single or multiple entry and for employment for a period of longer than three months and maximum six months;

⁵ tartózkodási vízum



- **national visa**, which is valid for single or multiple entry and for stay in the territory of the Republic of Hungary for a period of longer than three months under international agreement.

According to the general rules a **residence permit** is an authorization to reside in the territory of Hungary for a limited duration of at least three months and not more than two years and it may be extended for two additional years. Specific purposes of stay include humanitarian reasons, family reunification, gainful employment, studies, scientific research, official duties, medical treatment, visit and voluntary service activities.

It should be emphasized that the table does not include the number of permanent residence permits granted to third-country nationals, residence cards and permanent residence cards given to third country national family members therefore details are not provided hereby on these types of data. From the table below it can be seen that the total number of residence permits decreased significantly from 2006 to 2007. This is attributed to the fact that Romania and Bulgaria joined to the European Union, therefore Romanians and Bulgarians become persons enjoying the right to free movement.

3.2 Contextual interpretations (legal, political and international factors)

3.2.1 What have been the main trends and most important developments in the area of migration policy, political stance; new or amended laws⁶; procedural changes⁷; etc.? Please give a short overview.

Hungary became an EU Member State on 1st of May 2004. This development had many consequences for the country's migration policy. In recent years migration has drawn political and media attention, most frequently in connection with the EU accession process. This attention has prompted new administrative and legal measures with regard to migration. It has also been a determining factor in connection with measures and statements on the issue of illegal migration, stricter border controls but also visa requirements with neighbouring countries. On 15th November 2007 the European Parliament approved the accession of Hungary and 6 other countries to the Schengen area. On 21st of December 2007, the permanent border control ceased at the Hungarian-Slovenian, Hungarian-Slovakian and





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Hungarian-Austrian borders. As Hungary became the “gate” to the EU, its external borders (to Croatia, Romania, Serbia and Ukraine) were significantly reinforced; Hungary intensified the in-depth-checks, the border monitoring and the patrolling activities. From the end of March 2008, the Schengen rules entered into force at the airport borders too.

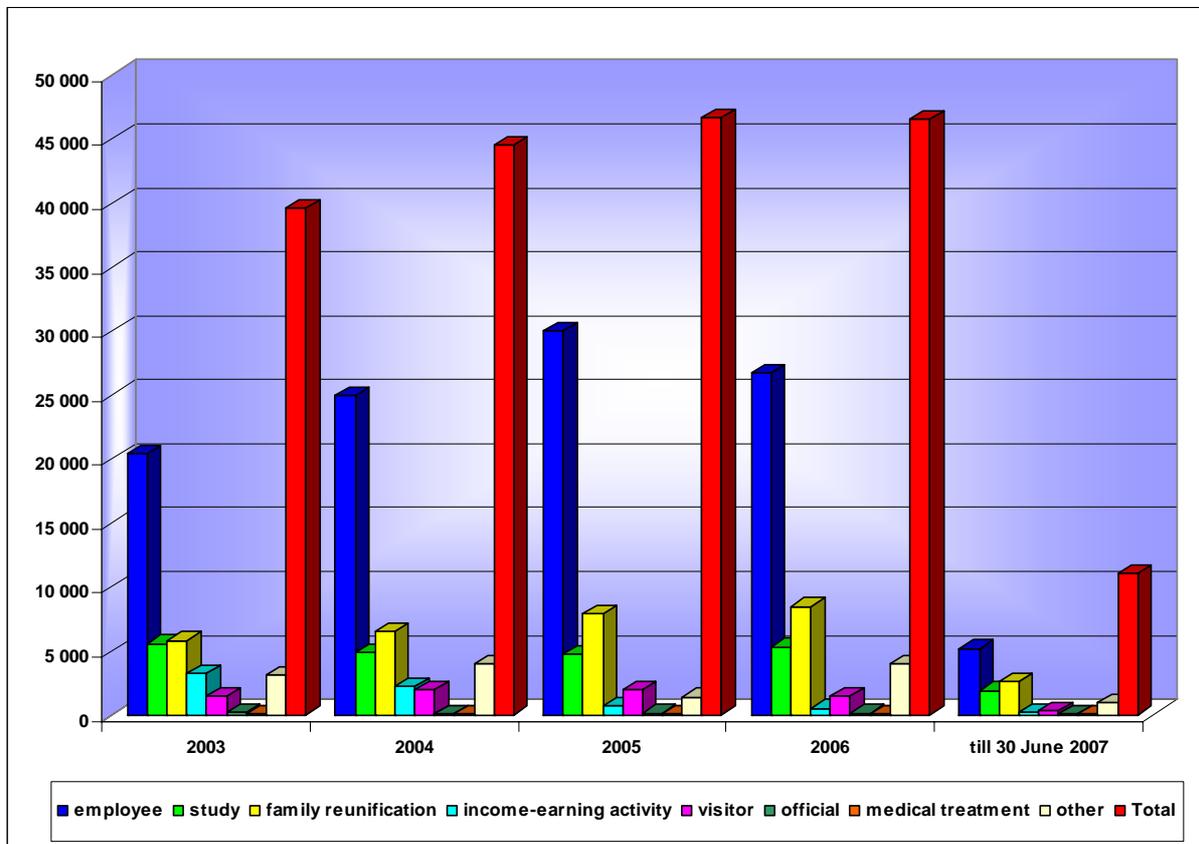


Admission

3.2.2. What were the existing categories of admission or non-admission⁸ in 2007?

According to the data of the tables below it can be stated that in the last years the main purpose of stay was **employment** following by the increasing number of the purpose of **family reunification**.

Number of applications for the issue and extension of residence permit with a breakdown by the purpose of stay 2002-2007



Non-admission

Refusal (visszairányítás): The Border Guards had to apply the refusal if the foreigner had not met the conditions for entry. The foreigner could be refused to the territory of the country from which he/she had arrived or which had been under a readmission obligation or where the foreigner had resided or to any other state into which the foreigner had been entitled to enter. The foreigner had to be informed about the place of return.

Return (visszautasítás): The Border Guard could order the return of the foreigner who

- had crossed or had attempted to cross illegally the state border of the Republic of Hungary and therefore a readmission agreement had to be applied, provided that the foreigner had been put into detention within thirty days from the time of the border crossing;
- had been taken over from the authorities of another state pursuant to a readmission agreement, provided that the foreigner could be returned to his/her country of origin or other state obliged to readmit him or her within thirty days from the date of the readmission.

The details rules of **expulsion and ban on entry and stay** can be found in point 4.1.3.

With the entry into force of the **New Aliens Act**, the legal rules were modified according to the followings:

Refusal of entry and assisted return (beléptetés megtagadása és visszairányítás):

The Police Headquarters shall refuse the entry of third-country nationals seeking admission for stays not exceeding three months according to the provisions of the Schengen Borders Code, and shall return such persons - in due observation of its interests. If the return procedure cannot be carried out within this time limit, the third-country national shall be expelled following his/her admission.

The details rules of **expulsion and ban on entry and stay** can be found in point 4.1.3.

3.2.3 Could you identify European/international factors explaining certain changes/continuity regarding migration in your Member State in comparison to the previous year?



The explanation for the main changes is that – as mentioned above – Hungary joined the European Union in 2004 and to the Schengen Area on 21st December 2007. The accession of Romania and Bulgaria to the European Union had a significant impact on the migration trends in Hungary.

4. REFUSALS, APPREHENSIONS AND REMOVALS

4.1 Analysis and interpretation of statistics

4.1.1.: Please describe developments/trends pertaining to the number of refusals in 2007 in comparison to the previous year. Have there been changes in the main countries of citizenship of refused migrants since the previous year? If possible, give reasons for these changes/continuity.

Total number of refused⁹ aliens during the period 1999-2007

	2000	2001	2002	2003	2004	2005	2006	2007
Number of refused aliens	31 881	33 517	23 188	23 862	24 600	20 197	23 015	11 198

Source: EUROSTAT modified by the Police Headquarters.

The data received from EUROSTAT have been modified by the Hungarian Police Headquarters, the reason for the discrepancies (indicated in red) were not clarified but these are the correct data.

According to data given by the Police Headquarters before 2003, visa obligation was introduced for ordinary passport holders from Russia (on the 3rd of June 2001), Belarus (on the 1st of June 2001), Bosnia-Herzegovina (on the 1st of June 2001), Moldova (on the 1st of June 2001), and the Former Yugoslav Republic of Macedonia (on the 30th of September 2001). The lack of the requirements for entry could have been revealed during the visa procedure therefore these cases have not appeared at the border anymore, thus the number of the refusals had declined from 2001 to 2002. A slight increase can be observed in the numbers of the three years

⁹ Refusal = beléptetés megtagadása



preceding 2005. The reason of that three years' increase could be that in 2003, Hungary concluded bilateral agreements on the introduction of visa regime with Ukraine and with Serbia-Montenegro. On the basis of these agreements, nationals of Ukraine and Serbia-Montenegro who are holders of ordinary passports have to be in possession of a visa in order to enter into the territory of Hungary from the 1st of November 2003. From 2005 to 2006, the number of refusals increased with 13%. This increase could be the resulted from the fact that the border monitoring system of Hungary reinforced during the given years. The number of aliens who were not allowed to enter into the territory of Hungary and were refused decreased significantly with 48% from 2006 to 2007. This is attributed to the fact that Romania joined to the EU on 1st of January 2007, therefore the number of refusals of Romanian citizens decreased significantly (from 9614 in 2006 to 1889 in 2007). In addition to that the New Act on Aliens and Free Movement Act entered into force on 1st of July 2007.

**Refused aliens by main country
of citizenship, 2006**

**Refused aliens by main country of
citizenship, 2007**

			Total
TOTAL	23 015	TOTAL	11 918
Romania	9 614	Ukraine	3 440
Ukraine	4 618	Serbia and Montenegro	1 948
FYR of Macedonia	1 704	Romania	1 889
Serbia & Montenegro	1 355	Unknown	1 383
ex-Yugoslavia (*)	946	Moldova, Republic of	760
Moldova	761	Turkey	331
Unknown	614	Croatia	152
stateless	468	the former Yugoslav Republic of Macedonia	146
Bosnia & Herzegovina	401	Germany	135



Turkey	392	Bosnia and Herzegovina	117
Others	2142	Other	1617

In 2007, the main countries of origin of the refused aliens were Ukraine (28%), Serbia and Montenegro (16%), Romania (15%), Moldova (6,3%), Turkey (2,6), Croatia (1,3), ex Yugoslavia (1,2%), Germany (1,1) , Bosnia Herzegovina (0.9). In comparison to the year 2006, the number of Romanians decreased significantly with 81% and the number of Ukrainians also declined with 26%. The number refused persons of the former Yugoslav Republic of Macedonia decreased significantly (from 946 in 2006 to 146 to 2007). Possible explanation for the composition of refused aliens could be that Hungary has a relative long border with Serbia, Romania and Ukraine.

4.1.2. Please describe developments/trends pertaining to the number of apprehensions of illegally-resident third-country nationals in 2007 in comparison to the previous year.¹⁰ Have there been changes in the main countries of citizenship of those apprehended in 2007? If possible, give reasons for these changes/continuity.

Annual totals of apprehended aliens illegally present during the period 1997-2007

1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
4 933	4 805	3 469	3 564	3 808	5 197	5 651	9 780	9 961	8696

Source: EUROSTAT modified by the Police Headquarters.

The differences between the data before 2005 and after 2006 rise from the fact that in our national legal background the term „third country national illegally present” were not clarified and therefore there was different interpretation before and after 2005. Before 2005 the data include only the number of persons apprehended for breaching ban on entry and residence; however, after the revisions of the definitions we found that the category should reasonably include the numbers of third country nationals illegally present apprehended for some contravention of alien policy rules (such as overstayers, etc.) Therefore from the reference year of 2005 the category “third country national illegally present” includes the persons

¹⁰ In case your country does not collect data on apprehensions, please provide your Enforcement Statistics, even if they are not directly comparable.

apprehended for both of the above mentioned reasons, yielding the significantly bigger numbers.

Apprehended aliens illegally present by main countries of citizenship 2006		Apprehended aliens illegally present by main countries of citizenship 2007	
TOTAL	9 961	TOTAL	3355
Romania	7 847	Ukraine	1616
Ukraine	1 343	Serbia & Montenegro	457
Serbia & Montenegro	205	Turkey	206
Turkey	190	China	196
Moldova	68	Bosnia Hercegovina	189
China	45	Vietnam	154
Vietnam	34	Romania	145
Bosnia Hercegovina	32	Moldova	123
Georgia	19	The former Yugoslav Republic of Macedonia	57
Bulgaria	15	Russia	27
Others	163	Others	185
nationality	Apprehension due to breaching ban on entry and residence	Apprehension due to contravention of alien policy rules	Total
Total	155	3200	3355

Ukraine	29	1587	1616
Serbia & Montenegro	67	390	457
Turkey	6	200	206
China		196	196
Bosnia Hercegovina	2	187	189
Vietnam		154	154
Romania	6	139	145
Moldova	30	93	123
The former Yugoslav Republic of Macedonia	9	48	57
Russia		27	27
Others	6	179	185

In 2007, the main countries of origin of the apprehended aliens illegally present in the territory of Hungary were Ukraine (48%), Serbia and Montenegro (13%), Turkey (6,1%), China (5,8%), Bosnia Hercegovina (5,6%), Vietnam (4,5%), Romania (4,3), Moldova (3,6%), the former Yugoslav Republic of Macedonia (1,6). There had been a significant decrease in the total number apprehended aliens illegally present in the territory of Hungary which can be attributed to the fact that Romania joined to the European Union on 1st of January 2007 therefore the number of apprehended Romanians illegally present in the territory of Hungary decreased with 82% (from 7847 in 2006 to 145 in 2007). The increase of 20% of the apprehended Ukrainians illegally present in the territory of Hungary in comparison to the previous year is also considerable.

4.1.3 Please describe developments/trends pertaining to the number of removals in 2007 in comparison to the previous year. Have there been changes in the main countries of citizenship of removed migrants? If possible, explain the underlying factors for these changes/continuity.



Annual totals of removed aliens during the period 1997-2007

	1999	2000	2001	2002	2003	2004	2005	2006	2007
Number of apprehended aliens	*	*	*	1759	1605	619	720	741	880

*data not available

Source: data given by EUROSTAT modified by the Police Headquarters. These data contain only the number of removals by deportation by air and by land implemented by the Police Headquarters. The data does not contain the number of refusals, return, obligation to leave the territory of Hungary, expulsion, ban of entry and stay and voluntary return. When taking into account the data from 2004, a slight increase can be observed in the numbers of removed aliens until 2007.

Total removed aliens by main countries of citizenship, 2006	Total	Total removed aliens by main countries of citizenship, 2007	Total
TOTAL	741		880
Romania	432	Ukraine	377
Ukraine	93	Serbia & Montenegro	179
Serbia & Montenegro	119	Moldova	103
Russia	6	Romania	65
Moldova	22	Turkey	42
Vietnam	4	Georgia	16
China	14	Unknown	12
Turkey	12	Iraq	11

Mongolia	9	Albania	8
Slovak Republic	10	The former Yugoslav Republic of Macedonia	7
Others	20	Others	60

In 2007, the main countries of origin of removed persons were Ukraine (43%), Serbia and Montenegro (20%), Moldova (12%), Romania (7,3), Turkey (4,7%), Georgia (1,8%), Unknown (1,4%), Iraq (1,2%), Albania (0,9%), the former Yugoslav Republic of Macedonia (0,8%).

4.1.4. In cases of refused, apprehended, and removed migrants in 2007, are these from the same countries in all categories, or are particular citizenship groups more common in a particular category? If possible, explain the underlying causes.

We can state that in all the cases Ukrainians, Serbia and Montenegrin, Turkish, Moldovan, the former Yugoslav Republic of Macedonia and Bosnian are the main nationalities of illegal migration.

4.2 Contextual interpretations (legal, political and international factors)

4.2.1. New or amended laws influencing illegal immigration in 2007

Please explain the most important changes in policies regarding refusal of entry or return from the previous year.

Concerning the legal background of the migration policy the **previous Aliens Act** applied until 1st of July 2007. The previous Aliens Act differentiated among the following categories:

1. Refusal¹¹: The Border Guards had to apply the refusal if the foreigner had not met the conditions for entry. The foreigner could be refused to the territory of the country from which he/she had arrived or which had been under a readmission obligation or where the foreigner had resided or to any other state into which the foreigner had been entitled to enter. The foreigner had to be informed about the place of return.

¹¹ visszairányítás



2. Return¹²: The Border Guard could order the return of the foreigner who

- had crossed or had attempted to cross illegally the state border of the Republic of Hungary and therefore a readmission agreement had to be applied, provided that the foreigner had been put into detention within thirty days from the time of the border crossing;
- had been taken over from the authorities of another state pursuant to a readmission agreement, provided that the foreigner could be returned to his/her country of origin or other state obliged to readmit him or her within thirty days from the date of the readmission.

3. Expulsion¹³ and ban of entry and stay¹⁴:

In order to protect the sovereignty of the state, national security, constitutional order and public security, **expulsion and the ban of entry and stay**, or - when the foreigner is staying in an unknown location or not in the territory of the Republic of Hungary - a **ban of entry and stay had to be ordered** against a foreigner

- who had pursued an activity endangering the constitutional order or security of the Republic of Hungary or had participated in an organisation pursuing such activities;
- who had participated in a terrorist organisation or had been involved in the smuggling of firearms, explosives, radioactive materials or narcotic drugs or is a member or proxy of an organisation of this type and who participates in the illegal trafficking of materials and equipment required for the manufacturing of arms of mass destruction or who manufactures or possesses narcotic drugs or psychotropic substances for commercial purposes;
- who had organised or facilitated the illegal entry, exit (crossing of the border) or stay of
- persons or groups or is engaged in smuggling of migrants;
- who falls within the scope of an international obligation, and who falls within the scope of of the decision made by the European Union.

¹² Visszautasítás

¹³ Idegenrendészeti kiutasítás

¹⁴ Beutazási és tartózkodási tilalom



Expulsion or ban of entry and **could be ordered** against the foreigner

- who had violated or attempted to violate the rules of and entry and exit;
- who had violated the rules of stay;
- who had worked or pursued any other gainful activity in Hungary without the prescribed official permit;
- who had provided false data or false facts to the authorities in order to obtain the title of entry or stay;
- who had failed to reimburse the costs paid to him by the Hungarian state as an advance under the condition of repayment;
- whose entry and stay violates or endangers national security, public security, economic order, public health or the human environment;
- who has applied for authorisation to enter or stay with a view to living with his/her spouse but has failed to live with the spouse or it may be presumed that he/she provided pecuniary benefit in order to be married (marriage of convenience);
- who had been returned to the authorities of another state without an expulsion order pursuant to an international agreement.

4. Removal by deportation: The decision on refusal, return or expulsion delivered by the court or the immigration authorities had to be implemented by removal by deportation, taking into account the principle of non-refoulement, when

- the expelled foreigner had been released from imprisonment imposed for a criminal act committed deliberately;
- the foreigner had been under detention or detention for return;
- the supervision of his/her departure was necessary for reasons of national security, to meet an obligation undertaken in international agreements or to protect public security.

With the entry into force of the **New Aliens Act** the following legal instruments were used:

1. Refusal of entry and assisted return¹⁵:

The Police Headquarters **shall refuse the entry of third-country nationals** seeking admission for stays not exceeding three months according to the provisions of the Schengen Borders Code, **and shall return such persons** - in due observation of its interests. If the return procedure cannot be carried out within this time limit, the third-country national shall be expelled following his/her admission.

2. Order to leave the country¹⁶:

Persons with the right of free movement and residence are obliged to leave Hungary if their right to stay has ceased. In this case they have to comply with this requirement within three months from receiving the final decision of the Office of Immigration and Nationality. Third-country nationals can also be subject to an order to leave the country, if their stay had been legal and they applied for a new visa or residence permit or for the renewal of these, but the Office of Immigration and Nationality have decided to reject the application. In this case the period open for leaving the country is 30 days at the most, depending on individual assessment of the preparations needed to leave. In case of a rejected application, an asylum-seeker is also ordered to leave the country. In this case the time limit of leaving should be minimum 10, maximum 30 days. In case of an order to leave the country, the return is always voluntary in the sense that **the state will not use force** (measures like custody or forced removal) to make sure that the foreigner in question will not try to avoid leaving by hiding etc. It is supposed that the *bona fide* migrant will make the necessary arrangements for his/her travel, and leave.

3. Expulsion¹⁷ and ban of entry and stay¹⁸:

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

¹⁵ Beléptetés megtagadása és visszairányítás

¹⁶ Kötelezés a Magyar Köztársaság területének elhagyására

¹⁷ Kiutasítás



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

b) whose ban of entry and stay was decided by the Council of the European Union.

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

- has crossed the frontier of the Republic of Hungary illegally, or has attempted to do so;
- fails to comply with the requirements set out in this Act for the right of residence;
- fails to comply with the order to leave the territory of the Republic of Hungary within the prescribed time limit;
- was engaged in any gainful employment in the absence of the prescribed work permit or any permit prescribed under statutory provision;
- who has failed to repay any refundable financial aid received from the State of Hungary;
- whose entry and residence represents a threat to national security, public security or public policy;
- whose entry and residence represents a threat and is potentially dangerous to public health;
- who was returned under international treaty without expulsion to the authorities of another State;
- who has failed to pay any instant fine or a fine imposed in conclusion of a misdemeanor proceeding within the prescribed deadline, and it cannot be recovered or collected.

¹⁸ Beutazási és tartózkodási tilalom



The duration of ban of entry and stay that was ordered independently shall be determined by the immigration authority ordering it. Ban of entry and stay may be ordered for a maximum duration of three years, and it may be extended by maximum three additional years at a time.

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

- is released from imprisonment as sentenced for a deliberate crime;
- is under detention;
- makes it necessary to supervise his/her exit for national security reasons, if so required by commitment under international treaty, or for the protection of public security or public policy. The immigration authority may cooperate in the enforcement of expulsion ordered by a country that is required to apply the provisions of Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air.

4.2.2 Procedural changes influencing illegal immigration in 2007

Please describe modifications to the procedure in cases of identified illegal entry, illegal residence and return since the previous year. Include changes that are the result of both administrative and legal developments.

Changes are described in point 4.2.2.

4.2.3 Can you identify European/international factors explaining certain changes/continuity regarding illegal entry in 2007 in your Member State?

The most significant factors explaining certain changes regarding illegal entry were the accession of Hungary to the Schengen area on 21st of December 2007 and the accession of Romania and Bulgaria to the European Union on 1st of January 2007.

Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers (Text with EEA relevance)

Official Journal L 199 , 31/07/2007 P. 0023 - 0029

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 285(1) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) The conclusions of the Justice and Home Affairs Council of 28- 29 May 2001 considered, regarding common analysis and the improved exchange of statistics on asylum and migration, that there is a need for a comprehensive and coherent framework for future action on improving statistics.

(2) In April 2003, the Commission released a Communication to the Council and to the European Parliament, setting out an Action Plan for the collection and analysis of Community Statistics in the field of migration. This included a number of important changes designed to improve the completeness and degree of harmonisation of these statistics. Under the Action Plan, the Commission aimed to propose legislation on Community statistics on migration and asylum.

(3) The Thessaloniki European Council of 19 and 20 June 2003 concluded that more effective mechanisms were needed for the collection and analysis of information on migration and asylum in the European Union.

(4) The European Parliament in its resolution of 6 November 2003 [3] on the abovementioned Communication from the Commission noted that legislation was required to ensure the production of comprehensive statistics necessary for the development of fair and effective Community policies



on migration. The resolution supports the Commission's plans to propose legislation for migration and asylum statistics.

(5) Enlargement of the European Union has brought an added geographical and political dimension to the scale of the phenomena associated with migration. It has also brought a further impetus to the demand for accurate, timely and harmonised statistical information. There is also an increasing need for statistical information regarding the profession, education, qualifications and type of activity of migrants.

(6) Harmonised and comparable Community statistics on migration and asylum are essential for the development and monitoring of Community legislation and policies relating to immigration and asylum, and to the free movement of persons.

(7) There is a need to reinforce the exchange of statistical information on asylum and migration and to improve the quality of Community statistical collections and outputs which have, hitherto, taken place on the basis of a series of "gentlemen's agreements".

(8) It is essential that information be available, throughout the European Union, for the purposes of monitoring the development and implementation of Community legislation and policy. In the main, current practice does not sufficiently ensure, in a uniform manner, regular, timely and rapid delivery and dissemination of harmonised data.

(9) This Regulation does not cover estimates of the number of persons illegally resident in the Member States. Member States should not provide such estimates or data on such persons to the Commission (Eurostat), although they may be included in population stocks due to surveys.

(10) Wherever possible, the definitions used for the purposes of this Regulation are taken from the United Nations Recommendations on Statistics of International Migration, the United Nations Recommendations for the Censuses of Population and Housing in the ECE Region or EC legislation, and should be updated following the relevant procedures.

(11) New Community needs on statistics on migration and asylum render obsolete the provisions of Council Regulation (EEC) No 311/76 of 9 February 1976 on the compilation of statistics on foreign workers [4].

(12) Regulation (EEC) No 311/76 should therefore be repealed.

(13) Since the objective of this Regulation to establish common rules for the collection and compilation of Community statistics on migration and international protection cannot be



sufficiently achieved by the Member States and can therefore, by reason of the scale of the action, be better achieved at Community level, the Community may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(14) Council Regulation (EC) No 322/97 of 17 February 1997 on Community Statistics [5] constitutes the reference framework for the provisions of this Regulation. In particular, it requires conformity to standards of impartiality, reliability, objectivity, scientific independence, cost-effectiveness and statistical confidentiality.

(15) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission [6].

(16) In particular, the Commission should be empowered to update the definitions, to decide on the groupings of data and additional disaggregations and to lay down the rules on accuracy and quality standards. Since those measures are of general scope and are designed to amend non-essential elements of this Regulation and to supplement it by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny laid down in Article 5a of Decision 1999/468/EC.

(17) The Statistical Programme Committee, established by Council Decision 89/382/EEC, Euratom of 19 June 1989 establishing a Committee on the Statistical Programmes of the European Communities [7], has been consulted in accordance with Article 3 of that Decision,

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes common rules for the collection and compilation of Community statistics on:

(a) immigration to and emigration from the Member State territories, including flows from the territory of one Member State to that of another Member State and flows between a Member State and the territory of a third country;



- (b) the citizenship and country of birth of persons usually resident in the territory of the Member States;
- (c) administrative and judicial procedures and processes in the Member States relating to immigration, granting of permission to reside, citizenship, asylum and other forms of international protection and the prevention of illegal immigration.

Article 2

Definitions

1. For the purposes of this Regulation, the following definitions shall apply:

- (a) "usual residence" means the place at which a person normally spends the daily period of rest, regardless of temporary absences for purposes of recreation, holiday, visits to friends and relatives, business, medical treatment or religious pilgrimage or, in default, the place of legal or registered residence;
- (b) "immigration" means the action by which a person establishes his or her usual residence in the territory of a Member State for a period that is, or is expected to be, of at least 12 months, having previously been usually resident in another Member State or a third country;
- (c) "emigration" means the action by which a person, having previously been usually resident in the territory of a Member State, ceases to have his or her usual residence in that Member State for a period that is, or is expected to be, of at least 12 months;
- (d) "citizenship" means the particular legal bond between an individual and his or her State, acquired by birth or naturalisation, whether by declaration, choice, marriage or other means according to national legislation;
- (e) "country of birth" means the country of residence (in its current borders, if the information is available) of the mother at the time of the birth or, in default, the country (in its current borders, if the information is available) in which the birth took place;
- (f) "immigrant" means a person undertaking an immigration;
- (g) "emigrant" means a person undertaking an emigration;



- (h) "long-term resident" means long-term resident as defined in Article 2(b) of Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents [8];
- (i) "third-country national" means any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty, including stateless persons;
- (j) "application for international protection" means application for international protection as defined in Article 2(g) of Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted [9];
- (k) "refugee status" means refugee status as defined in Article 2(d) of Directive 2004/83/EC;
- (l) "subsidiary protection status" means subsidiary protection status as defined in Article 2(f) of Directive 2004/83/EC;
- (m) "family members" means family members as defined in Article 2(i) of Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national [10];
- (n) "temporary protection" means temporary protection as defined in Article 2(a) of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof [11];
- (o) "unaccompanied minor" means an unaccompanied minor as defined in Article 2(i) of Directive 2004/83/EC;
- (p) "external borders" means external borders as defined in Article 2(2) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) [12];
- (q) "third-country nationals refused entry" means third-country nationals who are refused entry at the external border because they do not fulfil all the entry conditions laid down in Article 5(1) of



Regulation (EC) No 562/2006 and do not belong to the categories of persons referred to in Article 5(4) of that Regulation;

(r) "third-country nationals found to be illegally present" means third-country nationals who are officially found to be on the territory of a Member State and who do not fulfil, or no longer fulfil, the conditions for stay or residence in that Member State;

(s) "resettlement" means the transfer of third-country nationals or stateless persons on the basis of an assessment of their need for international protection and a durable solution, to a Member State, where they are permitted to reside with a secure legal status.

2. Member States shall report to the Commission (Eurostat) on the use and probable effects of estimations or other methods of adapting statistics based on national definitions to comply with the harmonised definitions set out in paragraph 1.

3. For the reference year 2008, the statistics supplied to the Commission (Eurostat) under this Regulation may be based on alternative (national) definitions. In such cases, Member States shall notify the Commission (Eurostat) of these alternative definitions.

4. If a Member State is not bound by one or more of the legal texts referred to in the definitions in paragraph 1, statistics comparable with those required under this Regulation should be provided by that Member State where they can be provided under existing legislative and/or administrative procedures.

Article 3

Statistics on international migration, usually resident population and acquisition of citizenship

1. Member States shall supply to the Commission (Eurostat) statistics on the numbers of:

(a) immigrants moving to the territory of the Member State, disaggregated as follows:

(i) groups of citizenship by age and sex;

(ii) groups of country of birth by age and sex;

(iii) groups of country of previous usual residence by age and sex;

(b) emigrants moving from the territory of the Member State disaggregated as follows:



- (i) groups of citizenships;
 - (ii) age;
 - (iii) sex;
 - (iv) groups of countries of next usual residence;
- (c) persons having their usual residence in the Member State at the end of the reference period, disaggregated as follows:
- (i) groups of citizenship by age and sex;
 - (ii) groups of country of birth by age and sex;
- (d) persons having their usual residence in the territory of the Member State and having acquired during the reference year the citizenship of the Member State and having formerly held the citizenship of another Member State or a third country or having formerly been stateless, disaggregated by age and sex, and by the former citizenship of the persons concerned and by whether the person was formerly stateless.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within 12 months of the end of the reference year. The first reference year shall be 2008.

Article 4

Statistics on international protection

1. Member States shall supply to the Commission (Eurostat) statistics on the numbers of:
- (a) persons having submitted an application for international protection or having been included in such an application as a family member during the reference period;
 - (b) persons who are the subject of applications for international protection under consideration by the responsible national authority at the end of the reference period;
 - (c) applications for international protection having been withdrawn during the reference period.

These statistics shall be disaggregated by age and sex, and by the citizenship of the persons concerned. They shall relate to reference periods of one calendar month and shall be supplied to the



Commission (Eurostat) within two months of the end of the reference month. The first reference month shall be January 2008.

2. Member States shall supply to the Commission (Eurostat) statistics on the numbers of:

- (a) persons covered by first instance decisions rejecting applications for international protection, such as decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies during the reference period;
- (b) persons covered by first instance decisions granting or withdrawing refugee status, taken by administrative or judicial bodies during the reference period;
- (c) persons covered by first instance decisions granting or withdrawing subsidiary protection status, taken by administrative or judicial bodies during the reference period;
- (d) persons covered by first instance decisions granting or withdrawing temporary protection, taken by administrative or judicial bodies during the reference period;
- (e) persons covered by other first instance decisions granting or withdrawing authorisation to stay for humanitarian reasons under national law concerning international protection, taken by administrative or judicial bodies during the reference period.

These statistics shall be disaggregated by age and sex, and by the citizenship of the persons concerned. They shall relate to reference periods of three calendar months and shall be supplied to the Commission (Eurostat) within two months of the end of the reference period. The first reference period shall be January to March 2008.

3. Member States shall supply to the Commission (Eurostat) statistics on the numbers of:

- (a) applicants for international protection who are considered by the responsible national authority to be unaccompanied minors during the reference period;
- (b) persons covered by final decisions rejecting applications for international protection, such as decisions considering applications as inadmissible or as unfounded and decisions under priority and accelerated procedures, taken by administrative or judicial bodies in appeal or review during the reference period;



- (c) persons covered by final decisions granting or withdrawing refugee status taken by administrative or judicial bodies in appeal or review during the reference period;
- (d) persons covered by final decisions granting or withdrawing subsidiary protection status taken by administrative or judicial bodies in appeal or review during the reference period;
- (e) persons covered by final decisions granting or withdrawing temporary protection taken by administrative or judicial bodies in appeal or review during the reference period;
- (f) persons covered by other final decisions, taken by administrative or judicial bodies in appeal or review, granting or withdrawing authorisations to stay for humanitarian reasons under national law concerning international protection during the reference period;
- (g) persons who have been granted an authorisation to reside in a Member State within the framework of a national or Community resettlement scheme during the reference period, where such a scheme is implemented in that Member State.

These statistics shall be disaggregated by age and sex, and by the citizenship of the persons concerned. They shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

4. Member States shall supply to the Commission (Eurostat) the following statistics on the application of Regulation (EC) No 343/2003 and Commission Regulation (EC) No 1560/2003 of 2 September 2003 laying down detailed rules for the application of Council Regulation (EC) No 343/2003 [13]:

- (a) the numbers of requests for taking back or taking charge of an asylum seeker;
- (b) the provisions on which the requests referred to in point (a) are based;
- (c) the decisions taken in response to the requests referred to in point (a);
- (d) the numbers of transfers to which the decisions referred to in point (c) lead;
- (e) the number of requests for information.

These statistics shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.



Article 5

Statistics on the prevention of illegal entry and stay

1. Member States shall supply to the Commission (Eurostat) statistics on the numbers of:

- (a) third-country nationals refused entry to the Member State's territory at the external border;
- (b) third-country nationals found to be illegally present in the Member State's territory under national laws relating to immigration.

The statistics under point (a) shall be disaggregated in accordance with Article 13(5) of Regulation (EC) No 562/2006.

The statistics under point (b) shall be disaggregated by age and sex, and by citizenship of the persons concerned.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

Article 6

Statistics on residence permits and residence of third-country nationals

1. Member States shall supply to the Commission (Eurostat) statistics on:

(a) the number of residence permits issued to persons who are third-country nationals, disaggregated as follows:

(i) permits issued during the reference period whereby the person is being granted permission to reside for the first time, disaggregated by citizenship, by the reason for the permit being issued and by the length of validity of the permit;

(ii) permits issued during the reference period and granted on the occasion of a person changing immigration status or reason for stay, disaggregated by citizenship, by the reason for the permit being issued and by the length of validity of the permit;

(iii) valid permits at the end of the reference period (number of permits issued, not withdrawn and not expired), disaggregated by citizenship, by the reason for the issue of the permit and by the length of validity of the permit;



(b) the number of long-term residents at the end of the reference period, disaggregated by citizenship.

2. Where the national laws and administrative practices of a Member State allow for specific categories of long-term visa or immigration status to be granted instead of residence permits, counts of such visas and grants of status are to be included in the statistics required under paragraph 1.

3. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within six months of the end of the reference year. The first reference year shall be 2008.

Article 7

Statistics on returns

1. Member States shall supply to the Commission (Eurostat) statistics relating to:

(a) the number of third-country nationals found to be illegally present in the territory of the Member State who are subject to an administrative or judicial decision or act stating or declaring that their stay is illegal and imposing an obligation to leave the territory of the Member State, disaggregated by citizenship of the persons concerned;

(b) the number of third-country nationals who have in fact left the territory of the Member State, following an administrative or judicial decision or act, as referred to in point (a), disaggregated by the citizenship of the persons returned.

2. The statistics referred to in paragraph 1 shall relate to reference periods of one calendar year and shall be supplied to the Commission (Eurostat) within three months of the end of the reference year. The first reference year shall be 2008.

3. The statistics referred to in paragraph 1 shall not include third-country nationals who are transferred from one Member State to another Member State under the mechanism established by Regulations (EC) No 343/2003 and (EC) No 1560/2003.

Article 8

Additional disaggregations

1. The Commission may adopt measures relating to the definition of additional disaggregations as set out below for the following statistics:



(a) for statistics required under Article 4 as a whole, disaggregations by:

(i) year of submission of the application;

(b) for statistics required under Article 4(4), disaggregations by:

(i) number of persons concerned by the request, decision and transfer;

(c) for statistics required under Article 5(1)(a), disaggregations by:

(i) age;

(ii) sex;

(d) for statistics required under Article 5(1)(b), disaggregations by:

(i) grounds for the apprehension;

(ii) place of the apprehension;

(e) for statistics required under Article 6, disaggregations by:

(i) year in which permission to reside was first granted;

(ii) age;

(iii) sex;

(f) for statistics required under Article 7, disaggregations by:

(i) reason for the decision or act imposing an obligation to leave;

(ii) age;

(iii) sex.

2. The additional disaggregations mentioned in paragraph 1 shall be supplied only separately, and not cross-classified with the disaggregations required under Articles 4 to 7.

3. When deciding whether additional disaggregations are required, the Commission shall consider the need for this information for the purposes of developing and monitoring Community policies and shall consider the availability of appropriate data sources and the costs involved.



Negotiations on additional disaggregations that may be needed for the application of Articles 4 to 7 shall be initiated not later than 20 August 2009. The earliest reference year for the implementation of additional disaggregations shall be 2010.

Article 9

Data sources and quality standards

1. The statistics shall be based on the following data sources according to their availability in the Member State and in accordance with national laws and practices:

- (a) records of administrative and judicial actions;
- (b) registers relating to administrative actions;
- (c) registers of the population of persons or of a particular sub-group of that population;
- (d) censuses;
- (e) sample surveys;
- (f) other appropriate sources.

As part of the statistics process, scientifically based and well documented statistical estimation methods may be used.

2. Member States shall report to the Commission (Eurostat) on the data sources used, the reasons for the selection of these sources and the effects of the selected data sources on the quality of the statistics, and on the estimation methods used, and shall keep the Commission (Eurostat) informed of changes thereto.

3. At the request of the Commission (Eurostat), Member States shall provide it with all the information necessary to evaluate the quality, comparability and completeness of the statistical information.

4. Member States shall inform the Commission (Eurostat) without delay of revisions and corrections to the statistics supplied under this Regulation, and of any changes in the methods and data sources used.

5. The measures relating to the definition of the appropriate formats for the transmission of data shall be adopted in accordance with the regulatory procedure referred to in Article 11(2).



Article 10

Implementing measures

1. The measures necessary for the implementation of this Regulation laying down the rules on the appropriate formats for the transmission of data as provided for in Article 9 shall be adopted in accordance with the regulatory procedure referred to in Article 11(2).
2. The following measures necessary for the implementation of this Regulation and designed to amend its non-essential elements, inter alia, by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 11(3):
 - (a) updating the definitions set out in Article 2(1);
 - (b) defining the categories of groups of country of birth, groups of country of previous and next usual residence and groups of citizenship as provided for in Article 3(1);
 - (c) defining the categories of the reasons for the permit as provided for in Article 6(1)(a);
 - (d) defining the additional disaggregations and the levels of disaggregations to be applied to the variables as provided for in Article 8;
 - (e) laying down the rules on accuracy and quality standards.

Article 11

Committee

1. In adopting the implementing measures, the Commission shall be assisted by the Statistical Programme Committee, established by Decision 89/382/EEC, Euratom.
2. Where reference is made to this paragraph, Article 5 and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Article 12

Report



By 20 August 2012 and every three years thereafter, the Commission shall submit a report to the European Parliament and the Council on the statistics compiled pursuant to this Regulation and on their quality.

Article 13

Repeal

Regulation (EEC) No 311/76 is hereby repealed.

Article 14

Entry into force

This Regulation shall enter into force on the 20th day following its publication in the Official Journal of the European Union. This Regulation shall be binding in its entirety and directly applicable in all Member States.



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