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- Questionnaire - Additional questions presented by the Commission
Services - Reply by HUNGARY

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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SCH-EVAL 41
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NOTE

from : the Republic of Hungary

to : the Schengen evaluation Working Party

No. prev. doc. : 6553/06 SCH-EVAL 22 COMIX 180

Subject : Schengen evaluation of the new Member States
- Questionnaire - Additional questions presented by the Commission Services -
Reply by HUNGARY

Question 2 (p. 6)

Could more information be provided on the Border Registration System (HERR)? Could you specify, in particular, which data can be stored in this database? Does the system also allow for registering entry and exit of third country nationals? If not, please explain what is meant by “the Border Guard is allowed to store the data for 90 days” (which data and for which purposes? Is this linked to the ‘border monitoring’ system?)

Data stored in the database:

- Name (first name and family name)
- Date of birth (year, month, day)
- Sex of the crossing person
- Number of the passport

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- Number of the visa
- Direction of crossing
- Time and location of entry or exit
- Registration number of the vehicle

Yes, the Border Guard store the entry and exit data of third country nationals in the registration system.

Border monitoring system is not a separate system, but part (a subsystem) of HERR.

Does the Border Guard have access - if so, to what extent/with which limitations – to the central alien policing register (mentioned under the SIS II section)?

The Border Guard has full online access to the central aliens policing register and part of the central registration is transferred to HERR on a daily basis (data on persons subject to prohibition of entry or stay).

Question 16 (p. 18)

Role of Customs: can the Customs, in exceptional cases, have the sole responsibility for carrying out border checks (both on persons and on goods) at BCPs? If so, and in such cases, do they have access to the Border Registration System and other police databases (and to the SIS, in the future)?

On the basis of Act XXXII of 1997 on Protecting the Borders and the Border Guard performing border checks fall into the competence of the Border Guard.

The Customs and Finance Guard has no sole responsibility for carrying out border checks at BCPs.

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Question 20 (p. 24, point 8)

Could more details be provided about the forthcoming introduction of the “one-stop” border control with Croatia and Slovenia?

The Croatian Party visited and experienced the one stop border control system developed at the Hungarian-Slovenian border in November 2005. A detailed document including the draft of the legal base, schedule of negotiations and necessary institutional developments and possibilities for such a system was forwarded to Croatia.

Legal basis is ensured for developing the one stop border control in the bilateral Agreement on border traffic control as it contains that the contracting parties will take all necessary measures to simplify and speed up road-, train- and water border traffic control at the state border.

At the Hungarian-Slovenian border the one-stop border control system has been operating since the 1 May 2004.

The main characteristics of the system:

- border check is located in one side of the border in the territory of either of the contracting parties (it varies from BCP to BCP where in Slovenia and where in Hungary);
- both parties carries out border checks at this one place, but passengers have to stop only once;
- border checks in direction of Slovenia: Hungary exit check, Slovenia entry check;
- border checks in direction of Hungary: Slovenia exit check, Hungary entry check;
- rights and competences of the border control authority acting in the territory of the other contracting party are the same as he/she would be acting in his/her own territory.

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Question 27 (p. 25):

When will the reconstruction of Ferihegy 1 be finalised?

Reconstruction was finished by 31 August 2005. Schengen-type border control can be started in 48 hours after Decision.

Are there additional measures in relation with the infrastructure necessary for Ferihegy 2 or will the 48 hours indicated be sufficient to provide for a separation into Schengen and non-Schengen zone?

According to the original plans Schengen-type border control can be started in 48 hours after the Decision of the Council.

In case Hungary becomes a full member of the Schengen area in October 2007 separation of Schengen and non-Schengen zone will be implemented according to the original plans (physical separation within 48 hours)

It has to be mentioned that the airport has a new owner from January 2006. Hungary has drawn the attention of the new property management to our endeavour to become a full Schengen member and the new management shall act in accordance with this request. It has been working out his new development plans till June 2006 taking into consideration the Schengen requirements and recommendations of the Hungarian authorities. These plans will contain the details of the planned new investments which will start in January 2007 and will be finished after the proposed date of the introduction of Schengen system at the airport.

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Additional clarification - Visa

69. Do you require travel medical insurance also from nationals of third countries listed in Annex II of Council Regulation 539/2001?

Yes we do. According to the Aliens Act, entry and stay of a foreigner can be authorized if the foreigner, amongst others has a valid travel document, has sufficient financial resources to cover the costs of entry and living, including accommodation for the entire length of stay, and of leaving the country, and is able to prove of being covered under any health insurance system for the full range of health care services, or is able to finance the costs of health care services.

72. Do you give the grounds for refusal in case of family members of EU citizens?

Yes we give the grounds for refusal, regardless of the citizenship of the applicant. As a general rule Consulates have to notify the refusal verbally, and also in writing in a uniform format “refusal form” in case the applicant so wishes. If the applicant is not present at the Consulate the “refusal form” can be posted to the applicant.

The grounds for refusal are based on Article 5 (1) of the Convention implementing the Schengen Agreement and that of the CCI part V. („...there is any doubt as to the authenticity of the papers and supporting documents submitted...”).

Based on the above grounds for refusal, the refusal form contains detailed information on the reason for not issuing the visa.

Concerning family members of EEA citizens the new Hungarian Visa Manual (expected to enter into force 1 April, 2006) will instruct the consulates as to the scope of facilitation to be given to this category of applicants. It also calls consuls' attention to the fact that a possible refusal of an application of the family member of the EEA citizen shall be extremely well grounded and an uniform refusal form shall be issued in each and every case.

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73. Do you issue visas free of charge to citizens of third countries other than Ukraine and Serbia-Montenegro?

Yes we do. Moroccan nationals shall be exempt from the obligation of paying a visa fee provided they travel to Hungary for tourism or business purposes and their stay does not exceed 30 days. Tunisian nationals shall be exempt from the obligation of paying a visa fee provided they travel to Hungary for tourism purposes and their stay does not exceed 30 days. Morocco and Tunisia – in exchange – provide visa exemption for Hungarian nationals up to 30 days.

Visa fee requirements falls under the scope of Article 3 (2) of the Act on Accession, therefore applicable for us upon full Schengen participation. From the date of our full schengen membership we shall apply EU rules concerning visa fee including bilateral agreements concluded by the Community in this matter.

75. Do you issue visas at the border to family members of Union citizens?

The legislation in force does allow the Border Guard to issue a visa for third country nationals who are family members of EEA citizens upon providing proof of being subject to special circumstances.

Additional questions - Visa

- Are your diplomatic missions and consular posts empowered to issue residence permits?

The Hungarian foreign representations and consulates are not empowered to issue residence permits.

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- **In Annex 15 CCI your country provides no form for proof of invitation, sponsorship and accommodation.**

Are there no legal provisions/administrative rules or practices on such forms?

Section 2 Para (2) of Government Decree 170/2001. (IX. 26.) stipulates that a letter of invitation approved by the OIN (which can be used by aliens to prove that they have the financial resources sufficient to cover the costs of entry and stay) must contain the following data:

- the sponsor's name (maiden surname and forename where applicable), place and date of birth, sex, mother's name, residential address, if the sponsor has a residence permit, immigration permit or permanent residency, his place of domicile and nationality (stateless status); if the sponsor is a legal entity that is established or registered in Hungary, its corporate name, address and the purpose of invitation;
 - specific details of the commitment (including health care and costs of the return trip), the duration of commitment and the address of the accommodation provided to the invited foreign national;
 - name, personal identification information, nationality or stateless status and the residential address of the alien and his/her spouse and minor children if travelling together;
 - approval of regional immigration authority and validity period of the letter of invitation.
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- **Please describe the practice followed when issuing visas to applicants who are non-residents in the country where they lodge their application?**

The general rule is that the visa application can be lodged at the Hungarian foreign representation of the state where the applicant's permanent or habitual residence is located, or in the state of the applicant's nationality.

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However, the foreign representation can depart from the general rule under the special circumstances listed below:

- a) the applicant's health; or if
- b) the spouse of the foreign national, his/her descendants who are dependent, adopted and foster children, spouse's children, the parent of a minor, and the ascendants of such national and his/her spouse who are dependent live in Hungary;
- c) the costs of the foreign national's return trip to the country of his permanent or habitual residence would be unreasonably high;
- d) any absence of the foreign national for submitting the visa application is likely to cause losses to his employer;
- e) the absence of the foreign national performing a gainful activity due to submitting a visa application would result in otherwise unavoidable losses;
- f) individual, acknowledgeable circumstances (e.g.. accident or death of a close relative in Hungary, important family event, a carrier turned back with perishable freight);
- g) the applicant travels for official purposes;
- h) in case an important state, social or economic (business) interest is connected to the entry;
- i) a direct relative (spouse, children, adopted or foster children, parent, adoptive and foster parent) of an applicant from the above categories, provided they travel together.

The documents proving the special and equitable circumstances shall be attached to the application.

If the application is lodged at a foreign representation operating in a state other than that of the applicant's permanent or habitual residence, the foreign representation shall immediately contact the otherwise competent Hungarian foreign representation, request information from it about the applicant, and process the application with special caution.

If the applicant is the national of a country without any Hungarian foreign representation competent to issue visas, the foreign representation that was approached by the applicant to issue a visa does not have discretionary powers; the application shall be taken in.

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- **Please describe the practice followed when issuing visas to holders of travel documents which you do not recognise?**

The Hungarian Visa Manual contains a negative list of the most frequent documents not recognised by Hungary as valid travel documents. Since the entry is not possible with these “bogus documents”, visas cannot be affixed to them.

The compilation of a positive list of travel documents recognised by Hungary is underway. Besides the security features of the travel documents, foreign policy aspects shall also be considered in this process. The positive list shall be adopted at the latest by the time Hungary becomes a full Schengen member state.

Since 1 May 2004, we issue the visa on the uniform separate sheet required by the Council Regulation (EC) 333/2002 in cases e.g.

- when the applicant is the national of or his/her travel document is issued by a country not recognised by the Republic of Hungary;
- if the territorial validity of the travel document does not cover the Republic of Hungary;

if there are special, equitable circumstances justifying the travel, however the applicant's passport does not have free space for affixing the sticker
