

Summary on Hungarian national consular and visa legislation and policy: General background, visa regime towards Ukraine and Moldova (Review of online resources)

I. HUNGARY'S GENERAL CONSULAR AND VISA REGIME

The main legislative act governing Hungarian visa policy is *Act XXXIX of 2001 on Entry and Residence of Foreigners*, which was adopted with a view to legal harmonisation and institutional development required by EU-accession. The law differentiates between EEA citizens (citizens of member states of the European Economic Area) and other foreigners („third country citizens”), and sets out the different conditions of their entry and stay. The provisions concerning visa free entry, stay, right to take up residence and to work of EEA citizens and their family members entered into force with Hungary's EU-accession, while the law also contains provisions that will enter into force with the entry of Hungary into the Schengen system, including the important provision that foreign nationals holding an authorisation for entry or stay issued by any EEA state will not be required to obtain an authorisation to enter, travel through or stay in Hungary (http://www.kulugyminiszterium.hu/Kulugyminiszterium/HU/Dokumentumok/Jogtar/Idegenrend/Kulfoldiek_beutazasa_2001_XXXIX.htm in Hungarian*).

1. VISA AGREEMENTS

(<http://www.mfa.gov.hu/Kulugyminiszterium/EN/Ministry/Departments/Consular/Visa/abolition.htm>;
http://www.kum.hu/Archivum/Korabbiszovivoi/2001/04/szov0426_1.htm in Hungarian)

As part of the harmonisation of Hungarian visa legislation with the *acquis communautaire* Hungary had to introduce visa requirement towards the countries whose citizens need a visa for travelling into the member states of the EU (e.g. Ukraine, Moldova, Belarus, Serbia and Montenegro, Bosnia and Herzegovina, FYROM, Russia). The following are the main type of visa agreements to which Hungary is currently party.

1.1. Visa exemption agreements:

- Hungary concluded comprehensive international agreements with the member states of the European Economic Area, covering all types of travel documents, mutually ensuring visa free travel. The length of visa free stay is 90 days in all cases.
- Hungary concluded comprehensive international agreements, covering all types of passports, mutually ensuring visa free travel, with the states listed in Supplement II of *Regulation No. 539/2001 of the European Community* (e.g. Bulgaria, Croatia, Romania, etc.)

1.2. Asymmetric agreements:

- On the basis of Council *Regulation No. 539/2001/EC*, the Hungarian party ensures a visa free stay of 90 days for foreigners from Australia, Brunei, Canada, Guatemala, Salvador and the USA visiting Hungary, while Hungarian citizens continue to be obliged to obtain a visa when travelling to these countries.
- Unilateral agreements, ensuring visa free stay only for Hungarians, concluded with countries including Serbia and Montenegro, Ukraine, etc.

1.3. Partial visa agreements:

- Agreements offering mutual visa free travel for holders of diplomatic passports (e.g. Algeria, Iran, etc.) or for holders of diplomatic and service passports (e.g. Belarus, Bosnia and Herzegovina, FYROM, Moldova, Ukraine, Serbia and Montenegro).

* The *Act LXXXVI of 1993 on the Entry, Stay in Hungary and Immigration of Foreigners* that can be found in English on the webpage of the MFA is the previous law which ceased to have effect with once the new 2001 Act entered into force.

2. TYPES OF VISA

(<http://www.mfa.gov.hu/Kulugyminiszterium/EN/Ministry/Departments/Consular/Visa/marking.htm>):

The main types of visa determined by Act *XXXIX of 2001 on Entry and Residence of Foreigners* issued by Hungary are the following:

- 2.1. **Airport transit visa** (“A” type visa);
- 2.2. **Transit visa** (“B” type visa): single, double or multiple entries, entitling its holder to transit through the country in a period not exceeding five days on each occasion;
- 2.3. **Short-term entry visa** (“C” type visa): for single, double or multiple entries within six months for a stay totalling no more than 90 days;
- 2.4. **Residence visa** (“D” type visa): for single, double or multiple entries and for a stay exceeding 90 days but not exceeding one year for a specified purpose (including work, other income earning activities, studies, etc.). For the purposes of work and other income earning activities a residence visa must be obtained irrespective of the length of stay.

3. STAKEHOLDERS/AUTHORITIES INVOLVED IN THE FUNCTIONING OF THE VISA REGIME

(http://www.kulugyminiszterium.hu/Kulugyminiszterium/HU/Dokumentumok/Jogtar/Idegenrend/Kulfoldiek_beutazasa_2001_XXXIX.htm in Hungarian; Consular Handbook issued by the Ministry of Foreign Affairs to its consulates; http://www.bmbah.hu/a_bah_ismertetese.php)

3.1. Visa issuing foreign representations of the Ministry of Foreign Affairs (MFA)

- Consulates and embassies.
- Accept visa applications from foreigners whose permanent or temporary residence is in, or who hold the citizenship of the state where the representation is based. (Applicants holding the citizenship of a state where there is no visa issuing Hungarian representation may submit their visa applications in another state.)
- With the permission of the centre (MFA) other representations may accept the visa application, with the exception of work visas and visas for other income earning purposes.
- Decide on most (A, B and C type) visa applications.

3.2. MFA

- Decides on visa applications of persons enjoying diplomatic or international law based exemptions and their family members; (C and D type) visa applications of visitors to diplomatic and consular representations and international organisations; visa applications of applicants whose entry to Hungary involves a foreign policy interest.

3.3. Aliens policing bodies of the border guards

- As a main rule, there is no visa issuing at border crossing points.
- Decides on visa application of the personnel of ships.
- Decide on (B and C type) visa applications submitted on the basis of international treaties or mutual agreements.
- Decide on the (B and C type) visa applications falling outside the exclusive competence of Office of Immigration and Nationality in the case of exceptional circumstances (e.g. the documented reason for the entrance of the applicant is death, accident or other pressing family event).

3.4. Office of Immigration and Nationality (Ministry of the Interior)

- The office was established on January 1, 2000 by the Hungarian government as part of the of an integrated migration organisation with a view to Hungary’s EU-accession.
- It serves as the central aliens policing and refugee authority and also carries out the duties related to nationality falling in the competence of the Minister of the Interior.
- As a main rule there is no visa issuing within the territory of Hungary.

- Decides on D type visa applications submitted to (and issued by) foreign representations of the MFA and on B and C type visa applications that cannot be decided upon by representations or the MFA.

3.5. Regional Directorates of the Office of Immigration and Nationality

- In exceptional circumstances may issue D type visas for official purposes or for the purposes of medical treatment, family reunification, studies or training, etc. especially if important state, social, economic or justifiable private interest is connected to the stay. No visa can be issued by the regional directorates for the purposes of work or other income earning activities.

II. HUNGARIAN VISA REGIME TOWARDS UKRAINE AND MOLDOVA

1. HUNGARY'S CONSULAR AND VISA REGIME TOWARDS UKRAINE

1.1. Hungarian-Ukrainian visa agreement

(http://www.kulugyminiszterium.hu/Kulugyminiszterium/HU/Konzuli_informaciok/Magy_ukran_vizummegallapodas.htm in Hungarian)

The asymmetric visa regime recently put in place towards the Ukraine was legislated by the October 9, 2003 *Agreement between the Government of the Republic of Hungary and the Ministerial Cabinet of Ukraine on the Conditions of Travel of their Citizens*.

- Signed: October 9, 2003, entered into force: November 1, 2003.
- Introducing visa requirement for Ukrainian citizens travelling to Hungary.
- No fees need to be paid by Ukrainian citizens for their visa to Hungary.
- Hungarian citizens can continue to travel to Ukraine without visa (for a total stay of up to 90 days within six months following their first entry).
- Ukrainian citizens holding a valid visa or residence permit of a Schengen-state do not require a transit visa for crossing Hungary (max. stay: 5 days).
- After Hungary's entry into the Schengen-regime, Ukrainian citizens holding a visa (for min. stay of 3 months) or a residence permit to a Schengen-state will not need a visa for entering and staying in Hungary for a total of 90 days (within 6 months following their first entry).
- Visa free travel for persons travelling with diplomatic and service passports for up to 90 days of stay (which can be extended by the Ministry of Foreign Affairs).
- Members of diplomatic and consular bodies, international organisations accredited to Hungary holding diplomatic and service passports and their family members do not need a visa for the total length of their stay.

(Consular handbook):

Previously visa free travel was guaranteed by a 1978 mutual visa exemption agreement and a 1988 protocol between the People's Republic of Hungary and the Soviet Union.

- Holders of private passports could travel without a visa to the other country for a stay of up to 30 days.
- Members of diplomatic and consular bodies, international organisations accredited to the other country holding diplomatic and service passports and their family members did not need a visa for the total length of their stay.

1.2. End to small border traffic

(www.htmh.gov.hu/observer/021009.htm, <http://www.hucon.uzhgorod.ua/news/novini020912.html>, http://www.gondola.hu/hir.php?hir_id=7943 in Hungarian)

- From August 1, 2003 small border traffic between Hungary and Ukraine (on the border crossing points between Lónya- Dzvinkove (Harangláb) and Koszinyi (Mezőkaszony)-Barabás was terminated. The population of border regions could cross the border with a special permission (without passport or visa) for a maximum stay of 10 days as a result of an agreement on simplified border crossing signed in February 26, 1993 between the

governments of the two countries and an 1985 agreement between Hungary and the Soviet Union on simplified border crossing of the population of border regions. Hungary withdrew from the agreement due to the requirements of legal harmonisation.

1.3. Background information on political and diplomatic relations between Hungary and Ukraine

http://www.mfa.gov.hu/Kulugyminiszterium/HU/Vilag_orszagai/Europa/ukrajna/politika.htm (in Hungarian)

- List of bilateral agreements, brief summary of the development of political and economic links.

2. HUNGARY'S CONSULAR AND VISA REGIME TOWARDS THE REPUBLIC OF MOLDOVA

2.1. Hungarian-Moldavian partial mutual visa exemption agreement

(http://www.kulugyminiszterium.hu/Kulugyminiszterium/HU/Miniszterium/Szervezeti_egysegek/Konzuli/Utazas_kulfoldre/Beutazasi_feltetelek/Orszagok/moldova.htm in Hungarian)

Agreement between the Government of the Republic of Hungary and the Government of the Republic of Moldova on the Mutual Visa Exemption of their Citizens holding Diplomatic and Service Passports

- Signed November 25, 2000, entered into force on June 1, 2001.
- Mutual visa requirement for the holders of private passports.
- Hungarian and Ukrainian citizens must pay a fee to obtain visa to travel into the other country.
- Visa free travel for persons travelling with diplomatic and service passports for a maximum, stay of 90 days (which can be extended by the authorities of the receiving state on the basis of a written request of diplomatic or consular representation of the sending state).
- Members of diplomatic and consular bodies, international organisations accredited to Hungary holding diplomatic and service passports and their family members do not need a visa for the total length of their stay.

Previously holders of private passports could travel to the other country for a stay of up to 30 days without a visa.

1.3. Background information on political and diplomatic relations between Hungary and Moldova

(http://www.kulugyminiszterium.hu/Kulugyminiszterium/HU/Vilag_orszagai/Europa/Moldova/pol_kapcsolatok.htm in Hungarian)

- List of bilateral agreements, brief summary of the development of political and economic links.