

Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State

Deliverable B.II Investors' Residence Schemes in Hungary

JUST/2016/RCIT/FW/RIGH/0152 (2017/06)



April 2018

This Report has been prepared by Dr. Tamas Fezer for Milieu Ltd under the contract JUST/2016/RCIT/FW/RIGH/0152 (2017/06).

The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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I. GENERAL BACKGROUND

■ *Legal background:*

Hungary operated a **scheme for the acquisition of Hungarian residency through investment between 1 January 2013 and 31 March 2017**. The rules on the acquisition of Hungarian residency by investment were introduced into the Hungarian legal system by Act CCXX of 2012 on amending Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.¹

Between 1 January 2013 and 1 July 2016, Article 28 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals² provided the conditions on the acquisition of residency by investment, the eligibility criteria, and the procedural rules. The general concept of the scheme was to provide investment opportunities through a **National Residency Bond Programme** to third-country nationals. Only businesses that received the permission of the Hungarian Parliament's Economy Committee (*Országgyűlés Gazdasági Bizottsága*) could issue the residency bonds, and the applicants had to purchase these bonds to obtain temporary residency by investment.³ The original scheme made it possible to those in possession of such temporary residence permits for the duration of at least six months to apply for a permanent residence permit based on their investment.⁴ A temporary residence permit is valid only for five years and can be renewed thereafter⁵, while the permanent residence permit entitles the beneficiary to stay in Hungary without limitation and under the same terms as Hungarian citizens.⁶

The scheme that existed between 1 January 2013 and 31 March 2017 allowed the authorities to issue residence permits (both temporary and permanent) to third-country nationals in the interest of the national economy for reasons related to the investments made by these nationals in Hungary, including their spouses, the descendants and parents.⁷

Article 35/A(2) of Act II of 2007 defines interest of national economy in the following way:

- if the third-country national provides evidence that he/she, or a business association in which he/she has a majority stake had securities with a maturity of not less than five years, of a nominal value of at least 300,000 euro, issued by a company authorised by the Committee for Economic Affairs of the Hungarian Parliament;
- if the applicant provided a - final and irrevocable - guarantee made by the authorised company to subscribe within forty-five days following the date of issue of the applicant's residence permit

¹ Act CCXX of 2012 on amending Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2012. évi CCXX. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény módosításáról), Official Gazette no. 2012/180, available at: <https://mkogy.jogtar.hu/?page=show&docid=a1200220.TV>.

² Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³ Article 28(5) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴ Article 28/(7) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵ Article 34(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁶ Article 35 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷ Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

the government bonds, of a total nominal value of at least EUR 300,000, from the funds made available by the applicant.⁸

Beneficiaries of the National Residency Bond Programme are entitled to reside, settle, or stay indefinitely in Hungary. The residence permits issued under the programme also entitled the beneficiaries to free travel within the Schengen Area.⁹

Act XXXIX of 2016 on the amendment of certain acts and laws related to migration¹⁰ changed the eligibility requirements, the procedural rules, and implemented Articles 35/A-35/C into Act II of 2007 repealing the former provisions of Article 28. The new scheme entered into force on 1 July 2016. The most important novelty of the new scheme was that it merged the conditions of temporary and permanent residence permits issued to third-country nationals in the interest of national economy (e.g. residency by investment). The new scheme abolished the condition of having a temporary residence permit for the duration of at least six months before applying for a permanent residence permit. Under the new scheme, third-country nationals could apply for the temporary and the permanent residence permits at the same time.

Governmental Decree no. 114/2007 on the execution of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals¹¹ provide additional procedural rules of application and decision making. Governmental Decree 45/2017 on the amendment of Governmental Decree no. 114/2007 on the execution of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals¹² implemented a new provision (Article 182/B) into Governmental Decree no. 114/2007 prohibiting applications for residency by investment after 31 March 2017 in Hungary.¹³ The new provision practically ended the National Residency Bond Programme., however, given that the general rules on this scheme are still in effect in Act II of 2007, the Programme can be re-instated at any time.

■ *Competent authorities*

In Hungary, the **Immigration and Asylum Office** (*Bevándorlási és Menekültügyi Hivatal*) and its **regional directorates** are the competent authorities as regards migration and the issuance of residence permits (both temporary and permanent permits). The Immigration and Asylum Office was established on 1 January 2000 under the name Office of Immigration and Nationality (*Bevándorlási és Állampolgársági Hivatal*). As of 1 January 2002, the Office was expanded with regional directorates that were entitled to conduct the procedure in the first instance.

⁸ Article 35/A(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁹ Article 16(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

¹⁰ Act XXXIX of 2016 on the amendment of certain acts and laws related to migration (*2016. évi XXXIX. törvény az egyes migrációs tárgyú és ezekkel összefüggésben más törvények módosításáról*), Official Gazette no. 2016/71., available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1600039.TV×hift=20160701&xtreferer=00000003.TXT.

¹¹ Governmental Decree no. 114/2007 on the execution of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*114/2007. (V. 24.) a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény végrehajtásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=a0700114.kor.

¹² Governmental Decree 45/2017 on the amendment of Governmental Decree no. 114/2007 on the execution of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*45/2017. (III. 17.) a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény végrehajtásáról szóló 114/2007. (V. 24.) Korm. rendelet módosításáról*), Official Gazette no. 2017/38, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1700045.KOR×hift=ffffff4&xtreferer=00000001.TXT.

¹³ Article 182/B of Governmental Decree no. 114/2007 on the execution of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*114/2007. (V. 24.) a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény végrehajtásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=a0700114.kor.

On 1 January 2017, the Office was renamed the Immigration and Asylum Office¹⁴ as the Government Office of Budapest (*Budapest Fővárosi Kormányhivatala*), and the Prime Minister's Ministry (*Miniszterelnökség*) were entrusted to handle matters related to the native registry. Since 1 January 2017, the Immigration and Asylum Office carries out functions and duties of public administration in relation to a number of matters, *inter alia*:

- issuing residence permits (temporary and permanent);
- performing due diligence checks on all applications.¹⁵

While the National Residency Bond Programme operated in Hungary, the **Hungarian Parliament's Committee for Economic Affairs** (*Országgyűlés Gazdasági Bizottsága*) was entrusted with the appointment of those businesses that could issue residency bonds under the scope of the Programme.¹⁶ The Committee could give authorisation to one company from any given country.¹⁷

¹⁴ Ordinance of the Minister of Interior no. 39/2016. on the structure and operation of the Immigration and Asylum Office (39/2016. (XII. 29.) BM utasítás a Bevándorlási és Menekültügyi Hivatal szervezeti és működési rendjének meghatározásáról), available at:

http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=488&Itemid=358&lang=hu.

¹⁵ Article 93(1) of Governmental Decree no. 114/2007 on the execution of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (114/2007. (V. 24.) a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról szóló 2007. évi II. törvény végrehajtásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=a0700114.kor.

¹⁶ Article 28(7) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

¹⁷ Article 28(6) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

1.1 PROCEDURES

- *Who can apply for a residence permit under the investors residence scheme?*

Any **third-country national** who met the general requirements and who was willing to make the investment required (purchasing the bond) could apply for the residence permit under the investors residence scheme. Under one application and the same investment, the applicant's family members (spouse, descendants and dependent parents) could also benefit from the scheme.

- *Different stages of the procedure*

i. Granting of authorisation by Committee for Economic Affairs

A contract with the Government Debt Management Agency (*Államadósság Kezelő Központ Zrt.*) referred to above was concluded by a company authorised by the Hungarian Parliament's Committee for Economic Affairs.¹⁸ The **authorisation** by the Committee for Economic Affairs was limited to one company from any given country.¹⁹ The authorisation could have been withdrawn, in particular, if the company in question deliberately provided untrue information or if it had breached the obligation to issue the bonds. During the existence of the Programme, altogether eight companies received authorisations, however, authorisations were withdrawn in three cases, therefore, by 2017, only five companies had rights to issue the bonds. In all three cases of withdrawal, the reasons were 'unsatisfactory activity' meaning the companies did not issue any bonds while they had authorisation to do so. The countries in which the authorised companies could issue bonds were Afghanistan, Austria, Algeria, Azerbaijan, China, Cyprus, Egypt, India, Malta, Morocco, Nigeria, Kazakhstan, Kenya, South Africa, Vietnam, Thailand, Turkey, USA, UAE, Pakistan, Tunis, Yemen, Oman, Iran, Qatar, Kuwait, Iraq, Saudi-Arabia, Libya, Jordan, Bahrein, UK, Switzerland, Indonesia, Kazakhstan, Singapore, Russia, Ukraine, Turkmenistan, Georgia, Belarus, Uzbekistan, Poland, Slovakia, Czech Republic, Montenegro, Serbia, Bosnia, Romania, Croatia, Lebanon, Syria Malaysia, Mongolia, South Korea, Seychelles.²⁰

Authorisation to these companies were given by the Committee based on the companies' applications. The companies applied for authorisation, and they had to produce originals or certified copies of documents and statements testifying that they met the selection criteria (they bear all licences and permits in their countries of operation to trade with securities; issues registered securities exclusively; statements on preventing money laundering and the financing of terrorism; identification of the real owners of the company; contract with the Hungarian Government Debt Management Agency), however, no evidentiary material needed to accompany these documents and statements. This practice shows the selection of the authorised companies was based on mere formalities.²¹ The companies that

¹⁸ Article 35/A(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

¹⁹ Article 35/A(4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

²⁰ Information on the Hungarian National Residency Bonds, Committee for Economic Affairs of the Hungarian Parliament, available at: <http://www.parlament.hu/web/gazdasagi-bizottsag/informacio-a-letelepedesi-magyar-allamkotvenyrol>.

²¹ Nagy Boldizsár: In Whose Interest? Shadows Over the Hungarian Residency Bond Program, Transparency International Hungary, 2016. page 66., available at: <https://transparency.hu/wp-content/uploads/2017/01/In-Whose-Interest-Shadows-over-the-Hungarian-Residency-Bond-Program.pdf>.

received authorisation were located in the following countries: Grand Cayman (Hungary State Special Debt Fund), Malta (Discus Holdings Ltd.), Cyprus (Migrat Immigration Asia Ltd., Innozone Holdings Limited), Hungary (Arton Capital Hungary), Russia (VolDan Investments Limited), Liechtenstein (S & Z Program Limited), and Singapore (Euro-Asia Investment Management Pte Ltd.).

The authorisation could also have been withdrawn if there was evidence that the company had been involved in the issuance of bonds either directly or through an agent in the territory of a country other than its country of residence, or if the company derogated from the conditions of authorisation.²² Once the authorisation was withdrawn, the Committee for Economic Affairs had to inform the Immigration and Asylum Office and the Government Debt Management Agency accordingly²³ and the Government Debt Management Agency cancelled the contract.²⁴

In order to **monitor** the right of residence or permanent residence, the company had to report to the immigration authority by the tenth of each month and had to supply the necessary data and information, such as the number of securities issued during the month, the natural identification data of the holders of such securities or of the majority owners of the business association, where applicable, including the amount of government bonds subscribed by the company, and an indication of the applicants who provided the funds. The immigration authority processed the data supplied by the company for a period of six years.²⁵

The company authorised to issue the Hungarian government bond had to keep funds in a separate bank account. This obligation was related to the funds the company received for issuing the government bond from a third-country national or from a business association in which a third-country national had a majority holding, if such funds were placed at a credit institution that operated in the territory of Hungary, within the framework of safe custody services provided for in Paragraph j) of Subsection (1) of Section 3 of Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises²⁶, under a deposit contract provided for in Section 6:360 of Act V of 2013 of the Civil Code²⁷.²⁸ It means there was no obligation to play money in Hungary.

Where an application for national permanent residence permit was submitted for the applicant and his/her family member in the interest of the national economy in a country other than the country where the applicants' permanent or temporary residence was located, or other than the applicants' country of nationality, it had to be considered lawful with a **residence authorization in the given country for a period exceeding one year**.²⁹

²² Article 35/A(5) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

²³ Article 35/A(6) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

²⁴ Article 35/A(6) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

²⁵ Article 35/A(7) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

²⁶ Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (2013. évi CCXXXVII. törvény a hitelintézetekről és pénzügyi vállalkozásokról), Official Gazette no. 2013/217, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A1300237.TV.

²⁷ Act V of 2013 on the Civil Code (2013. évi V. törvény a Polgári Törvénykönyvről), Official Gazette no. 2013/31, available at: <http://www.kozlonyok.hu/nkonline/MKPDF/hiteles/MK13031.pdf>.

²⁸ Article 35/A(8) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

²⁹ Article 35/B(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

ii. Lodging of the application for the residence permit

When lodging the application for a national permanent residence permit the applicant had to present his/her valid travel document, and his/her residence authorisation for a period exceeding one year.³⁰ As regards the submission of an application for a residence permit, the consul or other entity authorised to accept applications for residence permit, or the competent immigration authority had to check:

- whether residence could be considered lawful,
- the applicant's nationality,
- the extent of authorisation granted for the company (e.g. the company issued bonds in the territory of a country where it was authorised to do so).

In case the country where the permanent or temporary residence of the applicant was located did not have a consulate officer or other entity authorised to accept applications for a residence permit, the application had to be submitted in the country of the applicant's nationality, or in Hungary, together with the proof of investment and with the guarantee made out by the authorised company.³¹ If having regard to the country of the applicant's nationality no company was authorised, the applicant could lawfully submit his/her application via either of the companies that had been authorised in the territory of any country specified in the company's authorisation.³²

iii. Decisions on the applications

The decisions on the applications for national permanent residence permit were made, within 30 days of the submission of the application, by the Regional Directorates of the Immigration and Asylum Office (first-instance procedure). If such decisions were challenged, the competent authority to solve the appeals and, thus, have the final decision-making power regarding applications was the Immigration and Asylum Office (within 15 days)³³

In proceedings for the issue of national permanent residence permits the Office had to convey its assessment decision as to whether the residence of a third-country national constituted a threat to public security or national security of Hungary to the competent immigration authority, where such duration had to be included in the administrative time limit:³⁴

- within 20 days in procedures of the first instance,
- within 10 days in procedures of the second instance,

In the proceedings, legal representation was mandatory, except where the applicant was required to appear in person under the relevant legislation.³⁵ If the third-country national holding a national permanent residence permit granted in the interest of the national economy, or his/her family member

³⁰ Article 35/B(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³¹ Article 35/B(4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³² Article 35/B(4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³³ Article 35/C(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³⁴ Article 35/C(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³⁵ Article 35/C(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

did not reside in Hungary, the legal counsel had to serve as an attorney for service of process.³⁶ This means that in case the third-country national resided in Hungary during the procedure, legal representation was also mandatory and the attorney had to validate all documents that were submitted to the authorities.

■ **Conditions**

Article 35/A(1) of Act II of 2007 sets out **general requirements** for a person to be issued a residence permit for establishing residence in Hungary based on the interest of the national economy for reasons related to the investment by such person in Hungary, including residence permits for the applicant's spouse, descendants and dependent parents:

- The applicant must have been exempt from any reasons for rejection set out in Act II of 2007:
 - the residence in the territory of Hungary constitutes a threat to public security or national security;
 - the applicant is subject to expulsion or exclusion from the territory of Hungary or for whom an alert has been issued in the Schengen Information System (SIS) for the purpose of refusing entry;
 - the applicant has disclosed false information or untrue facts in the interest of obtaining the permit, or misled the competent authority;
 - the applicant has a prior criminal record, until relieved from the detrimental legal consequences related to his criminal record.
 - The applicant must have secured a place of abode and subsistence in the territory of Hungary;
 - The applicant must have full healthcare insurance or sufficient financial resources for healthcare services.³⁷

Article 35/A(2) of Act II of 2007 defines **national interest** in the following way:

- if the third-country national provides evidence that he/she, or a business association in which he/she has a majority stake had securities with a maturity of not less than five years, of a nominal value of at least 300,000 euro, issued by a company which fulfils all the following conditions:
 - the company invested exclusively in zero bonds issued by the Hungarian Government with a maturity of not less than five years, of a nominal value of at least 50,000 euro, not exceeding the total nominal value of 300,000 euro; the issuer undertook the commitment to repay the nominal value of the bonds at the end of the maturity period; the bonds were issued at a discounted price (less interest),
 - had a contract with the Government Debt Management Agency (*Államadósság Kezelő Központ Zrt.*),
 - issued registered securities exclusively, and
 - had all permits and authorizations under the law of the given country, which were required for the activity in question; and
- if the applicant provided a - final and irrevocable - guarantee made by the company to subscribe within forty-five days following the date of issue of the applicant's residence permit the government bonds, of a total nominal value of at least EUR 300,000, from the funds made available by the applicant.³⁸

³⁶ Article 35/C(4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³⁷ Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

³⁸ Article 35/A(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

■ *Applicable fees*

The Hungarian scheme did not require a specific fee to have been paid to the authorities. Instead, the applicants had to pay a so-called ‘*intermediary commission*’ to the companies authorised to issue the bonds. This commission was between EUR 45,200 – 58,100 depending on which company the applicant turned to in order to purchase the bond. The fee was the net profit of the companies authorised to issue the national residency bonds.³⁹

■ *Reasons for turning down the application*

An application submitted in Hungary had to be considered lawful if it had been submitted together with the proof of investment and with the guarantee provided by the company authorised having regard to the applications submitted in Hungary by nationals of the country of the applicant’s nationality.⁴⁰

The application had to be submitted in one of the following ways:

- it could be submitted in Hungary during the applicant’s lawful residence in the country,
- it could be submitted in a third country other than the country where the applicant’s permanent or temporary residence was located,
- it could be submitted in a third country other than the applicant’s country of nationality

together with the proof of investment and with the guarantee provided by the company authorised, if established in Hungary.⁴¹

The application was rejected if an infringement of the rules applicable to the programme were identified. In the event of any infringement, the consul or other entity authorised to accept applications for residence permit, or the competent immigration authority had to notify the Committee for Economic Affairs.⁴²

However, no specific criteria were applied for turning down the applications as the Office could exercise discretionary power in relation to having sufficient financial resources to cover healthcare services and to provide for a sufficient living.⁴³ As the funds were transferred to the companies authorised in exchange for the bonds, the national authorities did not check the source of the money the applicant used to purchase these bonds.⁴⁴

■ *Legal remedies*

Hungary did not establish special legal remedies for the applicants under the scheme. Applicants could use the same mechanism as for all types of applicants who obtained residence permits and

³⁹ Magyar Nemzet (2018): Bond business: Money may still flow to the intermediaries (*Kötvénybiznisz: még mindig jöhet pénz a közvetítőknél*), 28 February 2018, available at: <https://mno.hu/gazdasag/kotvenybiznisz-meg-mindig-johet-penz-a-kozvetitoknek-2450568>.

⁴⁰ Article 35/B(5) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴¹ Article 35/B(6) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴² Article 35/B(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴³ Article 33(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴⁴ Immigration and Asylum Office (*Bevándorlási és Menekültügyi Hivatal*), 22 March 2018 (telephone interview).

whose applications were turned down. The Immigration and Asylum Office served as the appellate body to challenge the negative decisions (turning down the applications) of the regional directorates, and had to decide the case as a second instance authority within 15 days.⁴⁵

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

The applicant could submit the application to the **consulate officer** or other entity authorised to accept applications for the residence permit, or directly to the **Immigration and Asylum Office**.⁴⁶

The **regional directorates** of the **Immigration and Asylum Office** had jurisdiction in the first instance public administration procedure (First instance, in the sense that regional directorates are the ones to decide on the application but their decisions can be challenged before the Immigration and Asylum Office). In the second instance, the Immigration and Asylum Office was entrusted with the handling of these cases.⁴⁷ From a structural point of view, the regional directorates are local offices of the central Office, i.e. divisions of the Immigration and Asylum Office.⁴⁸

The Hungarian scheme heavily relied on the assistance of the companies entrusted with the issuance of the national residency bonds. These companies were authorised by the Hungarian Parliament's Committee for Economic Affairs.⁴⁹ Companies could apply for authorisation and they had to meet the following criteria: they were willing to issue the residency bonds that were registered securities; they were willing to make a contract to the Government Debt Management Agency; they had all the necessary licenses under the laws of the country or countries in which they were planning to issue the bonds. Only one company could receive the authorisation to issue bonds in a given third country.⁵⁰ No hearings were organised in the authorisation procedure, the companies simply had to apply for authorisation and had to undertake the obligation to issue bonds.

The authorised companies had to make a contract with the **Government Debt Management Agency**.⁵¹ The **Committee for Economic Affairs** made the list of the authorised companies available on its website.⁵² The Committee was entrusted with monitoring and overseeing the activity of the authorised companies, however, it never issued any reports on the activities of the authorised companies, and only withdrew the authorisations from only three companies. The Committee had the power to withdraw the authorisation at any time under the following circumstances:

- the company deliberately provided untrue information;

⁴⁵ Article 35/C(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴⁶ Article 35/B(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴⁷ Article 35/C(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁴⁸ Ordinance of the Minister of Interior no. 39/2016. on the structure and operation of the Immigration and Asylum Office (39/2016. (XII. 29.) BM utasítás a Bevándorlási és Menekültügyi Hivatal szervezeti és működési rendjének meghatározásáról), available at: http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=488&Itemid=358&lang=hu.

⁴⁹ Article 35/A(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵⁰ Article 35/A(4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵¹ Article 35/A(2) point ab) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵² <http://www.parlament.hu/web/gazdasagi-bizottsag/informacio-a-letelepedesi-magyar-allamkotvenyrol>.

- the company breached the commitment of subscription of the bonds;
- there was evidence that the company had been involved in the marketing of securities either directly or through an agent in the territory of a country other than its country of residence;
- the company derogated from the authorisation of the request that was submitted in Hungary.⁵³

Once the authorisation was withdrawn by the Committee, it was also published on the Committee's website⁵⁴, and the Government Debt Management Agency and the Immigration and Asylum Office were notified accordingly. The Government Debt Management Agency had a legal obligation to immediately cancel the contract with that company, and the Immigration and Asylum Office had to reject applications that were based on the proof of investment coming from said company.⁵⁵

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

Act II of 2007 did not set out any cap for the investors' residence scheme nor did it establish a system of scrutiny over the authorities involved in the procedure. The Hungarian Parliament's Committee for Economic Affairs exercised monitoring and oversaw the activities of the companies that had the authorisation to issue the national residency bonds⁵⁶, and published its decisions on withdrawals on its website.⁵⁷

The law did not set out further scrutiny mechanisms and reporting obligations, and such mechanisms and obligations did not exist in practice as well.⁵⁸

1.4 INFORMATION ON APPLICATIONS

Act II of 2007 does not provide an obligation to disclose information about successful applicants. However, the rules of Act CXII of 2011 on information self-determination and the freedom of information provides rules on access to public information upon request.⁵⁹ As the information about successful applicants fall under the category of public information, the authorities must provide information upon special request. The names of successful applicants are, however, not public information, therefore they are protected by privacy laws. Upon the request of a member of the Hungarian Parliament, the Ministry of Interior provided the information on the number of applicants, their nationalities, the number of successful and turned down applications on 31 May 2017.⁶⁰ These statistics are aggregated statistics for the full duration of the Hungarian residency bonds programme (2013-2017) and a yearly breakdown of the data is not available.

⁵³ Article 35/A(5) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵⁴ Decisions of the Hungarian Parliament's Committee for Economic Affairs, available at: <http://www.parlament.hu/web/gazdasagi-bizottsag/informacio-a-letelepedesi-magyar-allamkotvenyrol?inheritRedirect=true>.

⁵⁵ Article 35/A(6) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵⁶ Article 35/A(4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁵⁷ Decisions of the Hungarian Parliament's Committee for Economic Affairs, available at: <http://www.parlament.hu/web/gazdasagi-bizottsag/informacio-a-letelepedesi-magyar-allamkotvenyrol?inheritRedirect=true>.

⁵⁸ Ministry of Interior (*Belsőügyminisztérium*), 21 March 2018 (telephone interview).

⁵⁹ Article 28 of Act CXII of 2011 on information self-determination and the freedom of information (2011. évi CXII törvény az információs önrendelkezési jogról és az információszabadságról), Official Gazette no. 2011/88, available at: <http://www.kozlonyok.hu/nkonline/MKPPDF/hiteles/mk11088.pdf>.

⁶⁰ Response of the Minister of Interior to the information request of Mária Demeter, independent member of the Hungarian Parliament, 31 May 2017, available at: <http://www.parlament.hu/irom40/15714/15714-0001.pdf>.

To reveal information pertaining to the operations of the companies authorised to issue residency bonds and to establish the volume of residency bonds purchased, Transparency International Hungary, in collaboration with a Hungarian daily magazine, ‘Magyar Nemzet’ has requested public interest information from the Parliament’s Committee for Economic Affairs and from the Government Debt Management Agency in 2016. Particular questions related to licensing processes of in the authorised companies and to the number of residency bonds issued by them. In lack of proper response, Transparency International Hungary commenced a court freedom of information process against the Committee and against the State Debt Management Agency. The defence of both defendants was based on secrecy laws, which, in their interpretation, apply to the purchase of state residency bonds and prevent any information from becoming public. The litigation was suspended.⁶¹

Before 1 July 2016, only those applicants were entitled to obtain permanent residence permits in Hungary who possessed temporary residence permits for the duration of at least six months.⁶² After 1 July 2016, the application for both forms of residence permit under the scheme could be submitted at the same time.⁶³ Therefore, the statistics published by the Ministry of Interior are broken down by figures related to applications for temporary residence permits, and applications for permanent residence permits as demonstrated in Table 1 and Table 2 below.

Table 1 Temporary residence permit

Year	Total no. of requests for residence	No. of requests for residence by investors	No. of successful applications	No. of turned down applications	Sources
2012	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
2013-2017		3659	3649	10	Ministry of Interior

Table 2 Permanent residence permit

Year	Total no. of requests for residence	No. of requests for residence by investors	No. of successful applications	No. of turned down applications	Sources
2012	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
2013-2017		6621	4794	1827	Ministry of Interior

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

Act II of 2007 specifically listed certain family members of the investor who purchases national residency bonds entitled to receive residence permit under the same conditions as the applicant. While only the applicant had to purchase bonds, all other requirements to receive a Hungarian residence permit were identical to his/her family members. Not all family members of the applicant (investor) were eligible. The following family members could receive residence permits under the investors’

⁶¹ Nagy Boldizsár: In Whose Interest? Shadows Over the Hungarian Residency Bond Program, Transparency International Hungary, 2016. page 71., available at: https://transparency.hu/wp-content/uploads/2017/01/In-Whose-Interest_Shadows-over-the-Hungarian-Residency-Bond-Program.pdf.

⁶² Article 28(6) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁶³ Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

residence scheme:

- spouse;
- descendants;
- parents.⁶⁴

Before 1 July 2016, applicants and family members were entitled to obtain permanent residence permits in Hungary only if they possessed temporary residence permits for the duration of at least six months prior to their applications for the permanent permit. After 1 July 2016, the application for both forms of residence permit under the investors' residence scheme could be submitted at the same time. Therefore, the statistics published by the Ministry of Interior are broken down by figures related to applications for temporary residence permits, and those related to applications for permanent residence permits, as demonstrated in Table 1 and Table 4 below.

Table 3 Temporary residence permits

Year	Number/Percentage of successful applications for residence permits for family members	Source
2012	Not applicable	Not applicable
2013-2017	99%	Ministry of Interior

Table 4 Permanent residence permits

Year	Number/Percentage of successful applications for residence permits for family members	Source
2012	Not applicable	Not applicable
2013-2017	81%	Ministry of Interior

⁶⁴ Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

2 TYPE OF INVESTMENT⁶⁵

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
<p>Purchase of securities (national residency bonds) with the maturity of not less than five years, of a nominal value of at least EUR 300,000.00, issued by a company authorised to subscribe such bonds by the Hungarian Parliament's Committee for Economic Affairs.⁶⁶</p>	<p>The bond's nominal value had to be a minimum of EUR 300,000.00.⁶⁷</p>	<p>The applicant had to purchase the bonds from one of the qualifying companies (authorised by the Hungarian Parliament's Committee for Economic Affairs).⁶⁸</p> <p>In order to monitor the right of residence or permanent residence, the company authorised to issue the bonds had to report to the Immigration and Asylum Office by the tenth day of each month and had to supply the necessary data and information, such as the number of securities issued during the month, the natural identification data of the holders of such securities, or of the majority owners of the business association, where applicable, including the amount of government bonds issued by the company, and an indication of the applicants who provided the funds. The immigration authority processed the data supplied by the company for a period of six years.⁶⁹</p>	<p>Bonds were issued by companies authorised by the Hungarian Parliament's Committee for Economic Affairs.⁷⁰</p> <p>The applicant had to apply for the residence permit at the Immigration and Asylum Office, or at the Hungarian consulate or other entity authorised to accept such applications in the applicant's home country.⁷¹</p>

⁶⁵ For the purposes of this Table, the term 'investment' covers any pecuniary disbursement required as part of the process for obtaining residence under the investors' residence scheme.

⁶⁶ Article 35/A(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁶⁷ Article 35/A(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁶⁸ Article 35/A(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁶⁹ Article 35/A(7) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷⁰ Article 35/A(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷¹ Article 35/B(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>Both temporary and permanent residence permits were issued under the investors' residence scheme⁷²:</p> <ul style="list-style-type: none"> ■ The temporary permit entitled the beneficiary to reside in Hungary up to five years.⁷³ ■ The permanent permit entitled the beneficiary to reside in Hungary for an undefined period of time.⁷⁴ 	<p>The Hungarian legal framework did not contain residence criterion in relation to the application and issuance of the temporary and permanent residence permits under the investors' residence scheme.</p> <p>Prior to 1 July 2016, however, applicants for the permanent residence permit had to prove that they had held a temporary permit based on their investment for a duration of a minimum of six months.⁷⁵</p> <p>As the Hungarian scheme required an investment in the form of the purchase of securities (bonds), the physical presence of the investor was not required under the scheme.⁷⁶</p>	<p>The applicant had to purchase the bonds from one of the qualifying companies (authorised by the Hungarian Parliament's Committee for Economic Affairs). In order to monitor the right of residence or permanent residence, the company authorised to subscribe the bonds had to report to the Immigration and Asylum Office by the tenth day of each month and had to supply the necessary data and information, such as the number of securities issued during the month, the natural identification data of the holders of such securities, or of the majority owners of the business association, where applicable, including the amount of government bonds subscribed by the company, and an indication of the applicants who provided the funds for the subscription. The immigration authority processed the data supplied by the company for a period of six years.⁷⁷</p>	<p>The temporary residence permit issued under the investors' residence scheme could have been renewed under the same conditions and under the same procedural rules as for the original residence permit. There was not limitation on the number and frequency of renewals. The duration of the renewal was up to five years.⁷⁸</p>

⁷² Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷³ Article 34(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷⁴ Article 35(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷⁵ Article 28 of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷⁶ Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷⁷ Article 35/A(7) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁷⁸ Article 34(3) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>The applicant and his/her family members were subject to a number of checks:</p> <ul style="list-style-type: none"> ■ the applicant must have been exempt from any reasons for rejection set out in Act II of 2007: <ul style="list-style-type: none"> ■ whose residence in the territory of Hungary constitutes a threat to public security or national security; ■ who is subject to expulsion or exclusion from the territory of Hungary or for whom an alert has been issued in the SIS for the purpose of refusing entry; ■ who has disclosed false information or untrue facts in the interest of obtaining the permit, or misled the competent authority; ■ who has a prior criminal record, until relieved from the detrimental legal consequences related to his criminal record. ■ the applicant must have a place of abode and subsistence in the territory of Hungary secured; ■ must have full healthcare insurance or sufficient financial resources for healthcare services.⁷⁹ 	<p>Due diligence screening was conducted by the Immigration and Asylum Office at the time of receiving the application or the application for renewal of the permit. The screening, however, covered only basic checks of the genuineness of the documents submitted by the applicant. The Office did not consult any special database (e.g. national criminal offenders database, Interpol, SIS), instead, it solely relied on the response of the national security services (Police, Constitutional Protection Office).⁸⁰</p> <p>No criteria were applied for turning down the applications as the Office could exercise discretionary power in relation to having sufficient financial resources for healthcare services for a sufficient living.⁸¹ As the funds were transferred to the companies authorised in exchange for the bonds, the Immigration and Asylum Office and the national security services did not check the source of the money the applicant used to purchase these bonds.⁸²</p> <p>As for the security considerations, the Immigration and Asylum Office involved the national security services (Counter-Terrorism Unit</p>	<p>Same authorities as for the general application for verifying due diligence criteria. As for the security considerations, the Immigration and Asylum Office has to involve the national security services into the procedure as consulting authorities (Counter-Terrorism Unit of the Hungarian Police, Constitutional Protection Office).</p> <p>The national security services have 20 days in the first instance procedure, and 10 days in the second instance procedure to conduct the security screening of the applicant.⁸⁶</p>	<p>To date no cases of misuse have been reported. but allegations of corruption, conflicts of interest and other irregularities have been raised in the media⁸⁷. There were no ex-post checks carried out in Hungary to monitor potential abuses.</p>

⁷⁹ Article 35/A(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁸⁰ Nagy Boldizsár: In Whose Interest? Shadows Over the Hungarian Residency Bond Program, Transparency International Hungary, 2016, page 46., available at: https://transparency.hu/wp-content/uploads/2017/01/In-Whose-Interest_Shadows-over-the-Hungarian-Residency-Bond-Program.pdf

⁸¹ Article 33(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁸² Immigration and Asylum Office (Bevándorlási és Menekültügyi Hivatal), 22 March 2018 (telephone interview).

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
	<p>of the Hungarian Police (<i>Terrorelhárítási Központ</i>), Constitutional Protection Office (<i>Alkotmányvédelmi Hivatal</i>) in the screening procedure.⁸³ There were, however, concerns how thorough the screening could have been given the short procedural deadlines (20 days in the first instance procedure, 10 days in the second instance procedure).⁸⁴ The national security services typically checked the background of the applicants in national and international databases (e.g. registry of criminal offenders, Schengen Information System).⁸⁵</p>		

⁸⁶ Article 35/C(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁸⁷ <https://mno.hu/belfold/orosz-csaloval-is-uzletelt-a-kormany-1360303>

⁸³ Article 35/C(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (*2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról*), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁸⁴ Magyar Nemzet (2018): Was the residence bond programme a gateway house? Only twenty people failed out of many thousands (*Átjáróház a letelepedési kötvényprogram? Csak húszan buktak el a sok ezerből*), 21 March 2018, available at: <https://mno.hu/belfold/atjarohaz-a-letelepedesi-kotvenyprogram-csak-huszan-buktak-el-a-sok-ezerbol-2454876>.

⁸⁵ Immigration and Asylum Office (*Bevándorlási és Menekültügyi Hivatal*), 22 March 2018 (telephone interview).

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

Residence permits issued under the investors' residence scheme were deemed to confer the same rights as for residence permits issued under other schemes of residency. Therefore, they entitled the beneficiaries (the investor, the spouse, descendants, parents) to stay in Hungary, permanently, temporarily or even occasionally.⁸⁸ As the residence permits did not grant citizenship to the beneficiaries, equal treatment rights were not granted to them. Specifically, the beneficiaries of the scheme did not enjoy equal treatment with Hungarian nationals with regard to access to branches of social security, recognition of diplomas, certificates and other professional qualifications, freedom of association and affiliation and membership of an organisation representing workers or employers or of any organisation whose members are engaged in a specific occupation, tax benefits, and access to goods and services and the supply of goods and services made available to the public (e.g. procedures for obtaining housing) as provided by Hungarian law.

The residence permit entitles the beneficiaries to apply for a work permit in Hungary, access educational institutions, and to freely move around the Schengen Area countries without having to obtain a Schengen visa for stays under 90 days.⁸⁹ The beneficiaries, however, did not get access to long-term EU resident status as this status still requires an active connection between the immigrant and the country of immigration (an actual stay in Hungary for five years prior to applying for the long-term EU resident status is required)⁹⁰, while beneficiaries of the national residency bond programme did not have to actually set foot in Hungary.⁹¹

2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Family members of the investor (only spouse, descendants and the parents) could enjoy the same rights mentioned above.⁹²

3 OTHER BENEFITS

None identified. The beneficiaries of the residency bond programme do not enjoy any special tax status in Hungary.

⁸⁸ Article 34(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁸⁹ Article 34(1) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁹⁰ Article 38(1) point a) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

⁹¹ Nagy Boldizsár: In Whose Interest? Shadows Over the Hungarian Residency Bond Program, Transparency International Hungary, 2016. page 47., available at: https://transparency.hu/wp-content/uploads/2017/01/In-Whose-Interest_Shadows-over-the-Hungarian-Residency-Bond-Program.pdf

⁹² Article 34(1)-(2) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról), Official Gazette no. 2007/1, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=A0700002.TV.

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

Beneficiaries of the National Residency Bond Programme may be eligible for Hungarian citizenship if they meet the general requirements set out in Act LV of 1993 on Hungarian citizenship.⁹³ Given that the requirement for ordinary naturalisation in Hungary is **eight years** of effective residency, the investors' residence scheme alone does not suffice for obtaining citizenship.⁹⁴ While the beneficiaries of the scheme could enjoy the rights to free movement and residence in Hungary, they were not exempted from the requirements otherwise applicable to obtaining citizenship in Hungary.

Statistical data on the number or percentage of third country nationals who obtained citizenship on the basis of investors' residence permits is not available.

⁹³ Act LV of 1993 on Hungarian citizenship (*1993. évi LV. törvény a magyar állampolgárságról*), Official Gazette no. 1993/34, available at: https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=99300055.TV.

⁹⁴ Advisory Corporate Tax, Residence Programmes in Malta: A comparative analysis, http://act.com.mt/media/images/active/downloads/Comparative%20Analysis_inc.%20MRVP_Final.pdf

V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

Hungarian law **does not establish any mechanism to monitor the economic impact and financial revenues** of investors who have been granted residence.

There is no publicly available information that would allow a determination of whether the residence scheme has met the expectations for which it was created. There are no studies assessing the economic and financial efficiency of the residence scheme. There is, however, a media report based on an interview conducted with a member of the Hungarian Parliament. 24.hu, an online medium in Hungary, published the article that included information obtained from the member of the Hungarian Parliament on 19 May 2017.

The article states the Hungarian state **did not benefit from the operation of the National Residency Bond Programme** during the four years the programme was in place. While the original purpose of launching the programme was to find alternative ways of providing financial aid in the form of medium-term loans to the Hungarian Government, the article states that Hungary lost 11.3 billion HUF (cc. EUR 37.67 million) on these bonds due to the high interest rates they paid to the investors.

Given that the duration of the residency bonds were at least five years, the general interest rates in the world market significantly decreased, especially around 2014-2016. While in 2014, the average interest rate on bonds with a 5-year maturity issued by the Hungarian Government in the world market was around 5.5%, it dropped to 3.3% by the end of 2016.⁹⁵ The Hungarian Government nonetheless has to pay the originally promised interest rate on the residency bonds to the investor once the bonds expire. According to the article, the payoff could be around a total of 330 billion HUF (cc. EUR 1,100 million). The article states the first batch of pay-backs will start in 2018. However, investors who received residency based on their investments profited significantly from the scheme, especially since some companies authorised by the Parliament's Committee for Economic Affairs offered the residency bonds with large discounts in 2016 and 2017. In one instance, a company offered the bonds for only EUR 125,000 given that the rest of the value of the bond was financed from long-term loan provided by financial institutions. The reason why the company could sell the bonds with such a huge discount was that the interest rate on the bonds promised by the Hungarian Government was way above the interest rates stipulated in the loan contracts, and that the companies had to pay only EUR 265,200 to the Government in exchange for the issuance of the bonds. The companies authorised to issue the bonds also profited significantly on the transactions given that they made profits on the intermediary commissions they charged for the transactions. The article estimated the commission to EUR 40,000-60,000 per bond. The article states the aggregated profit of the companies they earned on the bonds was estimated at 100 billion HUF (cc. EUR 333.4 million).⁹⁶

Given the above-described uncertainties and lack of publicly available information on the economic impact of the National Residency Bond Programme, only a rough calculation can be made on the overall expenditure the applicants had to face, and on the amount of funds the Government collected through the programme. According to the law, the exact amount of money required to invest in residency bonds was 300,000 EUR per applicant. The invested amount was the same even if the applicant wanted to extend residency to his/her dependants. Between **2013-2017**, 4,794 applicants were granted permanent residence permits. Assuming that all successful 4,794 applicants invested 300,000 EUR each, the **overall investment** of the beneficiaries of the programme was **1,438,200,000**

⁹⁵ Trading Economics: Hungarian State Bonds, available at: <https://hu.tradingeconomics.com/hungary/government-bond-yield>.

⁹⁶ 24.hu (2018): Everybody profited from the Hungarian residency bonds, only the country lost billions (*Mindenki nyert a magyar letelepedési kötvényen, csak az ország bukott milliárdokat*), 19 May 2017, available at: <https://24.hu/belfold/2017/05/19/mindenki-nyert-a-magyar-letelepedesi-kotvenyen-csak-az-orszag-bukott-milliardokat/>.

EUR. Also, the applicants had to pay commission to the intermediary companies (the authorised companies that could issue the bonds). As stated above, the amount of commission ranged between 40,000-60,000 EUR per application depending on each company's own policy. For the sake of calculation, we assume each applicant had to pay 50,000 EUR to the intermediary company. Based on this assumption, the **aggravated amount of commission** the applicants had to pay beyond the investment was **239,700,000 EUR**. Taking this example, and based on the altogether 4,794 successful applications made between 2013-2017, it is possible to state that this entails a total expenditure of **EUR 1,677,900,000** broken down as follows:

- Investment (nominal value of the residency bonds): $\text{EUR } 300,000 \times 4,794 = \text{EUR } 1,438,200,000$
- Commission paid to intermediary companies: $\text{EUR } 50,000 \times 4,794 = \text{EUR } 239,700,000$

Following this calculation, the total amount of **funds collected by the Government through the National Residency Bond Programme** between 2013-2017 amounted to EUR 1,438,200,000.