



**Misuse of the Right to Family Reunification:
marriages of convenience and false declarations of parenthood**



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1.

Executive summary

The concrete aim of the study is to present the misuse of the right to family reunification, which is in connection with the residence permit for the purpose of family reunification and with the entry and stay of third-country national family member of a Hungarian citizen or an EEA national, the problem of marriages of convenience and other relationships of convenience and to present the current situation in Hungary furthermore to provide an analysis of the situation presented. The study gives an overview of the national legislation, and the practice of fact-finding to the marriage of convenience and the false documentation. The study presents a comprehensive evaluation on the recent and present trends on misuse and national practice aiming at tackling abuses.

Under current legislation there is a clear difference between the forms of misuse, procedures, alien police procedures and the status of the third-country national family member joining the third-country national legally residing in the territory of Hungary and the third-country national family member of a Hungarian citizen or an EEA national.

Family reunification of third-country national family members of third-country nationals legally residing in the territory of Hungary is regulated by Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals, which is in line with Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification. Family reunification of third-country national family members of a Hungarian citizen or an EEA national is covered by Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence, which is in line with Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the EU Member States.

Although marriage of convenience represents a current problem both in the European Union and in Hungary, publications dealing with marriage of convenience and other partnership of convenience are rarely released in Hungary. Research on the internet has mainly resulted in newspaper articles on the subject. From this point of view, given that there is a clear lack of such publications, the study endeavours to fill this knowledge and information gap.

Section 2. defines the most important definitions, presents the most important alien police legislation and detailed regulations.



Section 3. presents the basic information about the Hungarian situation of partnership of convenience, the detecting of misuse, the evidence procedure and the competent authority. Considering the private nature and the sensitivity of the subject, we are not in possession of accurate information in the field of relations of convenience as far as grounds and motivations of Hungarian, the third-country nationals and the persons helping them are concerned, in this respect only information provided in the Hungarian and international media can provide us some guidance.

Section 4. presents statistical figures relating to the residence permits issued for the purpose of family reunification and to the entry and stay of third-country national family member of a Hungarian citizen or an EEA national.

Section 5. (Summary and conclusion) summarizes basic information and problems. During the course of research gaps and deficiencies have been identified in the system with respect to detecting and effective handling of problems.

In sum, drawing up of a national policy plan and laying down a national strategy paper proves necessary, which enables the competent alien policing authorities to effectively combat the abuses and also to punish clients who act fraudulently.

2.

National legislative framework and definitions

2.1. Definitions

'**Marriage**' is, according to law and tradition, a social union and a legal contract between an adult man and a woman, which marital cohabitation is recognized and regulated by the law. The marriage is defined by the Constitution of Hungary as a married life between man and woman on the grounds of voluntary decision, and the family is defined as the basis of the national continuance.¹

'**Cohabitation**' is an arrangement where two people who are not married live together in an intimate relationship, particularly an emotionally and/or sexually intimate one, on a long-term or permanent basis. Cohabitation is different from the marriage and from the registered partnership, because it is not established by act of will, but it comes into existence with the fact of living together. According to Article

¹ Foundations, Article L Paragraph (1) of Constitution of Hungary (coming into force 1. January 2012.).



685/A of the Civil Code cohabitation is a symbiosis between two persons who did not get married and established registered partnership with each other and anyone else, joining household and financial and emotional community and who are not direct relatives and not (half)brother and (half)sister.

'**Registered partnership**' is a form of partnership which, similarly to marriage is established by act of will manifested before a state agent and following a registration. The registered partnership² enters into force with the statement of parties of same sex who are above 18 years of age before the registrar.³ Registered partnership ensures rights and responsibilities to same sex couples identical to civil marriage and the regulation for spouses apply for registered partnerships.⁴ Pursuant to Article 3 (1) of Act XXIX of 2009 on registered partnerships if the Act unless otherwise specifies or does not preclude its application a) provisions governing marriage are applicable to registered partnerships, b) provisions applicable to the spouse are applicable to the registered partner.

'**Marital cohabitation**' is concluded between persons living in common household and emotional and economic community.

The '**declaration of paternity**' is a statement, which establishes fatherhood.⁵ The man who the child descends from may recognize the child from the moment of conception, by virtue of a declaration of paternity, if, according to law, no other man shall be considered as father of the child in question and the child is elder, at least by sixteen years, than the man having given the statement above sixteen years of age.⁶ Such declaration of paternity may only be made in person.⁷ The consent of the mother of the child and, the legal representative of the child, and in case the child has reached the age of fourteen the consent of the child is necessary. If the mother or the child is not alive or they are hindered from making such a statement, the consent shall be given by the court of guardians.⁸ The recognition or the consent shall be

² The Constitutional Court annulled Act CLXXXIV of 2007 on registered cohabitant relationship. From the standpoint of the Constitutional Court the Act considers the partnerships of people with different and same sex as a homogeneous group. This Act also contains a regulation that makes the marriage identical to the registered partnership regarding its relevant features. The Constitutional Court recalls that the Constitution protects the marriage, however, the registered partnership between a man and a woman - who have the opportunity to conclude a marriage - shall be regarded as a duplication of marriage which is defended by virtue of law.

Although the Constitutional Court has emphasized: the recognition and protection of the registered partnership of people with same sex may be deducted from the right for human dignity and, consequently, the establishment of registered partnership for people with same sex is not unconstitutional.

³ Article 1 (1) Act XXIX of 2009 on the registered partnership.

⁴ Article 3 (1) Act XXIX of 2009 on the registered partnership.

⁵ Article 37 (1) of the Act IV of 1952 on the marriage, the family and the guardianship.

⁶ Article 37 (2) of the Act IV of 1952 on the marriage, the family and the guardianship.

⁷ Article 37 (3) of the Act IV of 1952 on the marriage, the family and the guardianship.

⁸ Article 37 (4) of the Act IV of 1952 on the marriage, the family and the guardianship.



recorded at the competent registrar, the court of justice, the court of guardians or at the competent consular authority or it shall be incorporated into a notarial document.⁹

'**Parental custody**' includes the rights and obligations of care, upbringing, property management and legal representation of the minor furthermore the right of appointing a guardian and exclusion from guardianship.¹⁰

According to Article 2 point d) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals '**family member**' for the purposes of this Act means:

- the spouse of a third-country national,
- the minor child (including adopted children) of a third-country national and his/her spouse,
- the minor child, including adopted and foster children, of a third-country national where this third-country national has parental custody and the children are dependent on him/her,
- the minor child, including adopted and foster children, of the spouse of a third-country national where the spouse has parental custody and the children are dependent on him/her.

According to the provisions of Act II of 2007 the following relatives of sponsors, the spouses of sponsors or persons with refugee status may be granted a long-term visa or a residence permit on the grounds of family reunification: their parents who are dependants; their brothers and sisters, if they are unable to provide for themselves due to health reasons.¹¹

Pursuant to Article 2 point b) of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence '**family member**' for the purposes of this Act means:

- the spouse of an EEA national,
- the spouse of a Hungarian citizen,
- the direct descendants of an EEA national and those of the spouse of an EEA national who are under the age of 21 or are dependants,
- the direct descendants of a Hungarian citizen and those of the spouse of a Hungarian citizen who are under the age of 21 or are dependants,

⁹ Article 37 (5) of the Act IV of 1952 on the marriage, the family and the guardianship.

¹⁰ Article 71 (2) of Act IV of 1952 on the marriage, the family and the guardianship.

¹¹ Article 19 (4) of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.



- unless otherwise prescribed in this Act - the dependent direct relatives in the ascending line of an EEA national and those of the spouse of an EEA national,
- and the direct relatives in the ascending line of a Hungarian citizen and those of the spouse of a Hungarian citizen,
- the person who has parental custody of a minor child who is a Hungarian citizen,
- any person whose entry and residence has been authorized by the competent authority on grounds of family reunification,
- the common-law partner of an EEA national, who is registered as a common law wife/husband (cohabitation, registered partnership) by the authority of Hungary or other member states of the European Union,
- the common-law partner of a Hungarian citizen, who is registered as a (cohabitation, registered partnership) wife/husband by the authority of Hungary or other EU Member States.

'**Marriage of convenience**' is not defined under Hungarian legislation. Hungarian citizens who for financial consideration in deceiving the alien policing authority establish marriages of convenience with a view to legalize their stay in the territory of Hungary and to ultimately enjoy the right to free movement are neither subject to any criminal punishment or have to bear other detrimental consequence. On the other hand sanctions are foreseen in the alien police legislation regarding those third-country nationals who wish to establish marriages of convenience.¹²

2.2. National legislative framework

The most important legislation related to the entry and stay of the third-country nationals for the purpose of family reunification and the entry and stay of the third-country national family members of a Hungarian citizen or an EEA national are following:

- Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence (hereinafter referred to as FMRA);
- Government Decree 113/2007 (V. 24.) on the Implementation of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence (hereinafter referred to as FMRA GD);

¹² Article 14 of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence.



- Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter referred to as RRTN);
- Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals (hereinafter referred to as RRTN GD);
- Act IV of 1952 on the marriage, the family and the guardianship;
- Act IV of 1959 on the Civil Code;
- Act XXIX of 2009 on the registered partnership;
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;
- Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;

A third-country national residing legally in the territory of Hungary reunifying with a third-country national:

The procedural rules of the entry and stay of the third-country nationals for the purpose of family reunification and the residence permit application are regulated by the RRTN and RRTN GD.

Generally it can be said that for the purposes of Article 13 (1) of RRTN **for entry into the territory of Hungary and for stays in the territory of Hungary for a period of longer than three months the entry conditions for third-country nationals are** the following:

- a) they are in possession of a valid travel document;
- b) they are in possession of a visa for a validity period of longer than three months, a residence permit, an immigration permit, a permanent residence permit, an interim permanent residence permit, a national permanent residence permit, an EC permanent residence permit or EC Blue Card;
- c) they are in possession of the necessary permits for return or continued travel;
- d) they justify the purpose of entry and stay;
- e) they have accommodations or a place of residence in the territory of Hungary;
- f) they have sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country;



g) they have full healthcare insurance or sufficient financial resources for healthcare services;

h) they are not subject to expulsion or exclusion, they are not considered to be a threat to public policy, public security or public health, or to the national security of Hungary;

i) they are not subject to SIS warn signal.

According to Article 19 (1) of RRTN a ***residence permit may be issued on the grounds of family reunification*** to a third-country national *who is relative of a third-country national who is in possession of a long-term visa, a residence permit, immigration permit, permanent residence permit, interim permanent residence permit, a national or EC permanent residence permit, or - under specific other legislation - in possession of a residence card or permanent residence card* (for the purposes of this Article hereinafter referred to as "sponsor"). Under the *above mentioned family members of persons with refugee status, and the parents of unaccompanied minors with refugee status, or their legally appointed guardian* may be granted a residence permit on the grounds of family reunification.¹³ Pursuant to Article 17 (1) of Act LXXX of 2007 on asylum unless a rule of law or government decree expressly provides otherwise, a beneficiary of subsidiary protection¹⁴ has the rights and obligations of a refugee, in this way family members of the beneficiary of subsidiary protection, and the parents of unaccompanied minors who is beneficiary of subsidiary protection, or their legally appointed guardian may be granted a residence permit on the grounds of family reunification. A decision rejecting an application for family reunification of a person with refugee status may not be based solely on the fact that documentary evidence of the family relationship is lacking.¹⁵ *The parents who are dependants and the siblings, if they are unable to provide for themselves due to health reasons, the spouses of sponsors or persons with refugee status* may be granted a residence permit on the grounds of family reunification.¹⁶ The spouse of a person with refugee status may be issued a residence permit for the purpose of family reunification if the marriage was contracted before the entry of the person with refugee status into the territory of Hungary.¹⁷ *However the spouse of a sponsor may not be issued a residence permit if the other spouse of*

¹³ Article 19 (2) of RRTN.

¹⁴ Regarding to Article 12 (1) of Act LXXX of 2007 on Asylum Hungary shall grant subsidiary protection to a foreigner who does not satisfy the criteria of recognition as a refugee but there is a risk that, in the event of his/her return to his/her country of origin, s/he would be exposed to serious harm and s/he is unable or, owing to fear of such risk, unwilling to avail himself/herself of the protection of his or her country of origin. According to Article (2) fear of serious harm or of the risk of harm may also be based on events which occurred following the foreigner's departure from his/her country of origin or on the activities of the foreigner which s/he was engaging in following departure from his/her country of origin.

¹⁵ Article 19 (3) of RRTN.

¹⁶ Article 19 (4) of RRTN.

¹⁷ Article 19 (5) of RRTN.



*the sponsor has a residence permit that was issued on the grounds of family reunification.*¹⁸ *The children of third-country nationals with a national visa or a residence permit born in the territory of Hungary are issued a residence permit on the grounds of family reunification.*¹⁹

The validity period for a residence permit granted for the purpose of family reunification is three years, and it may be extended by three additional years at a time,²⁰ but the validity period of a residence permit issued for the purpose of family reunification may not exceed the validity period of the sponsor's residence permit.²¹

Where the purpose of entry and residence is family reunification, ***third-country nationals may verify the purpose of entry and stay with birth certificate, marriage certificate,²² adoption document, or other reliable means.***²³ ***Family relationship for the purpose of reunification with a person with refugee status or with a person who is a beneficiary of subsidiary protection may be verified by any reliable means – particularly by DNA test.***²⁴ Sampling for the DNA test is done in the presence of the representative of the regional headquarters of the Office of Immigration and Nationality (hereinafter referred to as OIN) or the consul.²⁵ If a third-country national proves family relationship with a DNA test abroad then the regional headquarters will request expert opinion from the Hungarian Institute for Forensic Sciences.²⁶ All costs incurred with the DNA test are to be paid by the applicant.²⁷

The family members of third-country nationals with refugee status has to verify their compliance with the requirements set out in Article 13 (1) points e)-g) of the RRTN - have accommodations or a place of residence in the territory of Hungary, have sufficient means of subsistence and financial resources to cover their accommodation costs for the duration of the intended stay and for the return to their country of origin or transit to a third country, have full healthcare insurance or sufficient financial resources for healthcare services - if more than six months have elapsed between the time when refugee status was granted and the time when the request for family reunification was lodged.²⁸ The above mentioned

¹⁸ Article 19 (6) of RRTN.

¹⁹ Article 19 (8) of RRTN.

²⁰ Article 19 (9) of RRTN.

²¹ Article 19 (10) of RRTN.

²² A registrar certificate shall also mean a similar or equivalent document issued by a foreign authority.

²³ Article 56 (1) of RRTN GD.

²⁴ Article 57 (2) of RRTN GD.

²⁵ Article 57 (3) of RRTN GD.

²⁶ Article 57 (4) of RRTN GD.

²⁷ Article 57 (5) of RRTN GD.

²⁸ Article 57 (6) of RRTN GD.



favourable conditions cannot be applied to the application for residence permit by the family members of a person who is a beneficiary of subsidiary protection.²⁹

Any third-country national who received his/her residence permit for reasons of family reunification is required to report to the competent regional directorate of jurisdiction by reference to the place where the residence of the third-country nationals is located if his/her marriage is dissolved or in the event of the death of his/her spouse within thirty days following the spouse's death or the final court ruling for the dissolution of the marriage with the relevant documents attached.³⁰

Given that under RRTN a family member is the spouse of a third-country national, the minor of a third-country national and his/her spouse, the minor child, including adopted and foster children, of a third-country national where this third-country national has parental custody and the children are dependent on him/her, the minor child, including adopted and foster children, of the spouse of a third-country national where the spouse has parental custody and the children are dependent on him/her, and on the other hand marriage is on the basis of the Hungarian law a social union and a legal contract between an adult man and woman, thus the common-law partner cannot obtain a residence permit for reasons of family reunification, but if the common-law partner is able to verify the purpose of the stay by verifiable means he/she may obtain a residence permit for other purpose. Besides the above the provisions governing registered partnerships should be taken into account. Pursuant to Act XXIX of 2009 Article 3 (1) on registered partnership provisions applicable to spouses apply for registered partnerships as well unless otherwise specified by law, and according to commentary on the above act³¹, the registered common law wife/husband may obtain a residence permit for the purpose of family reunification. Furthermore it is necessary to emphasize that the third-country national spouses and children of the third-country national have to comply with the same above detailed requirements.

Third-country national family member of a Hungarian or EEA national

The procedural rules on the entry and stay of the third-country national family member of a Hungarian citizen or an EEA national and the application for residence card are regulated by the FMRA and FMRA GD.

²⁹ Article 57 (7) of RRTN GD.

³⁰ Article 58 of RRTN GD.

³¹ According to the commentary on Act XXIX of 2009 on the registered partnership is same-sex couples identical to civil marriage in immigration cases.



Family members of EEA nationals who satisfy the requirements set out in 6 (1) point a) and b) of FMRA have the right of residence, if the EEA nationals have the right of residence for a period of longer than three months if they intend to engage in some form of gainful employment or have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and his/her family for such services as required by statutory provisions³². The spouse and dependent children of any EEA national who are enrolled at an educational institution governed by the act on public education or the act on higher education, for the principal purpose of following a course of study, including vocational training and adult education if offering an accredited curriculum, and they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions, have the right of residence³³.

According to current alien police legislation *family members of any Hungarian citizen who is engaged in gainful employment have the right of residence for a period of longer than three months.³⁴ The right of residence for a period of longer than three months extends to the family members of a Hungarian citizen if: they have sufficient resources for themselves or the Hungarian citizen has sufficient resources for such family members not to become a burden on the social assistance system of Hungary during their period of residence and they have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.³⁵ The right of residence for a period of longer than three months may be granted to a person who exercises parental custody of a minor child who is a Hungarian citizen in the absence of the above mentioned and by the law regulated requirements.³⁶*

³² Article 6 (2) of FMRA

³³ Article 6 (3) of FMRA

³⁴ Article 7 (1) of FMRA.

³⁵ Article 7 (2) of FMRA.

³⁶ Article 7 (3) of FMRA.



*The competent authority may grant the right of residence to persons on the grounds of family reunification, who are dependants or members of the household of a Hungarian citizen for a period of at least one year, or who require the personal care of a Hungarian citizen due to serious health grounds, or had been dependants or members of the household of an EEA national - who have the right of residence for a period of longer than three months - in the country from which they are arriving, for a period of at least one year, or who require the personal care of an EEA national due to serious health grounds (**quasi family member**).³⁷*

Third-country nationals *may verify the family relationship with the Hungarian citizen or EEA national by submitting birth certificate, marriage certificate,³⁸ adoption document, or by other verifiable means.*³⁹ If the applicant applies for authorization to reside as quasi family member he/she has to provide documentary evidence of being supported by a Hungarian citizen under a maintenance or life annuity contract, or an obligation of support described in specific other legislation, or a declaration of support, or if an EEA national is required to support him/her on the basis of statutory provisions or under contract, a statement of his/her doctor to verify his/her health condition due to which nursing by the EEA national or Hungarian citizen in question is required, provide documentary evidence, where applicable, in the form of an official certificate issued by the competent authority of having been members of the household of an EEA national in the country from which they are arriving, for a period of at least one year.⁴⁰

With the exception set out in law, EEA nationals and Hungarian citizens have to declare their commitment to support their family members using the standard form described in specific other legislation (hereinafter referred to as "declaration of support").⁴¹ No declaration of support is required if the EEA national or the Hungarian citizen is engaged in gainful employment.⁴² Family members of an EEA national have to provide proof to verify that the EEA national whom they plan to accompany or join satisfies the condition set out in FMRA⁴³, unless the EEA national holds a registration certificate or a

³⁷ Article 8 (1) of FMRA.

³⁸ A registrar certificate shall also mean a similar or equivalent document issued by a foreign authority, which is acceptable only after the registration in Hungary in case of Hungarian family member. In case of the EEA nationals family member the registrar certificate issued by a foreign authority can be acceptable only after the diplomatic authentication.

³⁹ Article 24 (1) of FMRA GD.

⁴⁰ Article 27 (1) of FMRA GD.

⁴¹ Article 25 (1) of FMRA GD.

⁴² The declaration of support shall enclosed with the application for residence card.

⁴³ All EEA nationals shall have the right of residence for a period of longer than three months if they intend to engage in some form of gainful employment, have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family for such services as required by statutory provisions, or are enrolled at an educational institution governed by the act on public education or the act on higher education, for the principal purpose of following a course of



permanent residence card. Pursuant to FMRA family members of Hungarian citizens have to verify that they themselves or the Hungarian citizen in connection with whom the applicant's eligibility to reside in the territory of Hungary is established is in compliance with the conditions laid down in (Article 7 of FMRA) law.

The right of residence of family members who are third-country nationals for a period of longer than three months shall be evidenced by a document (*residence card*) issued by the competent authority for which the application has to be submitted within ninety-three days from the time of entry or from the date of initiation of the fact underlying the right of residence. The documents to certify compliance with the requirements prescribed in specific other legislation for residence have to be presented or enclosed with the application.⁴⁴ The validity period for a residence card is five years, but the competent authority – on the basis of any circumstances – may determine a shorter validity period.

(Charts for presentation of the personal scope specified in RRTN and FMRA are included in Annex 1. and 2.)

2.3. National legislation connected to the marriage of convenience and false declaration of paternity

According to the Hungarian legislation in force - unless otherwise prescribed in RRTN - new residence permits or the extension of existing ones has to be refused, or if already issued has to be withdrawn from third-country nationals, who fail to comply with either of the requirements set out in law; who have disclosed false information or untrue facts to the competent authority with a view to obtaining the right of residence, or mislead the competent authority in terms of the purpose of the residence; who suffer from any disease that is considered to constitute a threat to public health, and who refuse to submit to the appropriate compulsory medical treatment, or who fail to abide by the Hungarian health regulations while staying in the territory of Hungary; who established the family relationship solely for the purpose of obtaining a residence permit on the grounds of family reunification.⁴⁵

study, including vocational training and adult education if offering an accredited curriculum, and they have sufficient resources for themselves and their family members not to become a burden on the social assistance system of Hungary during their period of residence, and have comprehensive sickness insurance cover for health-care services as prescribed in specific other legislation, or if they assure that they have sufficient resources for themselves and their family members for such services as required by statutory provisions.

⁴⁴ Article 22 (1) of FMRA.

⁴⁵ Article 18 of RRTN.



According to the Hungarian legislation in force the right of residence of third-country national family members terminates if the relationship was established solely for the purpose of obtaining the right of residence⁴⁶ and the right of residence of a third-country national having custody of a child terminates when the right to exercise parental care is terminated, and if such person is not entitled to further residence on any other ground.⁴⁷ Establishing family ties of convenience was incorporated in the grounds for rejection and revocation of residence card by Article 8 (2) of Act CXXXV 2010, which entered into force on 24 December 2010. These modifications strengthened the competence of the alien policing authority in tackling abuses of establishing family ties of convenience (marriage of convenience and other relation of convenience) with the sole purpose of obtaining the right to stay.

From a practical point of view, it is the attempt by applicants to *verify family links with false and forged documents during the application for family reunification* that represents a problem in Hungary rather than marriages of convenience or similar relations. In order to detect these abuses, if a well-founded suspicion of submitting false documents arises during the application procedure, the competent authority initiates the procedure of the document expert. If the document expert ascertains that the document in question is false or forged, the application of the third-country national is rejected with reference to his/her fraudulent action by which s/he attempted to deceive the authorities by having made false statements [Article 1 (18) of RRTN] as well as the authority files charges for falsifying public documents at the competent police authority. *Concerning the issuance of residence cards* it is necessary to take actions not only in the field of false documents but also *to carefully investigate whether there is a real family life/cohabitation existing between the third-country national and the Hungarian/EEA national*. In order to screen marriages and relations of convenience the competent authority checks the living environment of the parties considering the proofs of cohabitation on the one hand and on the other hand interrogates the parties with a view to verifying the existence of a valid cohabitation between the third-country national and his/her family member.

2.4. The impacts of European Court of Justice case law which has focused on family reunification in the Hungarian law enforcement

The case law of the Court of Justice of the European Union (ECJ) focussing on family reunification, on the marriage of convenience and on other relation of convenience has no direct and verifiable impact on

⁴⁶ Article 14 (2) of FMRA.

⁴⁷ Article 14 (3) of FMRA.



the practice of the Hungarian law enforcement. On the other hand there are some examples in the case law of the ECJ which are completely compatible with the Hungarian legislation. For example the Zambrano case C-34/09 which on 8 March 2011 the ECJ ruled that an EU member state may not refuse the non-EU parents of a dependent child who is a citizen of, and resident in, an EU member state the right to live and work in that member state.

3.

Situation in Hungary

3.1. Situation in Hungary concerning marriages and other relations of convenience

3.1.1. Marriage of convenience

Experience gained recently as well as following Hungary's accession to the EU clearly shows that citizens, principally from African and Arab countries, have been increasingly striving to obtain legal resident status, thus obtaining the right of free movement and stay in Hungary by establishing family relations with Hungarian nationals. Generally speaking, we can conclude that Nigerian citizens prefer marriage relations whereas Asian migrants give preference to cohabitational relations. With a view to tackling abuses and deceptions the immigration authority attempts to detect these relations of convenience, in practice, by using simultaneous interrogations of the spouses (as a primary tool for screening the relationship prior to entry). During the face-to-face interrogations, carried out by the consular officer (in case of visa application process abroad) or by the immigration authority (in Hungary) – in order to detect the abovementioned abuses –, circumstances of the acquaintance, family background of the other party, family links, shared experiences, ceremony of marriage are thoroughly examined. Both parties have to answer the same questions thus, based on the records drawn up during the interview, in many cases it becomes obvious that the parties lack even the basic information of each other, their responses to the questions are remarkably different concerning the most essential issues. Besides the aforementioned methods there are additional means to explore the real conditions of the marital status and for obtaining useful information such as the interrogation – apart from the spouse residing in Hungary – of relatives, on the spot checks or a so-called scanning of surroundings.

Nigerian citizens mainly enter the territory of Hungary from Austria – with a passport (but lacking a valid visa) issued at the Nigerian Embassy in Vienna –, where they were subject to an asylum procedure earlier. In case they fail to obtain a valid visa at the Embassy (due to the rise of suspicion of marriage of



convenience or the unresolved legal title of their stay in Austria or a mere possession of a refugee card which proves the holder's status as an asylum seeker and does not entitle its holder for obtaining a visa), abusing the Schengen acquis – as a result of the termination of border control – they enter Hungary illegally. The marriage takes place either in Vienna or in Hungary.

Concerning Hungarian (mostly) ladies of different age and with different financial background it is a common phenomenon that quick friendships with Tunisian, Egyptian men made during summer holidays very soon result in a marriage. In most cases these marriages are concluded abroad (in Egypt, Tunisia, Algeria, Nigeria) in compliance with Muslim religious rules. For the time being, in these regions, it is typical that the ladies go abroad again in order to conclude the marriage if they fail to do so during their summer holiday, furthermore in case of other Islamic states, e.g. Syria, Afghanistan, Pakistan, the marriage is concluded in the absence of the brides who are usually replaced by an object (for instance „knife” or „ash-tray”) during the course of the ceremony.

To sum up, it can be said that in numerous cases the spouses lack even the basic information regarding the personal features, the background and the current living conditions of each other. During the procedures many resemblance regarding the circumstances of the acquaintance can be detected by the alien police authority relating to the applicants and their spouses of Hungarian nationality. In case of friendships made via Internet foreigners deliberately search for contacts with their Hungarian clients on community sites (e.g. badoo) as Hungarian women register there exclusively for the purpose of making contacts via chatting, the Tunisian, Algerian, Egyptian etc. young males initiate prompt contact with them on different sites, nearly forcing their partnership upon the ladies. Personal rendez-vous during summer holidays are not incidental either. Interested young males anticipate already weeks before from which countries and to which hotels lonely, senior ladies are expected to arrive, with whom they establish closer friendships immediately in the first evening that generally end up in a swift conclusion of marriage. The above circumstances and the frequency of cases indicate considerable organization, however, the persons behind the scenes form an inextricable link.

Observations in Hungary in this respect similarly to other EU Member States depict an unfavourable image. Most typical factors of such cases are acquaintance made via Internet or during a summer holiday abroad as mentioned above, lack of mutually spoken language, the huge disparity in age to the advantage of the Hungarian spouse, the lack of proper educational background, questionable financial situation, unstable financial background in the home country as well as the total lack of prior travel references of



the foreigner. An additional circumstance is that the parties concerned wish to realize the cohabitation exclusively in the territory of Hungary.

In line with our findings concerning the popularity and frequency of marriages among Egyptian young males this tendency begins to evolve among Tunisian citizens as well, however, the techniques are the same as specified above. New tendencies may be observed, likewise in case of Tunisian nationals, that the Hungarian female citizens do not conclude a marriage immediately, however, they play an active role in organizing the travel of their partner to Hungary. In these cases the applications are lodged with the purpose of pursuing employment or visit and the necessary supporting documents and authorizations are provided with the help of the Hungarian ladies. This assistance may include assistance in job seeking and/or searching accommodation and also establishment of companies by Hungarian nationals where young Tunisian men are hired as employees with whom they have been maintaining contacts for a period.

Regarding applications for residence permits submitted by third-country nationals' family member of third country nationality the aspects of relations of convenience did not arise, however, sometimes they attempt to verify their family relations by false documents. In this case the document or family photo, lodged as credible supporting document, in question is subject to an expert review.⁴⁸

3.1.2. Other relations of convenience

Besides marriage of convenience new forms of abuses have arisen in the past year aiming at acquiring legal resident status in Hungary. These new method is the circle of the so-called „children of convenience.” Foreigners of Asian origin (primarily Vietnamese and Chinese nationals), illegally staying in Hungary, are making **a declaration of paternity** in order to establish a legal status as a family member, most often concerning Hungarian children of the age of 6-8 years. This question raises a problem of law enforcement in light of the Hungarian legislation in force. During the immigration procedure in most cases it turns out that third-country nationals do not actually maintain contacts with the child, support the minor nor financially nor by any other means, they make a declaration of paternity after having met only a few times with the child. The immigration authority either cannot, or can only handle these cases by legal means with difficulty, considering the varying practice of county courts as well. The

⁴⁸ This problem can arise only by the family reunification with refugee status, because only in this case the decision rejecting an application for family reunification may not be based solely on the fact that documentary evidence of the family relationship is lacking.



Supreme Court of Hungary defined its position on the issue in two verdicts⁴⁹ in October 2011 as follows: in these procedures only the existence of parental custody of the third-country national over the minor Hungarian citizen may be examined, it is irrelevant whether the minor is in fact living in the household of the foreigner.

In assessing applications subject to AFMS a new phenomenon needs to be mentioned whereby mainly female applicants of Vietnamese/Chinese citizenship attempt to legalize their illegal stay in Hungary for years. It is very difficult for the authorities to tackle these abuses since these clients **wish to obtain a right to stay having regard to their own minor child of Hungarian nationality** in such a way that the child is presumably a descendant of a Vietnamese/Chinese father, however, the Hungarian citizen – supposedly in exchange of financial compensation – has made a declaration of paternity with respect to the minor and as a result the child will be registered as a Hungarian citizen. It is enormously difficult to prove the facts in these cases and it also turns out very only in few cases that the mother applicant lived in a matrimonial relationship with a third-country national at the time of the conception. In many cases after the issuance of residence card the Vietnamese husband and children of the Vietnamese woman who is in possession of residence card request a residence card.

Regarding applications for residence permits submitted by third-country nationals' family member of third country nationality the issue of other relations of convenience has not arisen.

3.1.3. Other forms of abuses

Besides the above a new problem has been detected regarding the abuses of the right to family cohabitation in Hungary, namely where a third-country national requests a residence card as a „quasi family member” [on the basis that the partner of Hungarian nationality provides the third-country national with alimentation, pursuant to Article 8 (1) of AFMS.] In these cases it has often been found that the partners concerned were not living together, there were no economic ties between them, in addition in several cases the same Hungarian national made statements for alimentation regarding more than one third-country nationals. Sometimes the Hungarian national did not even make the statement for alimentation him/herself and he/she was not even aware of the statement, thus the statement for alimentation was falsified.

⁴⁹ Decision of Supreme Court No. Kfv.III.37.048/2011/5. and Decision of Supreme Court No. Kfv.III.37.030/2011/4.



3.2. Prevention of abuses of the right for family reunification

In order to prevent and combat the obtaining of the right to stay on the basis of relations of convenience Hungarian authorities seek to identify, already during the visa application procedures for a „C” visa, those applicants who wish to enter Hungary for the purpose of family unification or visit by referring to a marriage or a friendship concluded following acquaintance via Internet or during summer holiday abroad. During the visa application procedure foreigners are subject to an interrogation as well where the consular officers in order to clarify the above circumstances endeavour to investigate the conditions of acquaintance, the family background and family links of the other partner, the shared experiences and the ceremony of the marriage. During these interviews information may be acquired on the validity of the familial relationships. Should the authority come to the conclusion that the familial relationship or friendship has been established with a view to obtain the right to stay the applications will be rejected.

Generally speaking, Hungarian legislation does not provide for the possibility to prevent the conclusion of marriages of convenience since the spouses are not subject to such a scrutiny before the registrar. The investigation of existence of such relations of convenience falls within the core competence of the immigration authorities during the visa and residence permit procedures.

3.3. Proofs of relations of convenience

Upon deciding on the issuance of a residence card to a Hungarian/EEA citizen the immigration authority takes into account resolution No. 97/C382/01. (4th of December 1997.) of the Council of the European Union on the applicable measures against marriages of convenience, which specifies those general factors that can substantiate the existence of marriages of convenience. These include the fact that the spouses are making different statements as regards their personal data, they are presenting different details concerning their first meeting or other important personal data, they do not speak a language understood by both and the fact that any party is not fulfilling his/her marital obligations. The resolution also determines the sources from which the presumptions on marriage of convenience may derive, for instance the statement of a third party, documentary evidence as well as findings from investigations carried out.

As a practical tool for screening marriages of convenience simultaneous interrogations of the spouses are carried out in Hungary. During the face-to-face interrogations carried out by the consular officer (in case of visa application process abroad) or by the immigration authority (in Hungary) – in order to detect and



the above conditions –, circumstances of the acquaintance, family background of the other party, family links, shared experiences, the ceremony of marriage are thoroughly examined (naturally by posing tailor-made questions, in order to avoid that the applicants get familiar with the questions). Both parties have to answer the same questions thus, based on the records drawn up during the interview, in many cases it becomes obvious the parties even lack the basic information of each other, their responses to the questions are remarkably different in the most essential issues. Besides the aforementioned methods there are additional means to explore the real conditions of the marital status and for obtaining useful information such as the interrogation – apart from the spouse residing in Hungary – of family relatives, onsite investigation or a so-called scanning of surroundings.

The Supreme Court of Hungary defined its position on the issue in two verdicts⁵⁰ in October 2011 as follows: in these procedures only the existence of right of parental custody of the third- country national over the minor Hungarian citizen may be examined, it is irrelevant whether the minor is in fact living in the household of the foreigner. Regarding applications for residence permits submitted by the third-country nationals' family member of third country nationality the aspects of relations of convenience did not arise, however, sometimes they attempt to verify their family relations by false documents. In this case the document or family photo, lodged as credible supporting document, in question is subject to an expert review.

It is to be noted that Hungarian authorities may not impose sanctions against persons living in a marriage of convenience which might prove to be discriminatory. It is very difficult to confirm the existence of a marriage of convenience or to prove that the two parties established cohabitation for the purpose of obtaining a residence permit.

3.4. Competent authorities for combating abuses

Detecting abuses falls within the core competence of the immigration authority, law enforcement authority and civil national security authority regulated by special legislation. Generally speaking, Hungarian legislation does not provide for the possibility to prevent the conclusion of marriages of convenience since the spouses are not subject to such a scrutiny before the registrar.

⁵⁰ Decision of Supreme Court No. Kfv.III.37.048/2011/5. and Decision of Supreme Court No. Kfv.III.37.030/2011/4.



3.5. State action against relations of convenience

Relations/marriages of convenience are not regulated by specific norms in Hungary, thus resolution No. 97/C382/01. (4th of December 1997.) of the Council of the European Union on the applicable measures against marriages of convenience is applied. This resolution coincides with paragraph 12 of the European Convention on Human Rights and Article 16 of the Universal Declaration of Human Rights that recognizes the right for marriage and to found a family as well as the right for respect for family life. No harmonized state action exists to step up against concluding marriages of convenience in the absence of an appropriate legal framework in Hungary, however some of the registrars signal the problem to the OIN and initiate expert investigation with respect to the third-country national's passport in case a foreigner illegally staying in the territory of Hungary wishes to enter into marriage.

3.6. Right of appeal

Pursuant to Article 28 (7) of the Constitution of Hungary 'everyone shall have the right to lodge an appeal against such a judicial or administrative decision that is deemed to violate his/her rights or legal interests.' In accordance with this basic principle the prevalent legal provisions enable legal remedy against a decision rejecting the application on the ground of abuse as well. Rejection of an application for a residence permit and the revocation of a residence permit on the ground of abuse can be challenged within 8 days from the announcement of the official decision⁵¹, whilst the application for residence card and the revocation of a residence card can be challenged within 15 days from the announcement of the decision⁵². An appeal against a resolution for the refusal of an application for a residence permit is to be lodged at the first instance authority and against a resolution for the refusal of an application for a residence permit and for the revocation of a residence permit before the first entry of the third-country national is to be lodged at the consulate. The competent consulate officer forwards the appeals to the regional directorate of jurisdiction by reference to the future residence in Hungary of the third-country national affected upon receipt without delay⁵³. The OIN has to adopt a decision concerning appeals within

⁵¹ Article 55 (1) of RRTN GD.

⁵² Article 99 (1) of Act CXL of 2004 on administrative procedures (hereinafter referred to as AAP.).

⁵³ Article 55 (2) of RRTN GD.



30 days from the time of receipt⁵⁴. The reconsideration of the decision of the OIN concerning the appeal – with concerning the infringement of lawful rights - has to be lodged within 30 days from the announcement of the decision by the competent court⁵⁵.

3.7. International cooperation

No harmonized international cooperation exists in relation to abuse of the right of family cohabitation with respect to Hungary. There are ad hoc questions posed by other EU Member States in connection with the Hungarian trends and mapping of practice, in addition exchange of experience take place occasionally.

3.8. Grounds and motivations

Taking into account the private and sensitive nature of the issue we are not in possession of accurate information in the field of relations of convenience as far as grounds and motivations of Hungarian and third-country nationals and the persons helping them are concerned. During the administrative procedures the applicants and the persons helping them are mostly hide their real grounds and motivations; in these cases domestic and international media can provide us with detailed information. The identity of persons helping the applicants and organizers are usually unknown to the authorities, however they supposedly have financial motivation as is the case with Hungarian/EEA citizens wishing to establish relations of convenience, whereas the motivation of third-country nationals is the obtaining of the right to stay. Often Hungarian ladies fall victim to such kind of abuses who make contact with such third-country nationals in good faith and often have an honest emotions for the third-country national, but they took advantage of them and after having obtained the right of residence and free movement often assault and blackmail them.

⁵⁴ Article 55 (3) of RRTN GD.

⁵⁵ Article 109 (a) Point b) of AAP.



4. Statistical figures

4.1. General context

Relating statistical figures can be obtained from the OIN, however, data is not available on the number of cases where the relation of convenience was confirmed. This study processes the figures of the year 2009-2011.

4.2. The intensity of the partnership of convenience

There are no figures available on how many applications were rejected by the immigration authority on the ground of marriage of convenience or similar relations. In accordance with the figures available it can be concluded that **170 clients applied for a residence card as third-country family member of an EEA national** in 2011, mostly **US (38), Ukrainian (16) and Russian (13)** citizens, which is a decline by 5,56 % compared to the year of 2010. **1.823 applications were submitted as third-country nationals of a Hungarian citizen** which is a decline by 17,25% in the year of 2011. The majority of applicants are of **Ukrainian (352), Russian (161), Nigerian (120) and Serbian (109)** nationality. It is to be underlined that the number of the Nigerian applicant increases year after year.

(For the relating available statistical charts and diagrams see annexes 3 – 6.)

4.3. Facts and figures on the nationality and gender of persons committing abuse

There are no official statistics available in this regard. Generally speaking, practical experience shows that mostly Egyptian, Nigerian, Tunezian and Moroccan citizens are involved in marriages of convenience, mostly Vietnamese citizens are involved in other family relation of convenience and mostly Chinese citizens are involved in abuse of false documents, however, there are no statistical figures available regarding the form of abuses.



4.4. Facts and figures in relation to the place where the abuse was committed

There are no official statistics available concerning the place of conclusion of marriages of convenience. Generally, based on practical experience, it can be found that only a minor part of marriages of convenience are concluded in Hungary, most marriages take place in third countries where a permission for matrimony is easily issued.

5.

Final conclusions

This research work is based on evaluation of documents, legal regulations as well as practical experience and its utmost purpose is to give an overview on the measures for screening relations of convenience, the related migration issues as well as the legal norms and practices in force. There are no official statistics available concerning relations of convenience, thus the major developments, forms of abuses and the place of conclusion of marriages of convenience cannot be verified. Patterns described in this report are based on the law enforcement practice of OIN.

Relations of convenience represents a current problem not only in the European Union but also in Hungary. Observations in Hungary in this respect similarly to other EU Member States depict an unfavourable image. There are few practical means available for the authorities to tackle abuses and frauds in the field of relations of convenience. Given that there is no existing legal framework in Hungary which could prevent the conclusion of marriages of convenience in many cases it is difficult, sometimes even impossible to prove the facts.

There are not existing harmonized state actions against conclusion of marriages of convenience in absence of an appropriate legal framework in Hungary, proper surveys and „explanatory programmes” are not published therefore those Hungarian ladies also fall victim to such kind of abuses often who take up contacts with such kind of third-country nationals in good faith.

In order to efficiently combat these misuses it would be necessary to unify judicial practice. The problem of „children of convenience” should also be addressed, accordingly the current legal framework should be amended in a way to enable the competent authorities and courts to not only verify the legal existence of the parental custody on the part of the third-country national but also to be able to thoroughly investigate whether there is a *de facto* living community between the child concerned and the third-country national,



and whether the third-country national takes care of the minor and supports him/her financially and emotionally, and whether as a consequence the right of residence and free movement is well founded. In addition, it would also be advisable and necessary to incorporate the forms of relations of convenience into the Penal Code since on the one hand in general it would act as a deterrent and on the other hand the misuses could be sanctioned as well.



Bibliography

- Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence;
- Government Decree 113/2007 (V. 24.) on the Implementation of Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence;
- Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals;
- Government Decree 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals;
- Act IV of 1952 on the marriage, the family and the guardianship;
- Act IV of 1959 on the Civil Code;
- Act XXIX of 2009 on the registered partnership;
- Act CXL of 2004 on administrative procedures;
- Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification;
- Directive 2004/58/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States;
- Decision of Supreme Court No. Kfv.III.37.048/2011/5.;
- Decision of Supreme Court No. Kfv.III.37.030/2011/4.;



Annex

Annex Nr. 1.

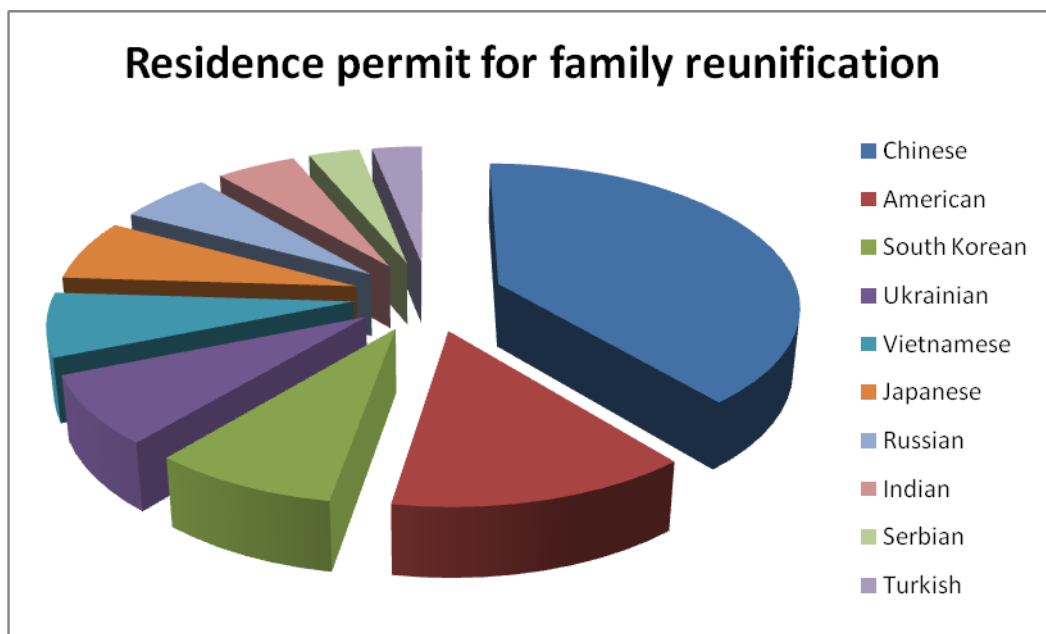
personal scope	third-country national family member of third- country national	third-country national family member of Hungarian citizen	third-country national family member of EEA nationals
legal framework	RRTN	FMRA	FMRA
type of permit	residence permit	residence card	residence card
type of document	<p style="text-align: center;">Biometric document in ID format</p> <p style="text-align: center;">(with by the Council Regulation (EC) No 1030/2002 of 13 June 2002 and the Council Regulation (EC) No 280/2008 of 18 April 2008 regulated format and data content)</p>	<p style="text-align: center;">Biometric document in ID format</p> <p style="text-align: center;">(with by the Council Regulation (EC) No 1030/2002 of 13 June 2002 and the Council Regulation (EC) No 280/2008 of 18 April 2008 regulated format and data content)</p>	<p style="text-align: center;">document in card format</p> <p style="text-align: center;">(on the basis national regulation)</p>



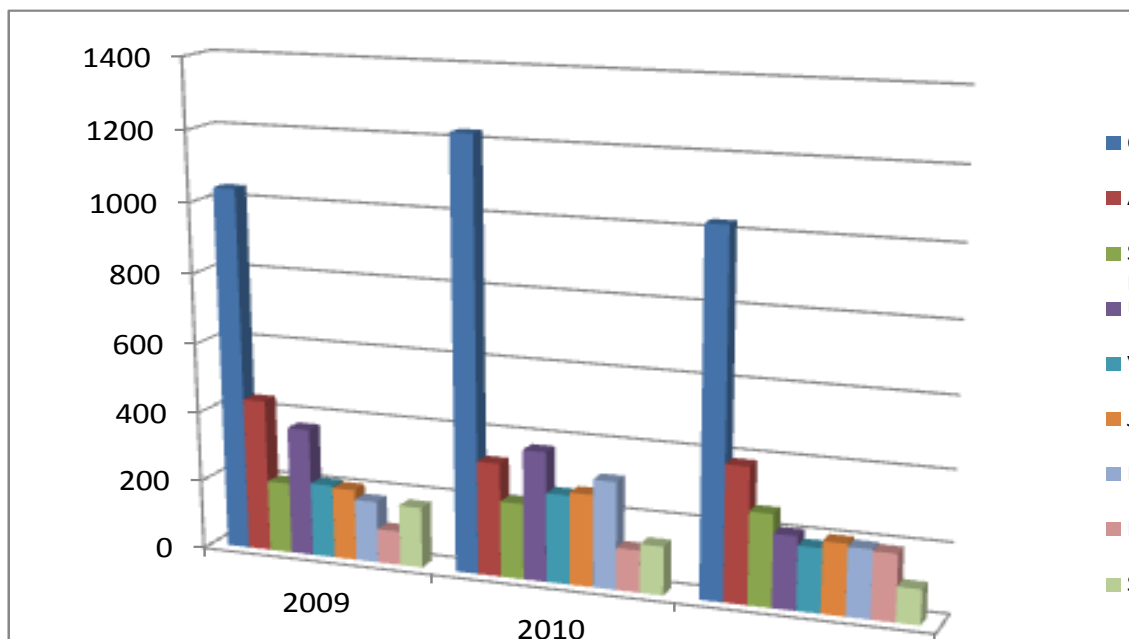
personal scope	third-country national family member of third country national	third-country national family member of Hungarian citizen	third-country national family member of EEA nationals
spouse	spouse of third-country national;	spouse of Hungarian citizen;	spouse of EEA national,
child	<ul style="list-style-type: none"> - the minor child (including adopted children) of a third-country national and his/her spouse; - the minor child, including adopted and foster children, of a third-country national where this third-country national has parental custody and the children are dependent on him/her; - the minor child, including adopted and foster children, of the spouse of a third-country national where the spouse has parental custody and the children are dependent on him/her; 	the direct descendants of a Hungarian citizen and those of the spouse of a Hungarian citizen who are under the age of 21 or are dependants;	the direct descendants of an EEA national and those of the spouse of an EEA national who are under the age of 21 or are dependants;
parents	<ul style="list-style-type: none"> -the parents of unaccompanied minors with refugee status, or their legally appointed guardian; - dependant parents; 	the direct relatives in the ascending line of a Hungarian citizen and those of the spouse of a Hungarian citizen;	the dependent direct relatives in the ascending line of an EEA national and those of the spouse of an EEA national;
sister/brother	- the brothers and sisters, if they are unable to provide for themselves due to health reasons of sponsors;	any person whose entry and residence has been authorized by the competent authority on grounds of family reunification (quasi family member);	any person whose entry and residence has been authorized by the competent authority on grounds of family reunification (quasi family member);

<p>cohabitation</p>	<p>NO</p>	<p>any person whose entry and residence has been authorized by the competent authority on grounds of family reunification (quasi family member);</p>	<p>any person whose entry and residence has been authorized by the competent authority on grounds of family reunification (quasi family member);</p>
<p>registered cohabitation</p>	<p>analogue of spouse;</p>	<p>the common-law partner of a Hungarian citizen, who is registered as a common law wife/husband by the authority of Hungary or other Member States of the European Union (in Hungary same sex partnership);</p>	<p>the common-law partner of a Hungarian citizen, who is registered as a common law wife/husband by the authority of Hungary or other Member States of the European Union (in Hungary same sex partnership);</p>



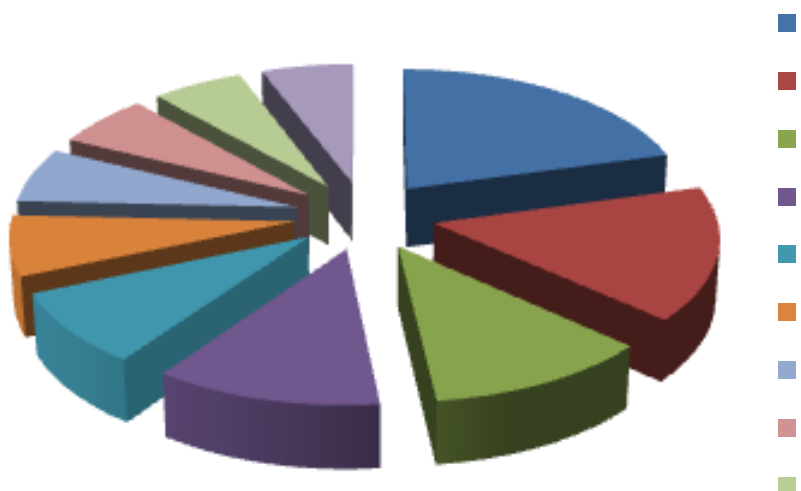


The rate of the residence permits issued for the purpose of family reunification on 31 December 2011.

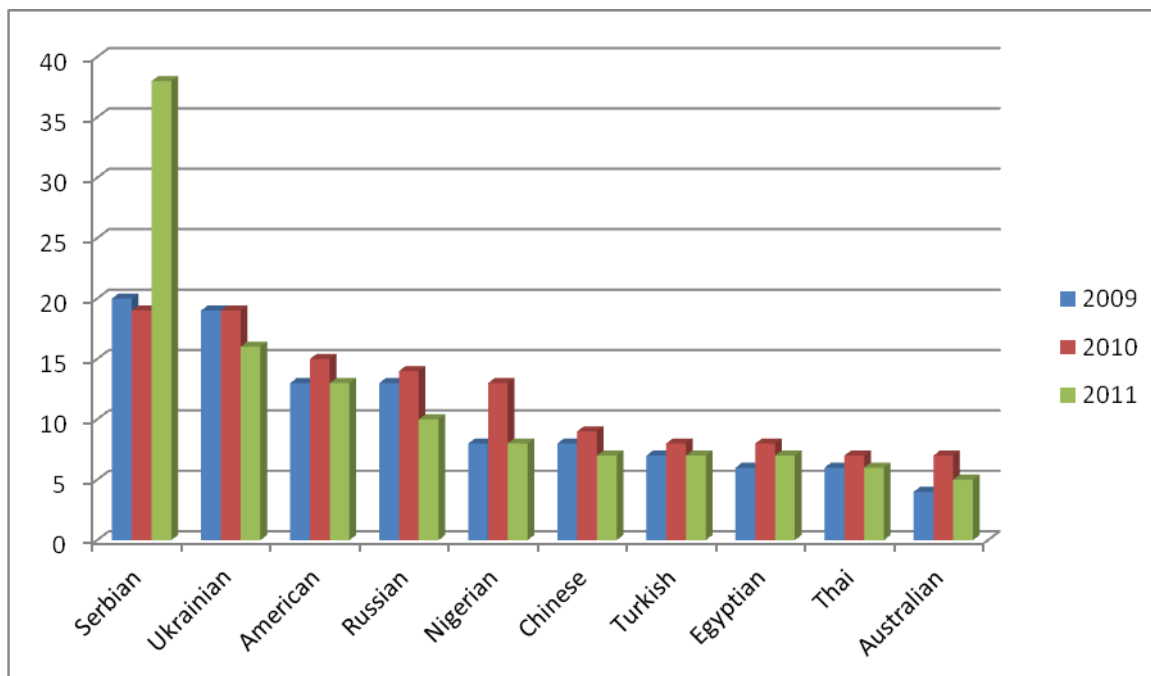


The rate of the residence permits issued for the purpose of family reunification (2009 - 2011).

Residence card - family member of EEA national

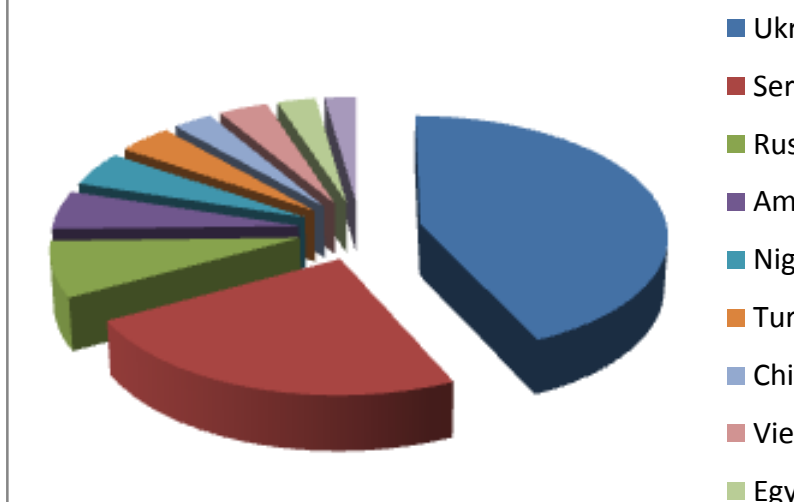


The rate of residence cards of third-country national family members of EEA nationals on 31 December 2011.

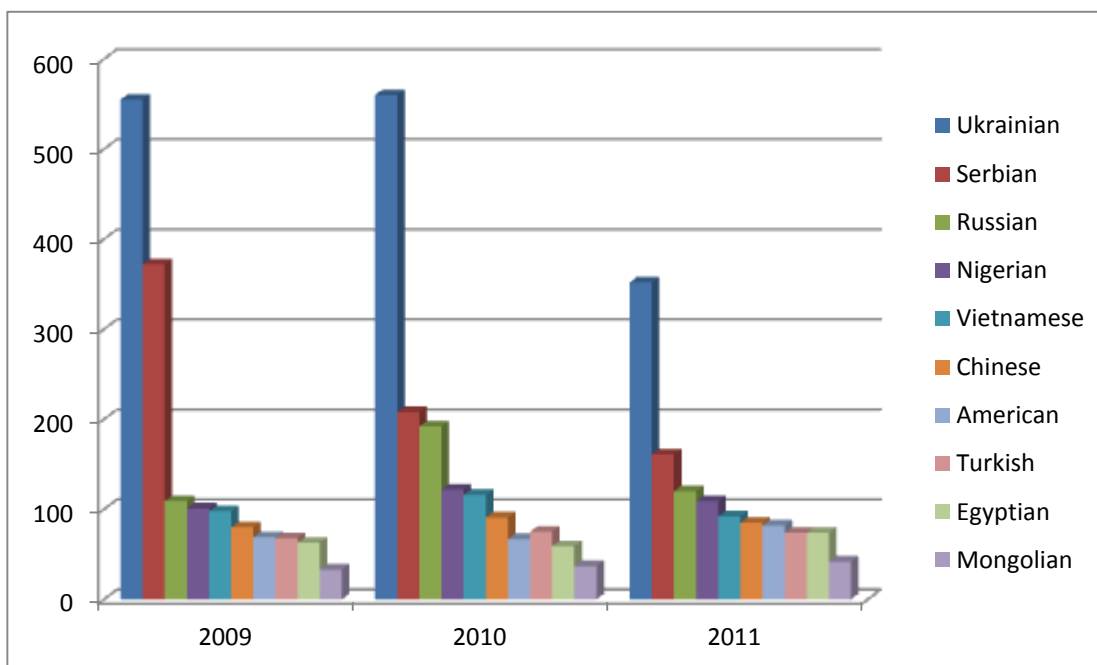


The rate of the residence cards of third-country national family members of EEA nationals (2009 - 2011).

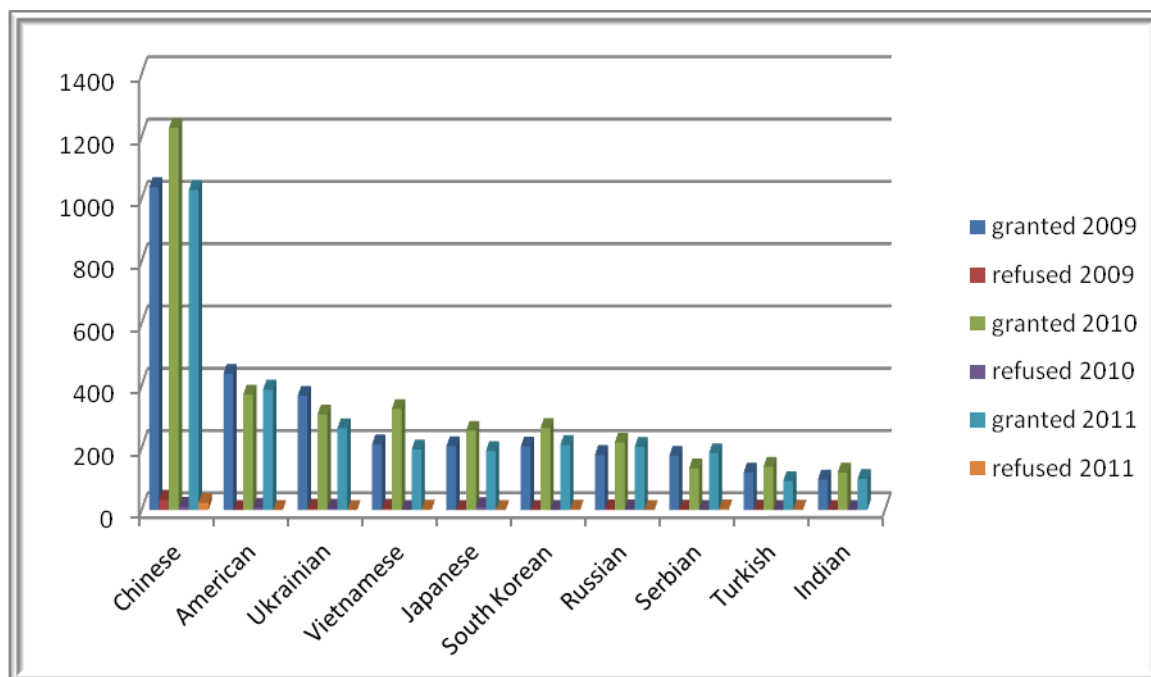
Residence card - family member of Hungarian citizen



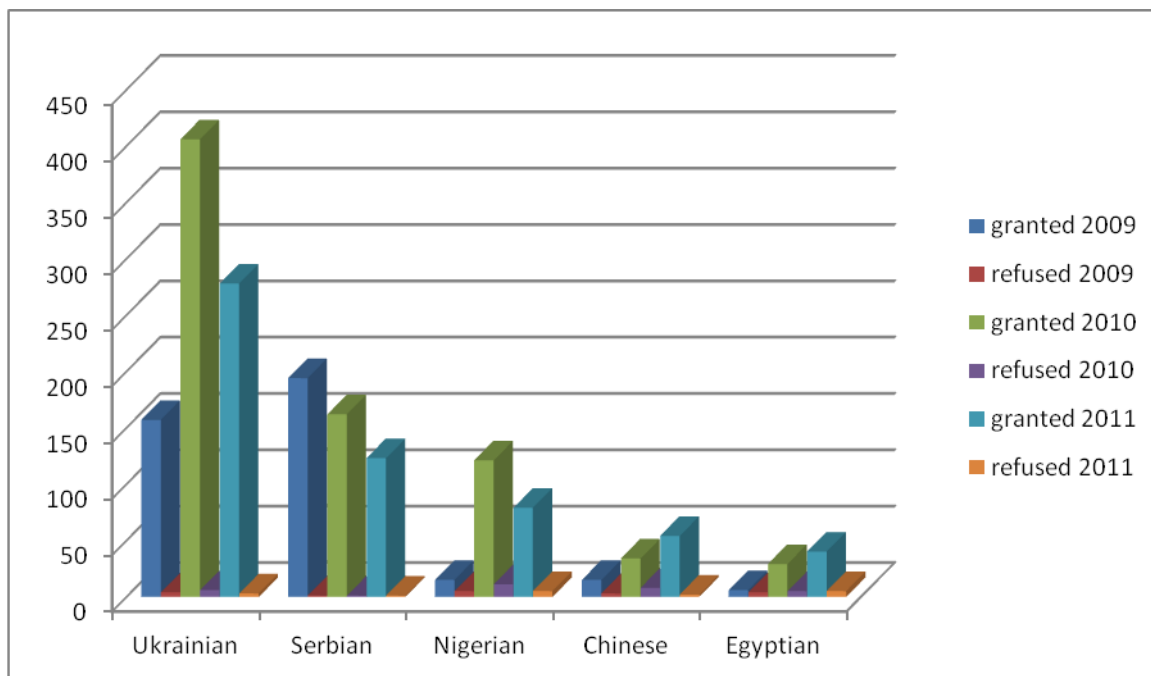
The rate of residence cards of third-country national family members of Hungarian citizens on 31 December 2011.



The rate of residence cards of third-country national family members of Hungarian citizens (2009 - 2011).



The rate of granted and refused residence permit applications for the purpose of family reunification (2009 - 2011).



The rate of granted and refused residence card applications of third-country national family member of Hungarian citizens (2009 - 2011).