



# Legal guide for LGBTQI foreigners in Hungary



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Szövetségi Külügyminisztérium



Human Rights

# Introduction

Information in this guide is for those **non-Hungarian citizens** who want to visit Hungary, or plan to move to Hungary for a longer period of time.

Laws use the term **third country national** to refer to those who are not citizens of a member state of the European Union<sup>1</sup>, so you will encounter this term often when dealing with issues of immigration in Hungary. Members of the lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) community may face specific challenges in this process. This guide provides answers to the questions that arise most often in these cases, and introduces you to the current practice of the authorities regarding legal entry and residence.

It is important to note that this guide contains only basic information, and focuses on the most common titles of residence. Since each case is individual, **information provided here may not be sufficient** for

*1 Including the citizens of Norway, Liechtenstein, Iceland and Switzerland - from the point of view of immigration law, they are also subject to the same assessment as EU citizens, so we refer to them as EU citizens later on.*

the most effective resolution of a case. For members of the LGBTQI community, Háttér Society and Menedék Association for Migrants can provide legal assistance in immigration and residence matters, and the Hungarian Helsinki Committee in matters related to asylum and deportation. You might also contact Menedék with regards to non-legal problems that arise during your

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# Stay shorter than 90 days

This guide provides information primarily for those who plan to stay in Hungary for more than 90 days within a 180 days period. This is an important dividing line, because there is no need to apply for a residence permit or permanent residence permit for stays shorter than 90 days.



This, however, does not mean that if someone wants to stay less than 90 days for example to visit family and friends or go on vacation in Hungary, they could do so without any restriction. There are states<sup>2</sup> whose citizens can cross the border and stay in Hungary for less than 90 days **without a visa** just by showing their passports.

However, citizens of most non-EU countries can enter Hungary **only with a valid visa**. You can apply for a visa at Hungarian embassies. You

*2 A list can be found in Annex II of Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement, available here: <https://eur-lex.europa.eu/legal-content/en/TXT/HTML/?uri=CELEX:32018R1806>*

must indicate on your application what the purpose of your entry to Hungary is. This can be to visit family, which applies to same-sex couples as well – the information provided for residence permit for the purpose of family reunification applies here as well.

The authority dealing with the entry and residence of foreigners in Hungary is the **National Directorate-General for Aliens Policing** (*Országos Idegenrendészeti Főigazgatóság - OIF*). OIF is the general immigration and asylum authority. OIF is divided into several directorates and departments, each dealing with a separate issue such as residence and permanent residence permits, registration of EU citizens, asylum seekers, and expulsion and deportation of foreigners staying in the country illegally.





# EU citizens and their family members

The **free movement of persons** is one of the founding principles of the European Union, and one of the most important freedoms of EU citizens. According to this principle, citizens of another member state can stay freely in any member state for three months, without the need for any official procedure.

If a citizen of another member state of the European Union wants to stay in Hungary for more than three months for any purpose, they must register with OIF, which issues them a **registration certificate** (*regisztrációs igazolás*). As part of this procedure, you must prove that you are gainfully employed, pursue studies, or have enough financial resources so that your stay in Hungary does not represent an unreasonable burden on the social care system.

A third-country national **spouse or registered partner** of a non-Hungarian EU citizen is also entitled to enter and reside in Hungary together with their partner. Furthermore, OIF may also recognize as a family member an (unregistered) **cohabiting partner** (*élettárs*) of a non-Hungarian EU citizen. OIF issues such a person a **family member residence**

**card** (*tartózkodási kártya*). You should apply for such a card at OIF, as part of the application you have to prove the existence of the family relationship and the means of subsistence in Hungary.

Although immigration law does not specifically mention registered partners (*bejegyzett élettárs*) as family members, the so-called general reference rule in the Registered Partnership Act<sup>3</sup> sets forth that the term spouse shall also include registered partners, so the registered partner is also entitled to stay in Hungary as a family member.

The third-country national **children** of the spouse or registered partner under the age of 21 who is financially supported by their parents staying in Hungary can also be recognized as family members, thus are entitled to stay in the country together with their parents.

After a continuous stay in Hungary for more than five years, the EU citizen (and their third-country national family members including their spouse or registered partner) becomes entitled to the right to **permanent residence**, which entitles you to an indefinite stay. However, if

<sup>3</sup> Section 3 of Act no. XXIX of 2009 on registered partnership and the amendment of certain laws related to facilitating the verification of cohabitation

you leave the country permanently, and move to another member state or a non-EU country, OIF revokes your permanent residence card. The residence in Hungary is considered continuous if the EU citizen or their family member spends more than six months in Hungary in a given year.

The right to stay in Hungary can be maintained even if its original legal basis no longer applies, for example, if the family relationship ceases to exist. In this case, we recommend contacting one of the organizations offering legal assistance, so they can help you determine whether your right of residence in Hungary is preserved taking into consideration the individual situation and all the circumstances of the case.

# Residence permits for third-country nationals

## General rules

If somebody is planning to stay in Hungary for a longer period of time, the most obvious solution is to submit an application for a residence permit (*tartózkodási engedély*).

The residence permit is always purpose-bound, i.e. it is issued by the authority only for a specific purpose permitted by law, after duly proving that purpose in the application procedure. In this guide we only present the most common purposes based on which you can acquire a residence permit.

The application for a residence permit must be submitted in person via specific forms at one of Hungary's embassies or consulates. The application must be accompanied by all the evidence required by law for the specific type of residence permit, and an application fee must also be paid.

If the authority approves the application and grants the residence permit, the consulate first issues a visa that entitles you to enter Hungary.

This visa is valid for a maximum of 30 days from the date of entry, within which time you must pick up your residence permit from OIF. However, there is time to plan the trip, you usually do not have to travel to Hungary immediately after you receive the visa.

In exceptional cases, you can apply for a residence permit at OIF (and not at an embassy or consulate in your home country) if you can enter the European Union for 90 days without a visa, or if you are currently legally staying in Hungary, and traveling back to your home country would be an undue burden for you. If you belong to the latter group, you must submit a separate application together with the residence permit application in which you describe why it would be a disproportionately large burden for you to submit your application at the embassy. OIF has a discretionary power to decide your case, it grants such an exception only in case of compelling reasons.

The content of residence permit applications and the list of documents to be attached are different depending on the purpose. However, they all have in common that the applicant must have the following:

- a valid passport;
- accommodation in Hungary;
- financial means to cover living expenses and your trip home (e.g. savings, income, regular support of an immediate family member);
- comprehensive health insurance or financial coverage for any medical expenses that may arise.

**You cannot get a residence permit** if your entry and residence has been banned previously, unless the years specified in the ban have already passed. A person whose stay in Hungary would endanger the country's public order, public safety, national security or public health cannot obtain a residence permit either.

The **accommodation** (*szálláshely*) must always be declared in accordance with reality. The accommodation is where you regularly stay during your stay in Hungary. This can be, for example, a rented apartment, your own property, a dormitory, or the apartment of your partner. If this address changes later on during your stay (e.g. if you move), you must report it to OIF.

The **health insurance** must be comprehensive and cover the entire duration of your stay in Hungary. The health insurance can be secured differently in case of different types of residence permits: in case of employment or pursuing studies, this can be via the public health insurance system (*társadalombiztosítás*, informally often called *TAJ*) by paying the relevant taxes, in other cases via a private insurance company or an individual contract with the National Health Insurance Fund (NEAK).

Among other things, you need to **declare your HIV status** as part of the application. This, however, does not mean you have to take a separate HIV test for this purpose, only that you need to report your HIV status

according to your knowledge. It has happened in a few cases that OIF rejected the applications of those living with HIV, regardless of whether they received treatment. However, this practice is prejudiced and unlawful, HIV status alone cannot serve as the basis for rejecting your residence permit application. According to the experience of Háttér Society, in all cases where such decisions were appealed, the appeal was successful, OIF admitted that the rejection was unlawful. In their official letter to Háttér Társaság, the Director General of the OIF (the authority was called Immigration and Citizenship Office at the time) also clarified that: “*The immigration authority cannot deny foreigners entry or stay in Hungary solely because they are HIV-infected.*”<sup>4</sup> You can refer to this letter if you experience difficulties regarding your HIV status during the immigration procedure. Your HIV status should not discourage you from applying for a residence permit.



If OIF rejects the application for a residence permit, you can **appeal the decision within 8 days**. You must explain why you think the decision is unlawful. An appeals fee must be paid together with the appeal. The appeal is decided by the designated department of OIF. If this department rejects your appeal, you can ask for judicial review.

<sup>4</sup> The letter is available here: <https://hatter.hu/sites/default/files/dokumentum/konyvlap/bah-valaszshiv-2016okt6.pdf>

If your residence permit expires, you do not have to start the whole procedure all over again. You have to submit an application for the **extension of a residence permit** directly to OIF. From January 1, 2023, this must be done online via the enterhungary.hu website. Evidence proving the purpose of residence must also be attached to the request for an extension. The application must be submitted no later than thirty days before the expiration of the prior residence permit. If you do not want to extend your existing permit, but apply for a new one for a different purpose, the application must also be submitted to OIF. The most typical case for this is when you take up a job in Hungary after having completed your studies, since then you will need a residence permit for employment instead of a residence permit for pursuing studies.

It may happen that OIF does not make a decision on the extension of your residence permit before it expires. In such a case you will receive a **certificate of temporary residence** (*ideiglenes tartózkodásra jogosító igazolás*) that covers the period until a decision in the extension procedure is delivered. However, you cannot travel abroad with this certificate, not even to another EU member state. If you have to leave the European Union before you receive your new residence permit, your certificate of temporary residence will be revoked at the border, and you can only return if your residence permit has been extended while you were away. If you find yourself in such a situation, we recommend that you contact one of the legal assistance organizations and ask for advice before leaving the country.



## Residence permit for the purpose of family life (family reunification)

This residence permit is used to enable a family member of a Hungarian citizen or a third-country national legally residing in Hungary to live legally with them in the country.

According to the law, primarily spouses and children under the age of 18 can apply for this type of residence permit.

In Hungary, two persons of the same sex cannot marry, but they can enter into a very similar family law institution called registered partnership (*bejegyzett élettársi kapcsolat*). As described above, according to the general reference rule in the law the term spouse also includes **registered partners**, thus a registered partner is also entitled to a residence permit for the purpose of family life. In its response to Háttér Society, the Immigration Directorate of OIF (the authority was called Immigration and Citizenship Office at the time) also confirmed that this is the correct interpretation of the law.<sup>5</sup> You can refer to this letter if you experience difficulties regarding the recognition of registered partnership during the immigration procedure.



5 The letter is available here: <https://hatter.hu/hirek/a-bejegyzett-elettarsakat-a-bevandorlas-soran-is-csaladtagnak-kell-tekinteni>

It is important to note that if one of the partners is a Hungarian citizen, the marriage or registered partnership concluded abroad can only be referred to in the immigration procedure if it has been **domestically registered** (*hazai anyakönyvezés*). There is a separate procedure for the registration of a marriage or registered partnership that you have to complete before you can apply for a residence permit. The domestic registration of a registered partnership concluded abroad is without any problem.

In recent years, however, Hungary has consistently refused to recognize marriages concluded abroad by same-sex couples, even in the form of registering them as registered partnership. This is contrary to the decision of the European Court of Justice (ECJ) in the well-known *Coman* case which is legally binding on all EU member states. According to the ECJ, a marriage concluded in one member state shall be recognized by all member states in relation to the right of residence of third-country nationals, since “marriage” in EU law is a general concept and cannot be interpreted narrowly.

Currently, the practical solution for same-sex partners is to establish a registered partnership in Hungary before or after the marriage con-

cluded abroad. Being married abroad with the same person is not an obstacle for entering into registered partnership in Hungary since the same-sex marriage is considered invalid by Hungarian law.

The other option is to apply for a residence permit for a so-called 'other purpose' (*egyéb célú tartózkodási engedély*). We understand that this might be humiliating since as a family you want to be recognized as a family member. At the same time, if a legal stay in Hungary is a priority, this might be a practical solution.

**Children** who are legally the children of only one of the partners can only receive a residence permit together with and with regard to the legal parent.

A residence permit for the purpose of family life does not in itself entitle you to be gainfully employed. If you want to live together with your partner and work in Hungary, you need to apply in a so-called combined application procedure, for which the rules of **residence permit for employment purposes** apply. The only difference is that in such a case OIF makes a decision on your application based on two purposes - that of family life and employment - within one procedure. The same procedure applies if you already have a residence permit for the purpose of family life and you subsequently want to take up work.

At the same time, under some conditions, family members who hold a residence permit for the purpose of family life can take up work in a simpler procedure or without a separate permit. These rules apply to family members of refugees, persons under subsidiary or temporary protection, and those staying in Hungary with a residence permit entitling them to work. Holders of a residence permit for the purpose of family life are also entitled to register as private entrepreneurs (*egyéni vállalkozó*).



**You can read more about the establishment and legal effects of registered partnership as well as the domestic registration of a foreign registered partnership in this publication.**

### **Residence permit for the purpose of employment**

This residence permit can be obtained by those who plan to work as employees. The purpose of stay in Hungary is employment, thus the legality of the stay is related to the existence of an employment contract.

There are two special conditions for issuing such a permit: a prior agreement with a specific employer that they wish to employ you, and that the employer has a registered labor demand.

The **prior agreement** is not an employment contract, but an agreement between the future employer and employee stating that if the

applicant receives the residence permit, the employer will employ the applicant. However, the employer can only employ a foreigner if they have a **labor demand registered** with the government county office.

After applying for a residence permit, OIF sends the application for a review by the labor authority. The authority checks if there are any suitable Hungarian jobseekers for the given job, if there is, the application is rejected. If there is not, the authority checks if the third-country national fulfills the employer's expectations as described in the labor demand registered. So for example if the labor demand states that a high school diploma is required for the specific job, you must also submit your high school graduation certificate and its official Hungarian translation as part of the application. Since the authority evaluates your suitability for the specific job offered by the specific employer, if you want to change jobs, the new employer must also go through this procedure.

The labor authority is not involved in the residence permit application procedure (hence there is no need for a registered labor demand) in case you have been living in Hungary for more than a year with a residence permit for the purpose of family life, and your partner can work in Hungary without a special permit (for example, because they are a Hungarian citizen, or a refugee or a person under subsidiary or temporary protection).

## Residence permit for study purposes

This residence permit can be obtained by those who study full-time in a public education or higher education institution in Hungary.

The condition for issuing the permit is that the **educational institution has admitted the student**, and that the tuition fee is reimbursed by the student or someone else. The validity period of the residence permit is the expected length of the studies.

With this residence permit, it is possible to take up work without applying for a work permit, so you do not have to apply for any additional permission in order to work legally parallel to your studies. However, the number of hours you can work is maximized: you can work **no more than thirty hours per week** during the school period, and full-time for a maximum of ninety-nine days or sixty-six working days per year outside the school period.

According to the law, if you suspend your studies (*passzív félév*) you do not automatically lose your residence permit, however, you have to ensure continuous progress in studies, otherwise OIF may refuse to extend your residence permit. However, we are also aware of contrary jurisprudence. We know of cases where a suspension resulted in the loss of the residence permit, so we recommend that if you plan to suspend your studies, you contact one of the organizations offering legal assistance.

### Residence permit for volunteering

This residence permit can be requested if you plan to **volunteer** at an organization entitled to receive volunteers<sup>6</sup> or as part of the European Voluntary Service. This means that not all civil society organizations are allowed to sponsor your residence permit for the purpose of volunteering.

The validity period of the residence permit is adjusted to the time of volunteering, even if it is shorter than one year. However, a stay for this purpose cannot be longer than two years.

### Residence permit for earning income

Although this residence permit is also used to pursue a gainful activity, it differs from the residence permit for the purpose of employment in that it can be obtained by those who plan to work independently as an **entrepreneur or farmer**. The owner or executive officer of a company may also be entitled to this type of residence permit. Issuing such a residence permit is conditional on you proving that your enterprise has a convincing business plan.

<sup>6</sup> *Receiving organizations have to register under Act no. LXXXVIII of 2005 on volunteering in the public interest*

## Residence permit for other purposes

This type of residence permit was created so that anyone who **does not fit into any of the categories named by law** could be allowed to stay in the country.

In practice, same-sex couples who had married abroad were granted residence permits for other purposes in several cases. You can also apply for this type of residence permit if you want to travel to Hungary in order to establish a registered partnership with your partner.

With this residence permit, the exact purpose of the stay must be presented to the authority in detail, and the relevant documents and evidence must be attached to substantiate it. This can be, for example, your enrollment in a course that lasts longer than three months, or documents related to your plan to establish a registered partnership.





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# Permanent residence

Long-term residence in Hungary is made possible by permanent residence permits (*letelepedési engedély*). These can typically be requested if you have lived in Hungary for a long time and have established close ties to the country, including family ties, such as a registered partnership.

You must attach the documents and evidence on the basis of which it can be established that you have adequate **accommodation**, financial means for **subsistence** and a **comprehensive health insurance** or adequate financial means to cover medical care that may arise. With regards to health insurance, HIV-status and marriage, information above in relation to residence permits also apply here.

National and EC permanent residence permits are valid for an indefinite period, but in some cases they can be revoked. These permits provide you with rights similar to those of Hungarian citizens. For example, you can work without a special permit, you are entitled to certain social benefits, and you can also vote in municipal elections.

In practice, OIF expects a large amount of savings, wealth and high income for granting permanent residence permits. With both permanent residence permits presented here, you will be entitled to establish a residence (*lakóhely*) in Hungary, meaning that you will receive an address card (*lakcímkártya*).

### National permanent residence permit

Holders of a national permanent residence permit (*nemzeti letelepedési engedély*) can stay in Hungary for an indefinite period of time and can take up work without a special permit. However, you can travel to another member state of the European Union with this permit only for a maximum of three months.

The condition of the permit is that you have lived for an **uninterrupted period of three years in Hungary** immediately prior to submitting the application with some kind of residence permit.

An uninterrupted stay does not mean that you have to be in Hungary the whole time. If you occasionally left the country for a maximum of four months during the three years, and your stay abroad did not exceed two hundred and seventy days in total, then your stay is not considered interrupted.

Another important condition of the national residence permit is that it is issued only if your permanent residence is **in the interest of Hungary**. This can be, for example, economic, cultural, etc. interest. In assessing whether your permanent residence is indeed in the interest of Hungary, the authority has a wide discretion. For this reason, it is often unpredictable who gets the permit.

It is not necessary to have three years of uninterrupted residence, if you have entered into a registered partnership with a Hungarian citizen at least two years prior to submitting the application. However, OIF will still investigate if your permanent residence is in the interest of Hungary.

A permanent residence permit can be revoked by OIF if you leave Hungary for more than six months, or if the family relationship on which the permit is based ceases to exist (*i.e.* if you divorce). If you plan to leave the country for **longer than six months but less than two years and you announce this in advance**, your residence permit cannot be revoked on the ground that you are not in the country. However, this is only the case if the purpose of your stay abroad is not to leave Hungary for a longer period or permanently.

## EC permanent residence permit

This residence permit (*EK letelepedési engedély*) gives you the right of long-term residence in the European Union. If you hold an EC permanent residence permit issued in Hungary, and you want to move to another EU member state, you must apply for a new residence permit in the other member state after staying there for three months. Member states have to facilitate the issuance of residence permits for holders of EC permanent residence permits, but the exact rules change from country to country, so you should inquire about the rules of the destination country in due time.

Similar to the national permanent residence permit, the EC permanent residence permit also requires continuous residence in Hungary prior to submitting the application - in this case **for five years**. In the case of an EC permanent residence permit, continuous residence in Hungary means that you have not left Hungary occasionally for longer than six months, and that the stays abroad did not exceed three hundred days during the past five years. It should be noted, however, that if you stayed in Hungary for the purpose of studying, those years are counted only as half years, and your stay as a volunteer does not count towards the five years at all.

When evaluating applications for an EC permanent residence permit, OIF does not investigate if your permanent residence is in the interest of Hungary, only that the conditions clearly defined in the law are met.

OIF will revoke your permanent residence permit if you stay outside the EU for more than twelve months, or if you have not stayed in Hungary for more than six years.

# Being a refugee in Hungary

In many countries of the world, members of the LGBTQI community are persecuted because of their perceived or actual sexual orientation and gender identity. If you are **tortured or subjected to other inhuman or degrading treatment, systemic discrimination or severe exclusion** in your home country, you can apply for asylum in most member states of the European Union.

It is important that not only LGBTQI persons who are “out” in their home country or who have already experienced ill-treatment can apply for asylum. During the asylum procedure, the authorities will always assess what would happen to you if you had to return home. In many cases, it was their stay in Europe and being away from their home environment that helped LGBTQI people to freely explore and experience their identity, and thus it would no longer be safe for them to return home. You can apply for asylum in these cases as well. According to European asylum law, no one can be expected to avoid persecution by denying themselves or hiding important parts of their personality.

Unfortunately, the current Hungarian regulations seriously violate EU law, and in practice only allow someone to apply for asylum in Hungary under exceptional circumstances.

### Submission of an asylum application

According to the current regulations, an asylum application can only be submitted if a **declaration of intent**<sup>7</sup> has been submitted and approved by the Hungarian authorities. Such a declaration of intent can only be filed at the Hungarian embassy in Belgrade or Kyiv; the latter is obviously not feasible due to the Russian invasion of Ukraine.



In order to submit the declaration of intent, one must travel to Belgrade even if one is legally residing in Hungary. This means that if you legally live in Hungary with a residence permit, but you are no longer able to extend it, and you cannot apply for a new one on any other basis, but you are afraid to return to your home country, you must travel to Belgrade to submit the declaration of intent, even if you live right



<sup>7</sup> You can download the declaration of intent in Hungarian and English from the website of OIF:  
[http://www.bmbah.hu/images/sz%C3%A1nd%C3%A9knyilatkozat\\_magyar\\_2.pdf](http://www.bmbah.hu/images/sz%C3%A1nd%C3%A9knyilatkozat_magyar_2.pdf)  
[http://www.bmbah.hu/images/sz%C3%A1nd%C3%A9knyilatkozat\\_angol\\_4.pdf](http://www.bmbah.hu/images/sz%C3%A1nd%C3%A9knyilatkozat_angol_4.pdf)



next to OIF. In practice, you can only submit such a declaration if your residence permit is still valid.

Based on the declaration of intent, OIF decides whether you can submit an asylum application in Hungary. If you already reside in Hungary legally, and OIF approves your declaration of intent, you will be given a date for the formal submission of the asylum application. If you are not legally residing in Hungary at the time of submitting the declaration of intent, the embassy in Belgrade will issue you a single-entry document with which you can enter the country and formally submit your asylum application.

Only those who entered Hungary legally, but were later detained (for whatever reason), or family members of recognized refugees and persons under subsidiary protection are not required to make the trip to Belgrade.

If you do not legally reside in Hungary and request asylum here, the authorities automatically push you to the Serbian side of the border without any consideration.

These rules are contrary to EU law, according to which everyone has the right to seek asylum and no one can be forced to go to another country without a fair process. **We therefore recommend that if you**

**cannot return to your home country due to fear of persecution, you contact the Hungarian Helsinki Committee as soon as possible.**

### Refugees and persons under subsidiary protection

During the procedure, OIF holds interviews with you and obtains the relevant country of origin information based on what you have submitted. Based on these, OIF decides whether you would be at risk of persecution or serious harm upon returning to your country, and therefore whether it is justified to recognize you as a refugee or a person under subsidiary protection.

Refugees and persons under subsidiary protection are collectively called persons under **international protection**.

A **refugee** is a person who cannot return to their home country because they would be persecuted on the ground of their race, nationality, political opinion, religious belief or belonging to a particular social group. Members of the LGBTQI community belong to the latter category, so they can be – and in practice have often been – recognized as refugees in Hungary.

If a person is persecuted on several grounds, OIF must investigate all of them. For example, in the case of an Iranian gay man who secretly converts to Christianity, the risk of persecution on both religion and

sexual orientation should be considered, since both are illegal in Iran and the Iranian authorities crack down on both communities.

**Persons under subsidiary protection** are those who are not threatened with persecution similar to refugees, but would still be seriously harmed if they had to return to their country. For example, inhumane treatment (for example, a poor child protection system in case of children) or civil war are considered serious harm.

If a person poses a threat to national security they cannot be recognized as a refugee or persons under subsidiary protection.

Refugees and persons under subsidiary protection receive their status for three years, after which it is reviewed automatically by OIF. As part of the review, OIF checks whether the situation in your country of origin has changed to such an extent that you can return home safely and permanently.

If recognized as a refugee or person under subsidiary protection, you will receive a Hungarian identity card (*személyazonosító igazolvány*) and address card (*lakcímkártya*), and you are free to work in Hungary. You will also be entitled to healthcare under the same conditions as Hungarian citizens.

You can apply for a special passport with both statuses, but different rules apply to travel. It is always worth inquiring about the exact rules of the trip and the duration of the stay at the embassy of the destination country before departure, especially for persons under subsidiary protection.

Refugees can vote in municipal elections, but cannot be candidates.

If the application for international protection is rejected or withdrawn by OIF (and thus you are expelled from the country), you can appeal the decision in court.

**You can read more about the rules for asylum seekers here.**



### Non-refoulement

If you submit an asylum application or your application has been rejected (e.g. because you cannot receive a refugee status due to an exclusionary reason), but you would be at risk of **death penalty, torture, inhuman, degrading treatment**, then OIF establishes that you cannot be expelled, this is the principle of *non-refoulement*.

It is a general legal prohibition that no one, under any circumstances, shall ever be subjected to such treatment, and this means they should not be sent to a place where they would be treated in this way. The existence of the ban on *refoulement* must always be examined, not only in the asylum procedure. In other words, if someone applied for a residence permit in Hungary, but was rejected by the authorities, they cannot be expelled from Hungary if the ban on *refoulement* applies.

If OIF finds that you cannot be sent back to your home country, you will receive a **residence permit for humanitarian purposes**, which is reviewed annually by OIF. Those with such a residence permit cannot legally travel abroad (not even to other member states of the European Union) and cannot take up a job.

For example, the authority must establish a ban on *refoulement* in the case of a Russian lesbian, opposition activist, whose residence permit for study purposes has expired, and who could not legalize her stay in Hungary in any other way (e.g. by taking up a job), but who would easily be the victim of a political trial if returned home.

### Temporary protection

Following the Russian aggression against Ukraine, the European Union established a **temporary protection status**. This is a special international protection to which Ukrainian citizens and refugees recognized

in Ukraine who lived there before February 24, 2022, as well as their family members, are entitled.

A family member can be a spouse or – based on the practice of the Hungarian authorities – the cohabiting partner and children under the age of 18. However, if all members of a family are Ukrainian citizens and they left Ukraine after February 24, 2022, then all of them can receive temporary protection status in their own right, regardless of their family circumstances.

According to the experience of the Hungarian Helsinki Committee, taking into consideration a same-sex relationship might be problematic in case one of the partners is a Ukrainian citizen and the other is not, as same-sex couples are not recognized by Ukrainian law. If you are in such a situation and are forced to flee, contact one of the organizations offering legal assistance as soon as possible.

**You can read more about the rules for those fleeing Ukraine here.**



# Obtaining Hungarian citizenship

As in most states, it is also possible to become a citizen of Hungary. This is a long procedure and (apart from a few exceptions not discussed here) if your application is rejected you cannot appeal that decision in court.

In most cases, the prerequisite for naturalization (acquiring citizenship) is that you have had a **legal place of residence in Hungary** (*lakóhely*) for a certain amount of time. Your place of residence is contained in your address card (*lakcímkártya*). Having an accommodation in Hungary registered with OIF is not enough, time spent in Hungary on a residence permit does not count towards the time required to submit the naturalization application.

This means you will only be able to fulfill the criteria of residence in Hungary, if you are a refugee, a person under subsidiary protection, have a national or EC permanent residence permit, or are an EU citizen or a family member of a non-Hungarian EU citizens, as only these people are allowed to establish a residence and acquire an address card. So if you have lived in Hungary with a residence permit and later

received a permanent residence permit, the calculation of the eligibility starts from receiving the latter.

You can submit the application at any government county office, the President of the Republic makes the decision.

### General rules of naturalization

You can apply for Hungarian citizenship if you have **lived in Hungary for eight years**, speak Hungarian, and successfully passed the basic constitutional knowledge exam. You are exempted from the latter if you prove that you obtained at least a certificate of basic education from a Hungarian educational institution. Another condition is that you have no criminal record and do not pose a threat to Hungary's national security.

You have to submit documents proving subsistence and having paid taxes in Hungary attached to the application.

### Preferential naturalization (kedvezményes honosítás)

You do not have to wait eight years to apply for citizenship if you meet certain conditions.



You can apply for citizenship after **three years** of living in Hungary if you meet the general conditions presented above and:

- you are a spouse or registered partner of a Hungarian citizen<sup>8</sup>;
- you have a child under 18 who is a Hungarian citizen;
- you are above 18 and have been adopted by a Hungarian citizen;
- you are recognized as refugee by Hungary (persons under subsidiary protection are not entitled); or
- you are stateless.<sup>9</sup>

You can apply for citizenship after **five years** of living in Hungary if you meet the general conditions presented above and:

- you were born in Hungary; or
- you were under the age of 18 when you established legal residence in Hungary.

*8 Although Act no. LV of 1993 on Hungarian citizenship does not specifically mention registered partners, due to the general reference rule mentioned above, this preferential treatment applies to them as well.*

*9 A stateless person is someone who is not recognized as a citizen by any state by applying its own law. In Hungary, recognition as a stateless person can be requested from OIF in a separate procedure. The Hungarian Helsinki Committee can provide you more information on this matter.*

In some cases, minors do not have to wait until three, five or eight years have passed if they apply for naturalization together with their parents, or if the parent has already acquired Hungarian citizenship.

In addition to the above, non-Hungarian minors who do not have a criminal record, do not pose a threat to Hungary's national security and have been adopted by a Hungarian citizen may also apply for naturalization without a waiting period.

### **Simplified naturalization (egyszerűsített honosítás)**

Marriage and registered partnership allow naturalization even if the couple does not live in Hungary. You can apply for citizenship in a simplified procedure if you have no criminal record, do not pose a threat to Hungary's national security, speak Hungarian, and:

- you have been married to or in a registered partnership with a Hungarian citizen for **at least ten years** (your partner has to have Hungarian citizenship when submitting the application, they did not have to have citizenship when the marriage or registered partnership was established), or
- you have been married or in a registered partnership for **at least five years** with a person who is a Hungarian citizen at the time of submitting the application, and you have a child together.

In addition to the above, you can get Hungarian citizenship if you have no criminal record, you do not pose a threat to Hungary's national security, you speak Hungarian, and **your ancestor was a Hungarian citizen** or you can prove the likeliness of your Hungarian origin. People often mean only this latter form of naturalization under simplified naturalization, but the above two cases also fall under this category. You do not need to live in Hungary for this third case either.



# Organizations for further help



## Hátter Society

This association operates an information and counseling hotline and legal aid service for LGBTQI people, where you can get more detailed information and, if necessary, legal assistance.

jogsegely@hatter.hu | Phone: 137-37, (1) 6 333 454  
www.hatter.hu



## Hungarian Helsinki Committee

A human rights organization that protects human dignity through the means of law and public awareness raising. It provides assistance to refugees, detainees and victims of violence by state officials. They help third-country nationals who cannot return to their country because they would face torture or inhumane, humiliating treatment, or death there to stay in Hungary.

helsinki@helsinki.hu | Phone: +36 1 321 4141  
www.helsinki.hu



## Menedék Egyesület

A Magyarországra bevándorló emberek társadalmi integrációjának elősegítésével foglalkozó szervezet, amely szociális, oktatás és kulturális tevékenységet végez. Egyéni szociális munka és tanácsadás keretében segíti a hozzá fordulókat.

[menedek@menedek.hu](mailto:menedek@menedek.hu) | Telefon: +36 20 450 7245  
[www.menedek.hu](http://www.menedek.hu)

# Public bodies



## National Directorate-General for Aliens Policing

This is the general asylum and immigration enforcement authority. They authorize entry and stay in Hungary, issue residence and permanent residence permits, assess asylum applications and issue expulsion orders. You can find the forms you need to fill for applying for a residence and permanent residence permit and the declaration of intent you need to submit prior to applying for asylum.

The email address you need to use depends on the type of case. You can find the relevant email addresses and other contact details on the website [oif.gov.hu](http://oif.gov.hu) under *Contacts - Contact details of the regional offices*.

Phone: +36 1 463 9100

<http://oif.gov.hu>



**Budapest Capital Government Office - Citizenship and Registry Department**

The state body dealing with naturalization (citizenship) applications.

[apf@bfkh.gov.hu](mailto:apf@bfkh.gov.hu) | Phone: +36 1 550 1221







## Information and counselling

**137-37** (toll-free)

**+36 1 329 33 80** pay number

**Skype: „segélyvonal”**

*Every day 18:00-23:00*

**chat.hatter.hu**

*Every Monday  
and Wednesday*

*18:00-23:00*

**hotline@hatter.hu**



## Legal aid

Free legal aid service:

**legalaid@hatter.hu**

**+36 1 6 333 454**

Anonymous online reporting:

**jelentsd-a-homofobiat.hu**

Report homophobia!



## HIV/AIDS prevention

Contacts of the information and assistance hotline

(available every day between 8:00 and 22:00):

**hivvonal@hatter.hu**

**+36 1 6 333 455**

