

**THE EU'S ANSWER TO THE REFUGEE
CRISIS
A VIEW FROM BEHIND THE FENCE
(THE CASE OF HUNGARY)**

**Presented by Boldizsár Nagy,
at the training course:
Promoting effective refugee law education in the
CIS+ region
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THE CAUSES OF FAILURE

Design failure: Dublin: after family and visa/residence permit the external border crossed → perimeter states exposed to large numbers of application → Greece defaults in 2011, Hungary (and others) in 2015

Overload number of (first) applications, EU 27 or 28 +Norway, Iceland, Switzerland:

2011	2012	2013	2014	2015
309,820	336,015	435,385	626,065	959,345*

Source: Eurostat data,

* Not the final figure yet, data for several countries missing

But:

- **highly uneven distribution** UK **35** 670 (Jan-Nov), Poland **11** 040 (Jan – Nov) Spain: **10** 295 (Jan-Sept) applications
- Germany **476** 615 (Jan – Dec), Sweden **162** 560 (Jan – Dec), Austria **80** 895 (Jan – Nov)
- Major groups with **unlikely claims** (Serbia, Kosovo, BiH, etc.)

THE CAUSES OF FAILURE

Free rider member states

Greece, Italy, Hungary, Croatia, Slovenia, Austria

Ought to: register claim, submit fingerprint
to Eurodac + start RSD procedure + keep within
territory

Instead: allowing to leave or actively transporting to
next MS

**The Hungarian case:
securitisation, schizophrenia,
parallel realities**

THE NATIONAL LEVEL – FRAMING THE SITUATION AS A SECURITY ISSUE

Classic securitisation moves:

- first creating a security narrative, then
- adopting laws, treating the situation as exceptional

The Copenhagen school: new notions of security/insecurity

Border – migration – (organised) crime – terrorism continuum

SECURITISATION – A CLASSICAL QUOTE

“Migration is identified as being one of the main factors weakening national tradition and societal homogeneity. It is reified as an internal and external danger for the national community or western civilization. This discourse excludes migrants from the normal fabric of society, not just as aliens but as aliens who are dangerous to the reproduction of the social fabric. The discourse frames the key question about the future of the political community as one of a choice for or against migration. The discourse reproduces the political myth that a homogenous national community or western civilization existed in the past and can be re-established today through the exclusion of migrants who are identified as cultural aliens.”

Huysmans, Jef: The European Union and the Securitization of Migration *Journal of Common Market Studies* Vol. 38 (2000) No. 5, pp 751-777, p .758

The securitising narrative

Generating xenophobia, establishing the migration - threat - terrorism continuum

1. The „questionnaire”



Viktor Orbán Magyarországon

2016. szeptember 22-én írtam egy kérdőívemet, hogy mit gondolnak Önök a magyarországi migrációval kapcsolatban. A kérdőív célja az volt, hogy megismerjem az emberek véleményét a migrációval kapcsolatban, és hogy megértsék a magyarországi helyzetet. A kérdőív célja az volt, hogy megismerjem az emberek véleményét a migrációval kapcsolatban, és hogy megértsék a magyarországi helyzetet.

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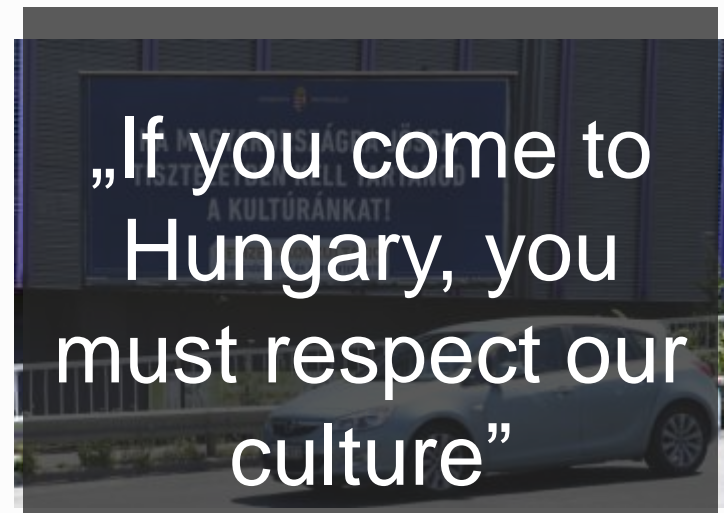
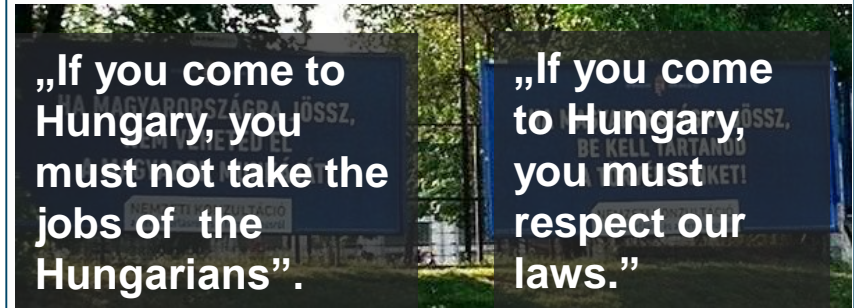
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No. 2: “Do you think that Hungary could be the target of an act of terror in the next few years?”;

No. 5 “We hear different views on the issue of immigration. There are some who think that economic migrants jeopardise the jobs and livelihoods of Hungarians. Do you agree?”;

9. “Do you agree with the view that migrants illegally crossing the Hungarian border should be returned to their own countries within the shortest possible time?”

1. The billboard campaign



WIDESPREAD RESISTANCE

Hungary needs culture

If You come to Hungary You have to sustain our elders



VIKTOR ORBÁN'S SPEECH IN THE HUNGARIAN PARLIAMENT AFTER THE PARIS ATTACKS, 16 NOVEMBER 2015. THE SCHIZOPHRENIC RELATION TO THE EU

“We Hungarians have been advocating the closure of our borders to stop the flood of people coming from the Middle East and Africa. [Hungary was criticised for this]... Which approach is more humane: to close the borders in order to stop illegal immigration, or to put at risk the lives of innocent European citizens?”

“We feel that the very existence of Europe is at stake”

„We have warned the leaders of the EU not to invite these people into Europe”

Speaking about the quota of resettlement (or relocation – his language is unclear): „The binding quota...is illegal as the European leaders have no competence to adopt such a decision concerning this matter. They have no competence to force upon a member state a measure related to refugees or the matter of immigration, which the country concerned objects.”

VIKTOR ORBÁN'S SPEECH IN THE HUNGARIAN PARLIAMENT AFTER THE PARIS ATTACKS, 16 NOVEMBER 2015. THE SCHIZOPHRENIC RELATION TO THE EU

„A new European policy is needed. ... I suggest to push dogmas aside, **let us discard political correctness** and talk straight and openly. I suggest to return from the world of ideologies to natural reason...”

He then suggests four priorities:

1 „First we have to **defend the external borders** of the EU, as security starts with the defence of borders”

2 „We have to **defend our culture** as the essence of Europe is its spiritual and cultural identity.”

3 „We have to **defend our economic interests** as we, Europeans must remain in the center of the world-economy”

4. **People** must be given the right „**to influence European decisions**, because the union must be based on a democratic edifice.”

LET'S DEFEND THE COUNTRY!

The text of the signature collecting sheet:

*„Let's defend the country!
Petition against the compulsory settlement quota.
An immigration wave of never seen magnitude has been launched towards Europe!*

Based on the national consultation Hungary stood up for herself and defended its borders. However, Brussels is now preparing to settle [in Hungary] tens of thousand of immigrants. Say no to the senseless and illegal quota and join our petition!”

VÉDJÜK MEG AZ ORSZÁGOT!

Petíció a kötelező betelepítési kvóta ellen

[Ajánlom](#) [Megosztás](#)

Soha nem látott bevándorlási hullámot indítottak Európa irányába. A nemzeti konzultáció eredményei alapján Magyarország kiállt magáért, és megvédte határait. Brüsszel azonban most arra készül, hogy kötelező kvótákkal akár bevándorlók tízezreit telepítse le.

Mondjon nemet az értelmetlen és jogtalan kvótákra, csatlakozzon petíciónkhoz!



Tovább a fidesz.hu-ra

Név:*

E-mail:*

Életkor:*

Mobil telefon:

Vezetékes telefon:

Kérjük, töltsse ki a *

Adatvédelm

Tovább

**The state of the exceptional –
legally sanctioned**

FRAMING THE SITUATION AS A SECURITY ISSUE – LEGISLATIVE STEPS

The securitisation moves:

- Exempting government measures from the usual controls (e.g. environmental impact assessment, transparency of information, construction standards, nature protection requirements)
- Announcing „Crisis caused by mass migration”
- Empowering the executive to curtail rights of others (e.g. temporarily appropriate movable and immovable property)
- Curtailing procedural rights of applicants
- De facto detention without habeas corpus
- Criminalising irregular border crossing, if across the fence

THE LEGISLATIVE MOVES

July 2015 (effective: 1 August 2015)

- Declaring **Serbia**, Montenegro and other countries as safe third countries. (Three days within the administrative procedure for to challenge presumption of safety).
- **Curtailling deadlines** for the authorities to decide an asylum-seeker's case and for the applicant to legally challenge a negative decision;
- **Denying suspensive effect of any appeal** in most of the accelerated procedures and in respect of the inadmissible applications - with the exception of the application of the safe third country rule - meaning that in a great number of cases persons may be removed from the country before the first judicial review even starts;
- Expanding possible places of detention.

THE LEGISLATIVE MOVES

August 2015 (effective 15 September 2015)

- Declaring the **razor-blade fence** a „**security border closure**“, the crossing of which may be penalised by three years imprisonment
- Entitling the government to declare „**crisis situation caused by mass immigration**“ – (Done on 15 September)
- Creating „**transit zones**“ based on a fiction that they are not within Hungary’s territory
- Adopting an extremely fast „**border procedure**“ with short period of appeal, while being de facto detained in the transit zone
- Criminal procedures reformed, depriving e.g. minors of their specific benefits.
- **Minimal court control over expulsion**, appeals decided by not fully fledged judges, possibly with Skype hearing only.

THE LEGISLATIVE MOVES

- **The crisis situation caused by mass immigration”** declared in September and extended in October, now covering 5 of the 19 counties **has not been revoked** although none of its conditions are met since mid-October.
- 12 January 2016: Negotiations, convened by the Minister for Defence suggesting the introduction into the Fundamental law (Constitution) the institution of a sixth extraordinary legal situation (next to state of necessity, war, etc) the situation of **„terror-threat”** giving **extraordinary powers to government** for 60 days and entitling the military to intervene in surely domestic situations. (No bill submitted to Parliament yet /as of 3 February 2016/)

Comprehensive interpretation of the Hungarian steps

THE NATIONAL LEVEL - HUNGARY

No genuine response to the increased flows with a view to protection

Instead of protection

DETERRENCE	OBSTRUCTION	PUNISHMENT	FREE RIDING / BREACHING THE LAW
Reluctant reception and transport to reception centers	No creation of new reception and processing capacities	Crossing the „border closure” is a crime	Allowing more than four hundred thousands to cross the border b/w Hungary and Austria
Fence at the border	„Transit zones” with 100/day capacity	Ineligible applicants are banned from the EU	Not registering entrants
Non-access to basic services / inhuman treatment	Serbia declared safe third country	Applying to people-smuggler rules to volunteers transporting refugees	Transporting people en masse to the A/H border
Unpredictable denial/permission to move on to Austria		Unlawful detention of applicants in the transit zone (w/out court control)	By closing the Serbian border re-directing flow to Croatia, by closing the Croatian to Slovenia
Crisis situation caused by mass immigration	DENIAL as if the migrants were not genuine refugees		Violating H. environmental and EU law on asylum

BROADER CONTEXT

Experiencing a large influx, **not unusual in other (sub)regions**
(Afghanistan, Rwanda, Lebanon, Jordan and Turkey, Russia, earlier Bangladesh)

Real novelty: states (Turkey, Greece, Macedonia, Serbia, Croatia, Slovenia, Hungary, Austria) renouncing claim to control the presence of foreigners on their territories.

Fundamental issue: into which direction will the EU move:



- * Re-nationalisation
- * Dismantling Schengen
- * Retreat into national existence
- * Inter-state competition
- * Shifting responsibility to others MS

FRAGMENTATION

- * Creating a genuinely united European space
- * Asylum seeker arrive thereto and the European demos offers them protection

UNION

THANKS!

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