

**FREE RIDING INSTEAD OF SOLIDARITY: AN
ATTEMPT TO INTERPRET HUNGARY'S
(ANTI)REFUGEE POLICY IN THE FRAME OF
GLOBAL AND REGIONAL SUGGESTIONS
FOR RESPONSIBILITY SHARING**

Presentation by

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“Refugees: Regional Approaches
to Global Challenges”



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THE FRAME

**HOW TO APPROACH SOLIDARITY
RESPONSIBILITY SHARING**

THE MATRIX OF FIELDS AND LEVELS OF ANALYSIS

| Field /  Discipline Level of analysis  | Moral and Political Philosophy | Practical, Political | Legal, Justice-oriented | Social, Sociological, Psychological |
|--|--|--|--|---|
| State / Community | Responsibility sharing or shifting? Allocation of „burdens” | What is „in the interest of the state?” <ul style="list-style-type: none"> • ever fewer asylum seekers? • Minimum expenses? • Avoidance of social tensions? | <ul style="list-style-type: none"> • Compatibility with Geneva 51? • Criteria of fairness: <ul style="list-style-type: none"> ○ Procedural rights ○ Substantive interpretation of definition ○ Material reception conditions | <ul style="list-style-type: none"> • Social identity construction of receiving society : why to protect refugees, (or why not) • Selectivity according to country of origin |
| Individual / Family | <ul style="list-style-type: none"> • Freedom of movement (choice of residence) • Decresing vulnerability | <ul style="list-style-type: none"> • Can she reach her preferred destination? • Where is social integration the smoothest? | <ul style="list-style-type: none"> • ECHR, Article 3, 8, 13 issues (Torture, inhuman degrading teatment or punishment, right to privacy and family, effective remedies) | <ul style="list-style-type: none"> • Extended trauma • Loss of trust in democracy (and its superiority over authoritarian regimes) |

Possible goals and venues of responsibility sharing/solidarity (or denial of them)



Goals

- Addressing root-causes
- Impact on routes, denial of entry, diverting arrivals
- Harmonisation of rules
- Allocation of persons
- Financial contribution instead of receiving persons
- Sharing of costs and benefits



Venues

- Global
- Inter-regional
- Regional
- Subregional
- Bilateral
- Intra-state (e.g. in a federation)

Possible criteria of responsibility sharing/solidarity

| Applied by  Criterion  | Commission COM (2015) 450 final Crisis relocation mechanism | EU Council Relocation decision | Commission Dublin recast COM(2016) 270 final Corrective allocation mechanism | Germany Königsteini key |
|---|---|---|---|-----------------------------------|
| Total GDP | Yes | Yes | Yes | No |
| GDP/fperson | (Yes) | (Yes) | No | No |
| Tax income | No | No | No | Yes |
| Population (size) | Yes | Yes | Yes | Yes |
| Territory | No | No | No | No |
| Population density | No | No | No | No |
| Unemployment | Yes | Yes | No | No |
| Number of earlier applicants | Yes | Yes | No | No |
| Physical proximity to country of origin (Neighbour, same region) | No | No | No | No |
| Cultural proximity | No | No | No | No |

Possible criteria of responsibility sharing/solidarity

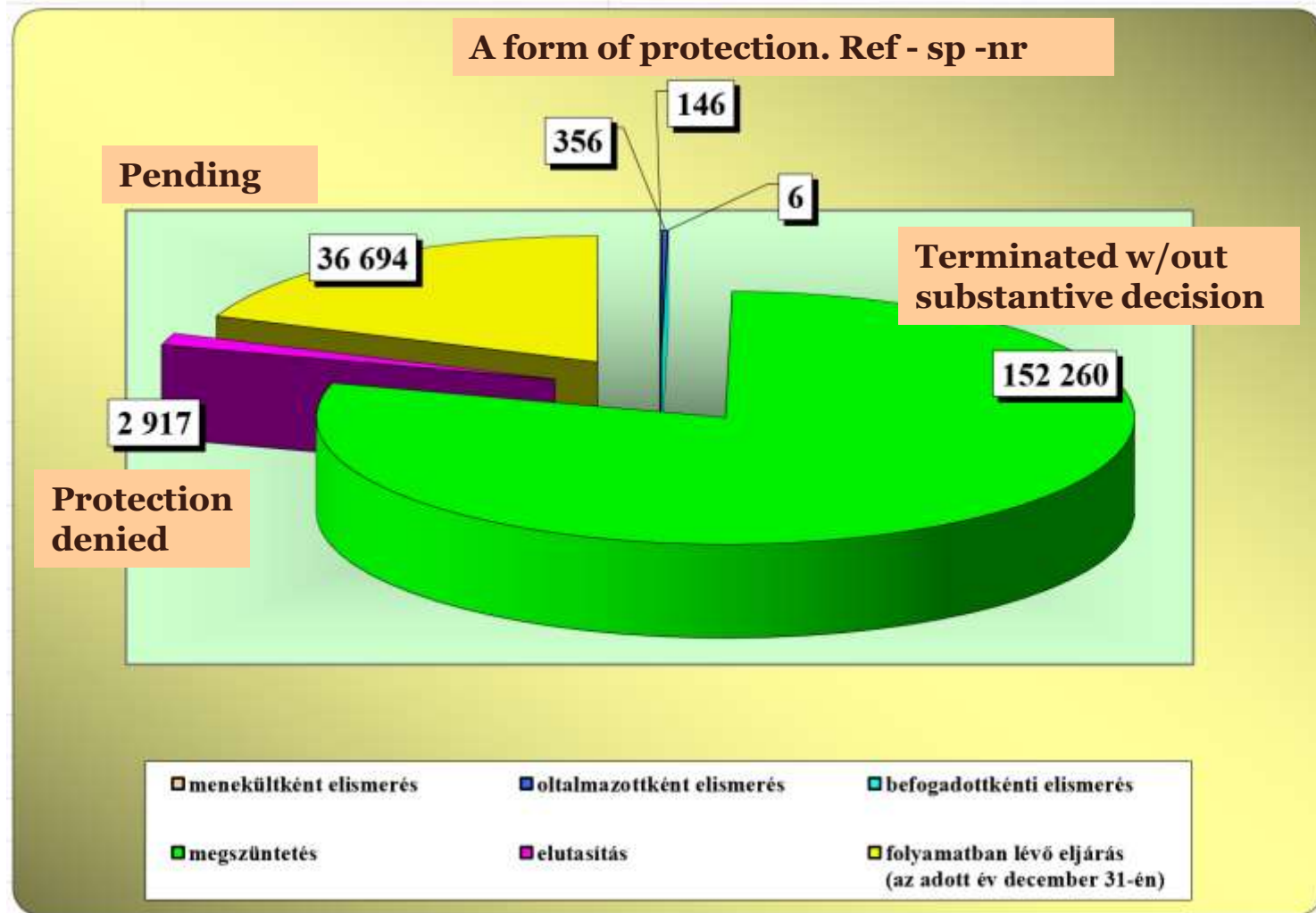
| Applied by Criterion   | Schmuck 1997 | Hathaway & Neve, 1997 | Schneider; Engler; Angevendt 2013 |
|--|------------------|-------------------------------|--|
| Total GDP | Yes (wealth") | No (Yes – external supporter) | Yes (five years average –within EU average) |
| GDP/fperson | (Yes) | No (Yes – external supporter) | No |
| Tax income | No | No | No |
| Population (size) | No | No | Yes |
| Territory | No | No | Yes (Compared to EU total) |
| Population density | No | No | No |
| Unemployment | No | No | Yes |
| Number of earlier applicants | No | No | No |
| Physical proximity to country of origin (neighbour, same region) | Yes | Yes | No |
| Cultural proximity | No | Yes | No |

**HUNGARIAN ASYLUM LAW AND POLICY
IN 2015–2016: SECURITIZATION
INSTEAD OF PROTECTION AND LOYAL
COOPERATION**

APPLICATIONS AND RECOGNITIONS IN HUNGARY

| Year | Applicant | Recognised as refugee | Subsidiary protection | Non-refoulement |
|------------------------|------------------|------------------------------|------------------------------|------------------------|
| 2000 | 7 801 | 197 | – | 680 |
| 2001 | 9 554 | 174 | – | 290 |
| 2002 | 6 412 | 104 | – | 1 304 |
| 2003 | 2 401 | 178 | – | 772 |
| 2004 | 1 600 | 149 | – | 177 |
| 2005 | 1 609 | 97 | – | 95 |
| 2006 | 2 117 | 99 | – | 99 |
| 2007 | 3 419 | 169 | – | 83 |
| 2008 | 3 118 | 160 | 88 | 42 |
| 2009 | 4 672 | 177 | 64 | 156 |
| 2010 | 2 104 | 83 | 132 | 58 |
| 2011 | 1 693 | 52 | 139 | 14 |
| 2012 | 2 157 | 87 | 328 | 47 |
| 2013 | 18 900 | 198 | 217 | 4 |
| 2014 | 42 777 | 240 | 236 | 7 |
| 2015 | 177 135 | 146 | 356 | 6 |
| 2000–2015 Total | 287 469 | 2 310 | 1 560 | 3 834 |

PROTECTION IS MINIMAL



ARRIVALS, COUNTRIES OF ORIGIN

| | I-X. 2015 | I-X. 2016 | Change | Change in % |
|--|-----------|-----------|----------|-------------|
| Total number of registered asylum seekers | 176 580 | 28 075 | -148 505 | -84,10% |
| European | 25 146 | 620 | -24 526 | -97,53% |
| Non-European | 151 434 | 27 455 | -123 979 | -81,87% |

| Citizenship | I-X. 2016 | In the % of all the cases |
|--------------------|------------------|----------------------------------|
| Afghan | 10 509 | 37,43% |
| Syrian | 4 680 | 16,67% |
| Pakistani | 3 794 | 13,51% |
| Iraqi | 3 303 | 11,76% |
| Iranian | 1 250 | 4,45% |
| Moroccan | 1 016 | 3,62% |
| Algerian | 625 | 2,23% |
| Turkish | 420 | 1,50% |
| Somalian | 326 | 1,16% |
| Bangladeshi | 269 | 0,96% |
| other | 1 883 | 6,71% |
| Total | 28 075 | 100,00% |

Source: OIN, Statistics I-X.
2015 - I-X. 2016
www.bmbah.hu (20161208)

DECISIONS IN 2016 UNTIL NOV 1

| Number of decisions made by the Asylum Authority | | | | |
|---|------------------|------------------|---------------|--------------------|
| | I-X. 2015 | I-X. 2016 | Change | Change in % |
| Acknowledgement as refugee | 126 | 135 | 9 | 7,14% |
| Acknowledgement as subsidiary protected person | 295 | 245 | -50 | -16,95% |
| Acknowledgement as person authorised to stay | 4 | 7 | 3 | 75,00% |
| Termination | 107 732 | 46 590 | -61 142 | -56,75% |
| Refusal | 2 473 | 3 149 | 676 | 27,34% |

Source: OIN, Statistics I-X. 2015 - I-X. 2016 www.bmbah.hu (20161208)

CONXCEPTUAL FRAME

- Securitisation
- Majority identitarian populism
- Crimmigration

WHAT DOES HUNGARY DO INSTEAD OF PROTECTING THE REFUGEES?

1.
IT IS IN DENIAL

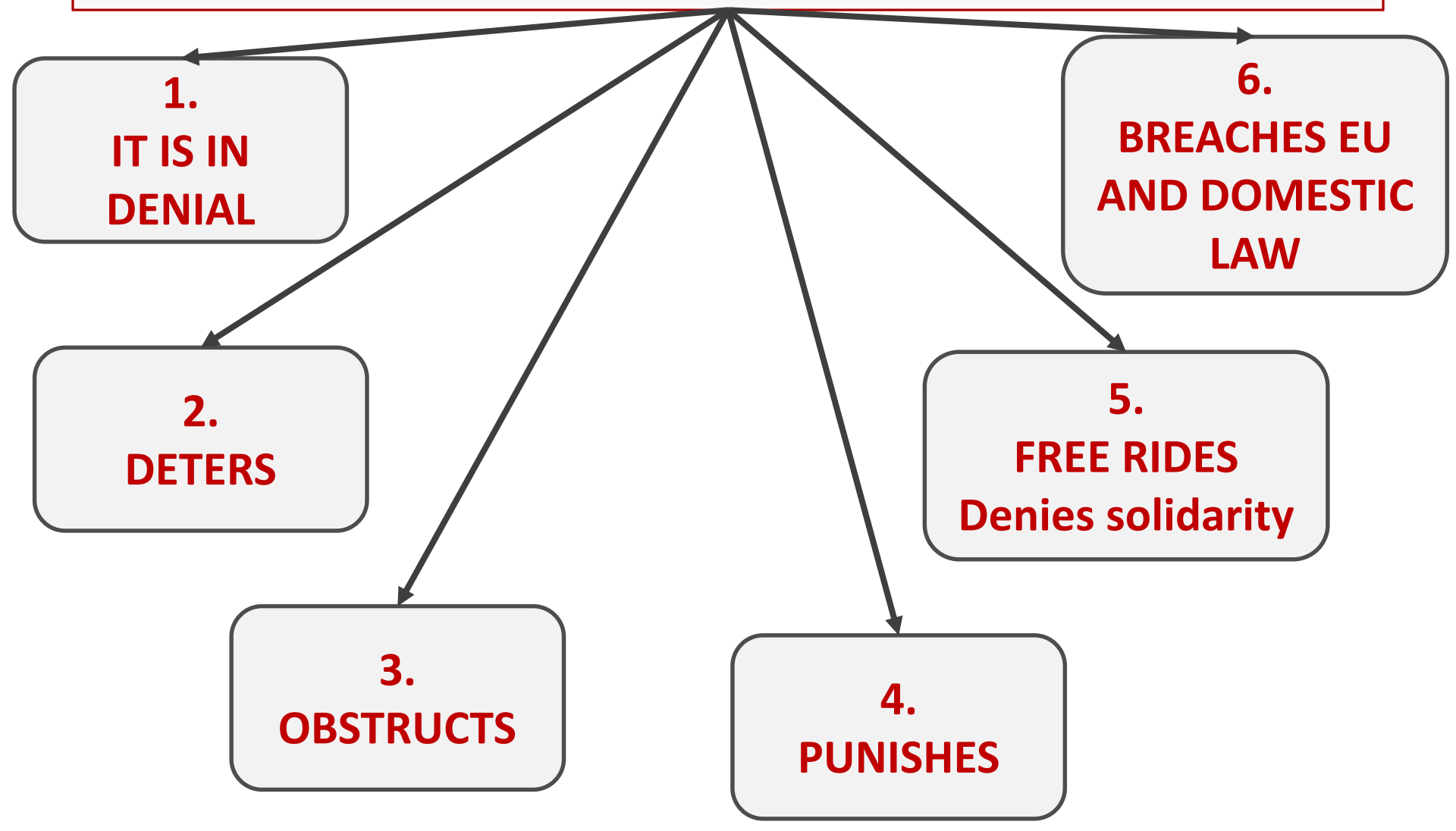
2.
DETERS

3.
OBSTRUCTS

4.
PUNISHES

5.
FREE RIDES
Denies solidarity

6.
BREACHES EU AND DOMESTIC LAW



- Hungary: no genuine response to the increased flows with a view to protection. Instead of protection

DENIAL

DETERRENCE

OBSTRUCTION

PUNISHMENT

Hungary does not need **livelihood immigrants**” title of the parliamentary debate day on 22 February 2015

„National consultation on **terrorism and immigration**” (May 2015)

“**Waves of illegal immigration** threaten Europe with explosion...The **European Union is responsible for the emergence of this situation...** We have the right to **defend our culture, language, values...**” Parliament’s resolution 22 November 2015

Reluctant reception and transport to reception centers in 2015
Fence at the border from 15 September 2015

Systemic **detention** of asylum seekers

Non-access to basic services / inhuman treatment

Unpredictable denial / permission to move on to Austria before the closure

Crisis situation caused by mass immigration, renewed without legal ground in March 2016

No creation of **new** reception and processing capacities / **Closing** down the largest in Debrecen

„**Transit zones**” with **100/day** capacity – decreased in March 2015 to 50

Serbia declared **safe third country**

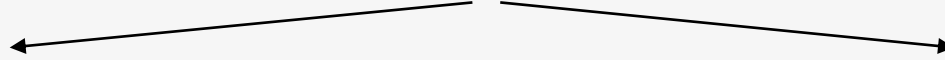
Unauthorised crossing the „border closure” is a **crime**

Ineligible applicants are **banned from the EU** and detained even if removal is hopeless

Applying to people-smuggler rules to **volunteers** transporting refugees

Unlawful **detention** of applicants **in the transit zone** (w/out court control)

- **Hungary: no genuine response to the increased flows with a view to protection. Instead of protection**



FREE RIDING / LACK OF SOLIDARITY

BREACHING THE LAW

| | |
|---|--|
| Closing of the border (September and October 2015) only rerouted the flow | Building the fence in violation of environmental and nature conservation rules |
| Waving though approximately 233 000 persons without registration | Violating procedural guarantees in the border procedure (Including the lack of effective remedy) |
| Attacking the relocation decision in the CJEU in December 2015 | Violating rights of minors and access to translation in the criminal procedure |
| Refraining from resettlement , including under the Turkey – EU deal of March 18 | Systemic return to Serbia without obeying the EU-Serbia return agreement |
| Initiating a referendum against any compulsory relocation scheme | Inhuman conditions in front of the „transit zones” |
| After the failed referendum failed attempt to amend the Fundamental Law in order to block EU decision | Coercing persons apprehended within 8 kms from the fence with Serbia back across the fence leading to inhuman treatment |
| | Denying the taking charge/taking back under Dublin |

Literature

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Thanks!

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