

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

Boldizsár Nagy

CEU

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Motto:

„I urge you, Secretary-General, to initiate negotiations on sharing this burden at a global level. All major stakeholders of international politics will have to take some of the migrants to their countries as part of a global quota system.”

*Statement by H.E. Mr. Viktor Orbán Prime Minister of Hungary
at the High Level Side Event on “Strengthening cooperation on migration and refugee movements
in the perspective of the new development agenda” 30 September 2015 United Nations
New York at*

http://un.newyork.gov.hu/accessibility/download/5/02/21000/Statement_of_Viktor_Orb%C3%A1n_High-Level_Meeting_on_Migration.pdf (20170208)

The orders of magnitude

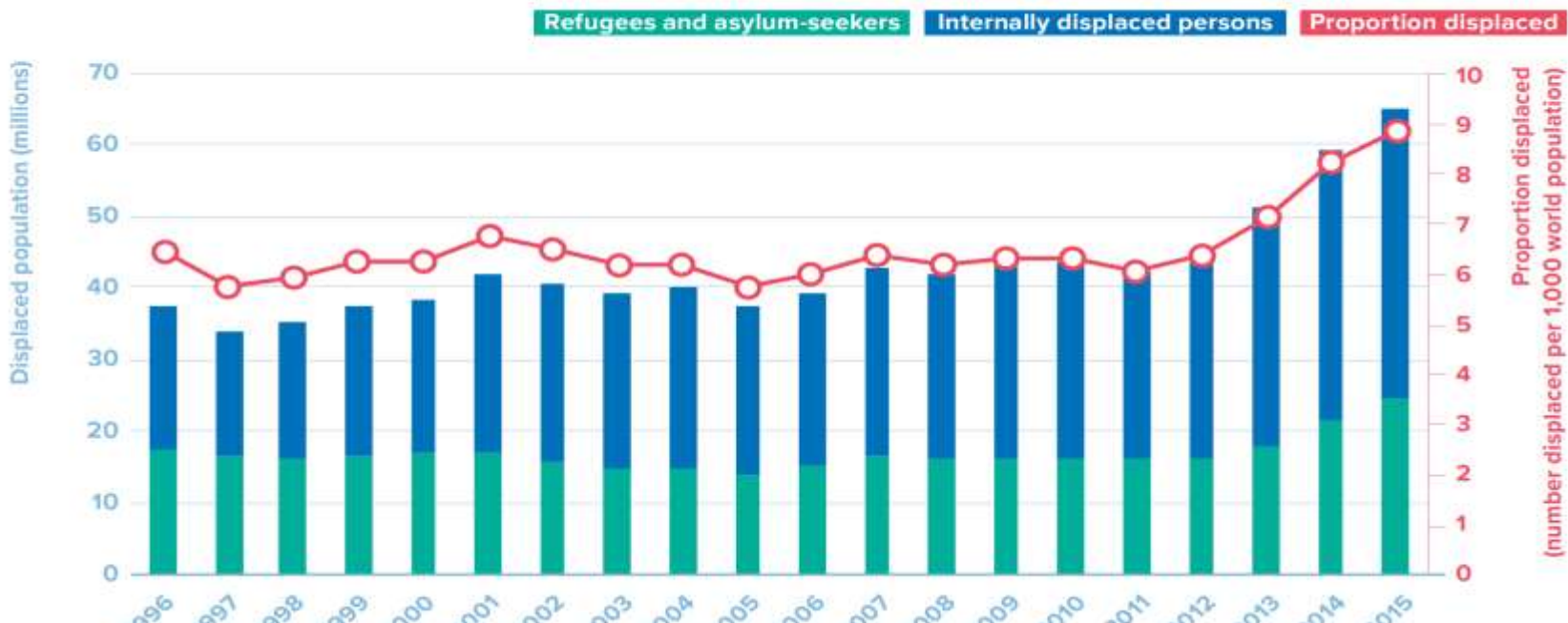
Major trends, 2015, (flow data)

During 2015

12,4 million persons were forced to flee from home. Of them 8,6 million were internally displaced and 1.8 new refugees crossing an international border. Beyond them there were 2 million new applications submitted by persons who left home earlier.

- On a daily average 34,200 persons had to flee (In 2010-ben the number was :10 900)
107,100 refugees were resettled from the country of first asylum to another state
- 201,400 returned home (since 1994 altogether 18.4 million)

Fig.1 Trend of global displacement & proportion displaced | 1996 - 2015 (end-year)



Forrás:
UNHCR
, Global
Trends
Forced
Displacement
2015,
Geneva,
2016, p.
6

Stock data

At the end of 2015

- There were **65,3 forced migrants**
- Of these
 - **21,3 million** were refugees. Of the refugees **5,2 million were the Palestinian** and **16,1 million** of other nationality
 - **40,8 million internally displaced persons**
 - **3,2 million** asylum seekers
 - Of all the refugees **50 %** is below the age of 18.
 - **Syria (4.9 million) Afghanistan (2,8 million) and Somalia (1,1 million)** are the three countries wherefrom more than half of the refugees came

Recognition rates – within the decisions on the merits

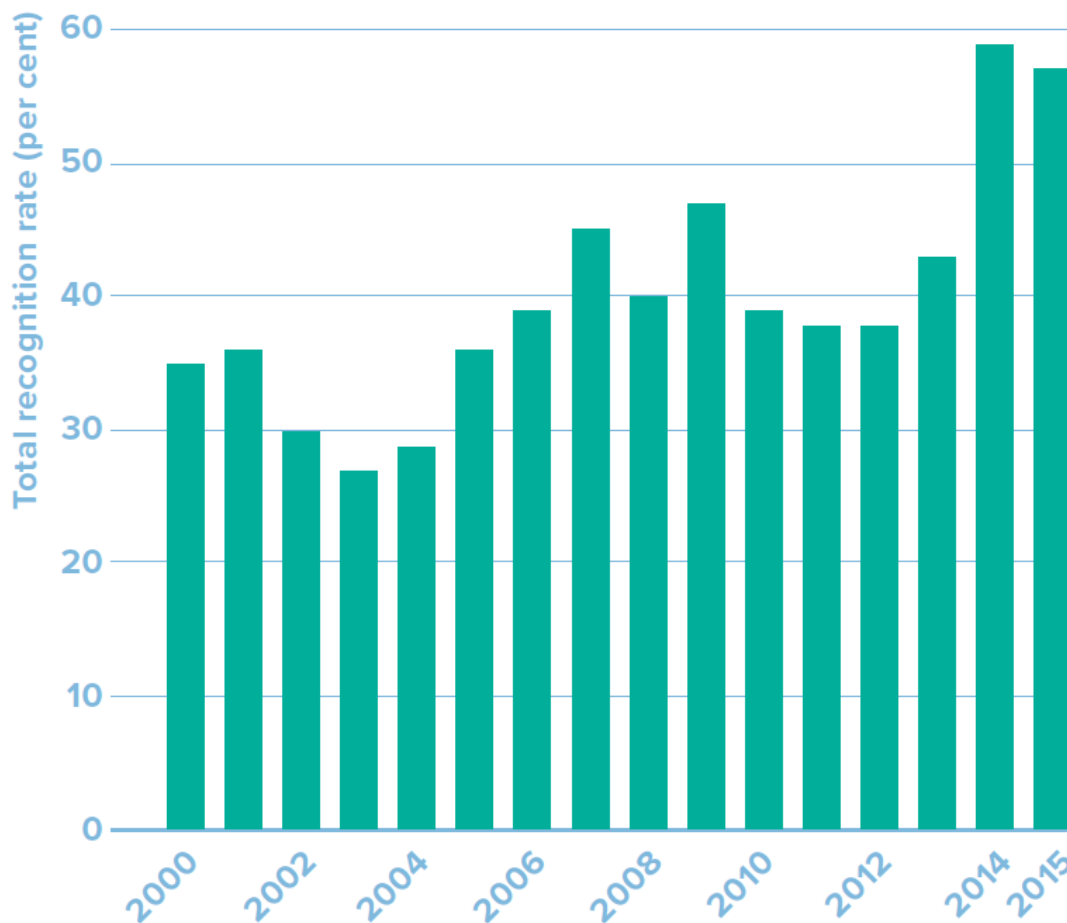
Between 2000 and 2012 yearly 0,6 - 1,0 million applications were submitted

Recognition rate within the decisions on the merit oscillated between 27% and 47 %.

In 2015-ben decision on the merit was taken on 1,18 million applications

In 2014-2015- recognition rates were above 50%

Fig.18 Global Total Recognition Rates | 2000-2015



Syria! (January, 2017)

Total Persons of Concern

4,862,778

Last Updated 05 Jan 2017

Source - UNHCR, Government of Turkey

Registered Syrian Refugees

4,862,778

Last Updated 05 Jan 2017

Source - UNHCR, Government of Turkey

This figure includes 2 million Syrians registered by UNHCR in Egypt, Iraq, Jordan and Lebanon, 2.8 million Syrians registered by the Government of Turkey, as well as more than 29,000 Syrian refugees registered in North Africa.

Regional demographic breakdown below is based on available data from Egypt, Iraq, Jordan and Lebanon

Total Syrian Asylum Applications in Europe

884,461 between Apr 2011 and Oct 2016

137,798 in 2014 only

Note - Data for 37 European countries which provide monthly information to UNHCR. To the extent possible, the figures reflect first time asylum applications, but some of the statistics are likely to include repeated applications (same or different country).

Top Countries



Evolution of Asylum Applications

Sources: <http://www.migrationpolicycentre.eu/migrant-crisis/focus-on-syrians/> (20170109)

<http://data.unhcr.org/syrianrefugees/regional.php> (20161107) author's assemblage

Egypt: 115,204

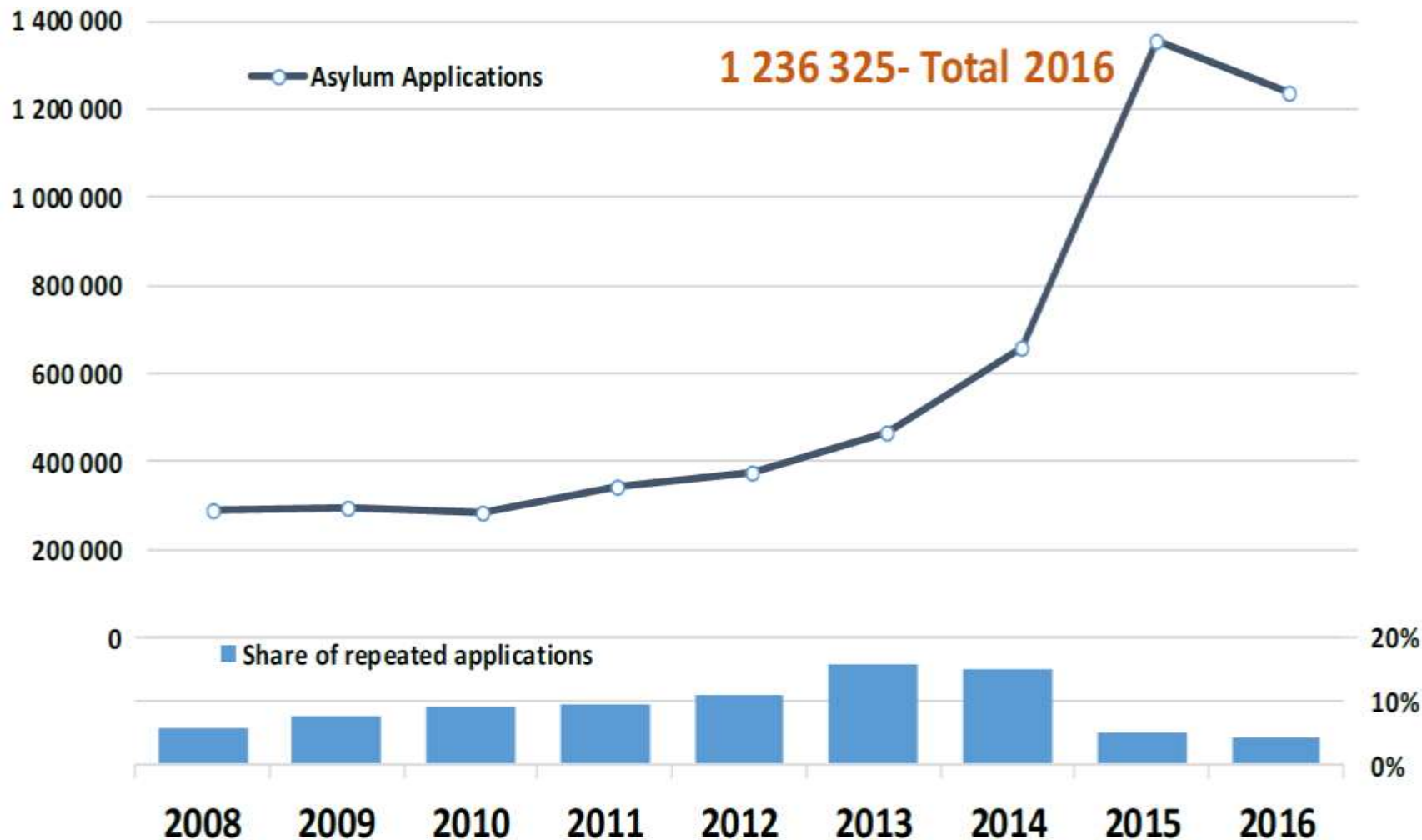
Iraq: 230,836

Jordan: 655,399

Lebanon: 1,017,433

Turkey: 2,814,631

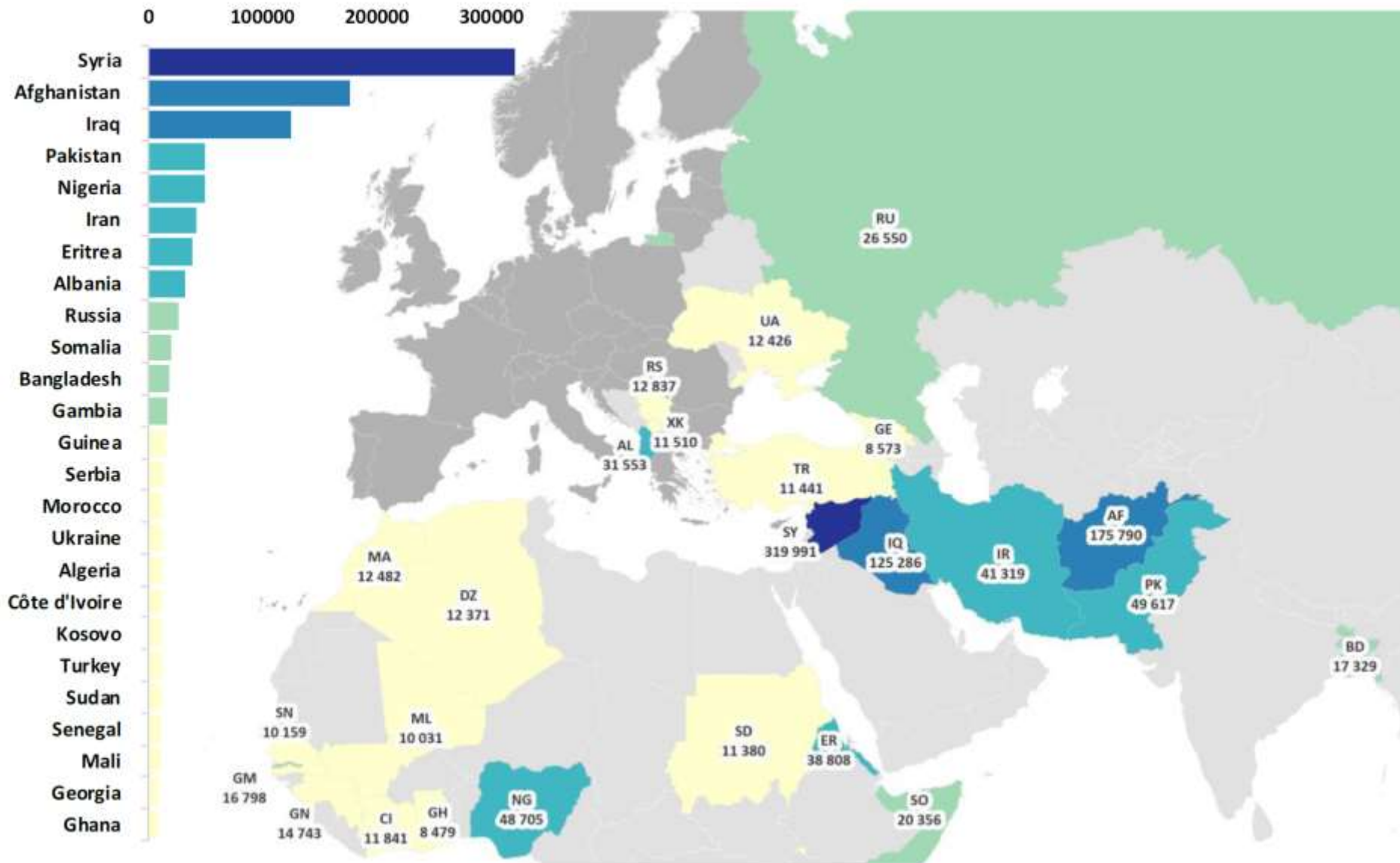
Number of asylum applications in EU+ EU 28 + Norway and Switzerland



Source: Latest asylum trends – 2016 overview, p. 1

<https://www.easo.europa.eu/sites/default/files/Latest%20Asylum%20Trends%20Overview%202016%20final.pdf>

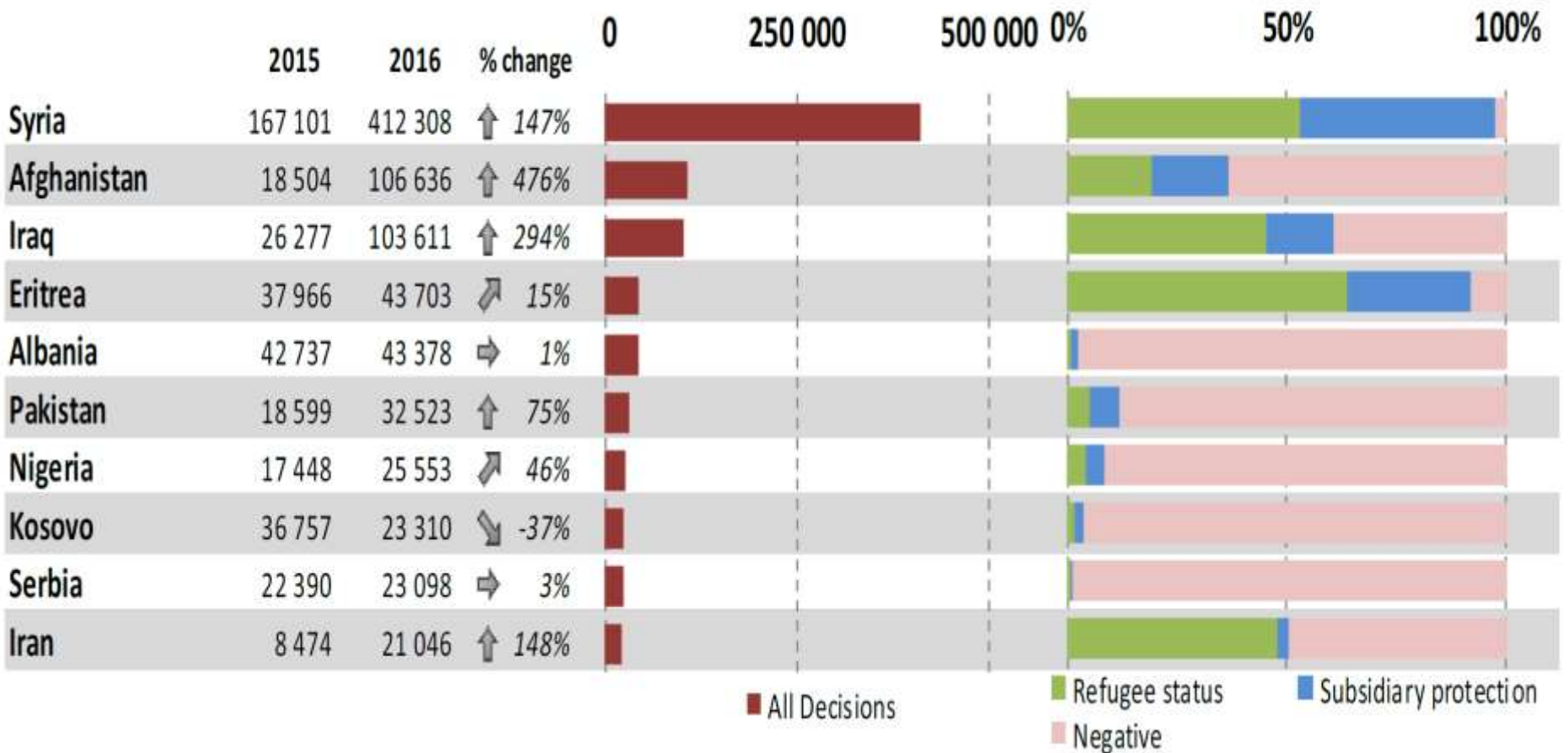
Main countries of origin of applicants in the EU+ in 2016



Source: Latest asylum trends – 2016 overview, p. 1

<https://www.easo.europa.eu/sites/default/files/Latest%20Asylum%20Trends%20Overview%202016%20final.pdf>

Decisions - recognition - numbers and rates, EU+, 2016





Source: Latest asylum trends – 2016 overview, p. 3.

<https://www.easo.europa.eu/sites/default/files/Latest%20Asylum%20Trends%20Overview%202016%20final.pdf>

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 2015–2017: SECURITIZATION
INSTEAD OF PROTECTION AND LOYAL
COOPERATION**

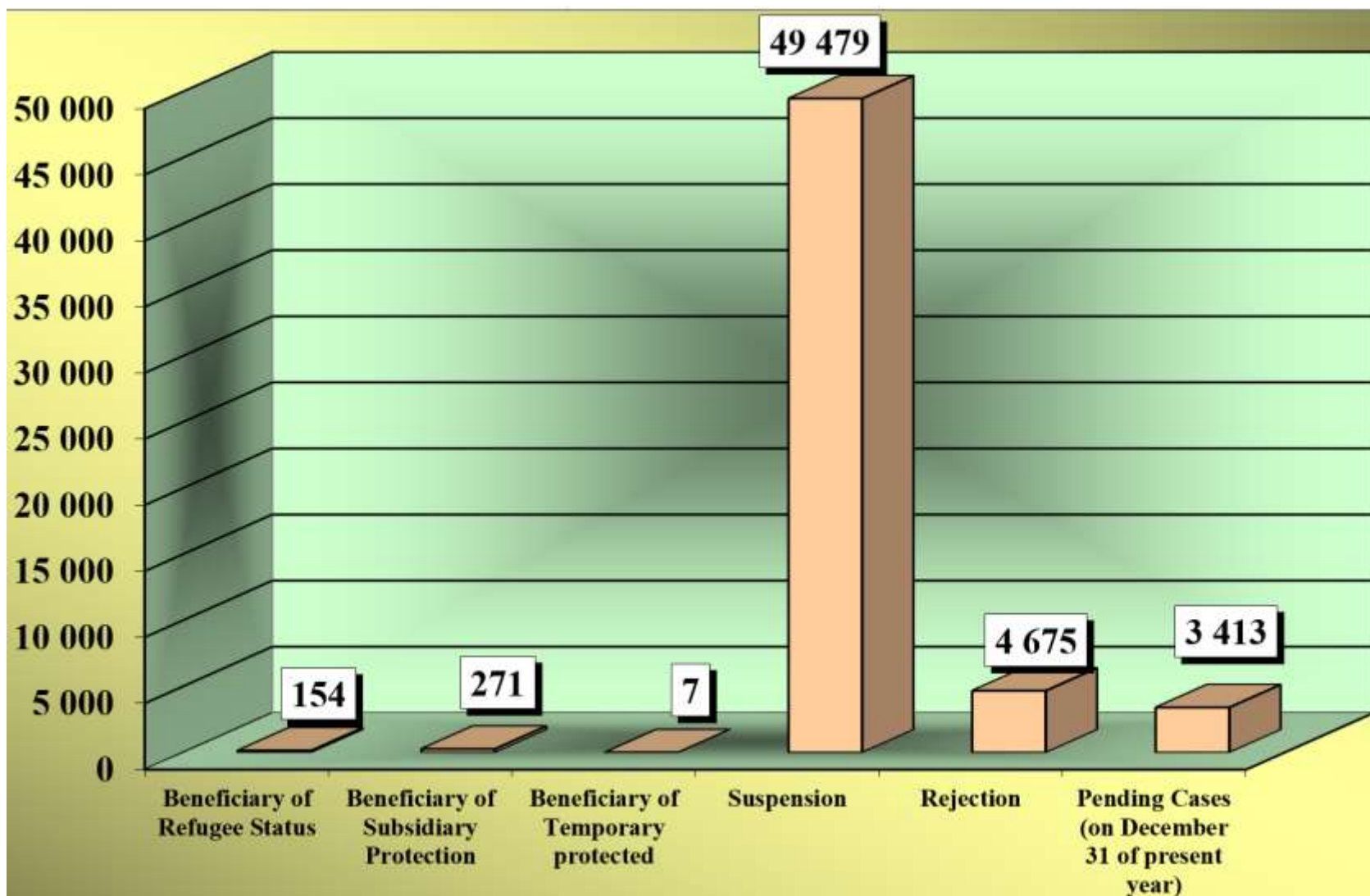
APPLICATIONS AND RECOGNITIONS IN HUNGARY

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

ARRIVALS, COUNTRIES OF ORIGIN, HUNGARY, 2016

Citizenship	2016
Afghan	11 052
Syrian	4 979
Pakistani	3 873
Iraqi	3 452
Iranian	1 286
Moroccan	1 033
Algerian	710
Turkish	425
Somali	331
Bangladeshi	279
Kosovar	135
other	1 877
Total	29 432

PROTECTION IN HUNGARY IS MINIMAL – DATA FOR 2016



CONCEPTUAL FRAME

- Securitization
- 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 responsibility sharing:**

1: DENIAL

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**

Referendum question, 2016. „Do you want the European Union to be able to mandate **the obligatory resettlement of non-Hungarian citizens into Hungary even without the approval of the National Assembly?”**

V. Orbán in his 2017 Hungarian Review article* speaks of Hungary defending „the common external border against **the frightening tsunami of migrants since 2015 adding that „**migration in its entirety is killing us**”.**

*http://hungarianreview.com/article/20170124_hungary_and_the_crisis_of_europe/

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

2: DETERRENCE

Reluctant reception and transport to reception centers in 2015

Non-access to basic services / inhuman treatment

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

Fence at the border from 15 September 2015

Systemic **detention** of asylum seekers for more than a decade – „**asylum detention** introduced in 2014 – threats **to detain everyone** until the end of procedure:2017 January

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

Maintaining a **tent-camp** in Körmend, while closing down well-equipped Bicske

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

3. OBSTRUCTION

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

„Transit zones” with 100/day capacity – decreased in
March 2015 to 50 –further decreased to 10 in January
2017

Serbia declared **safe third** country

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

4. PUNISHMENT

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

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

Applying 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**

5. FREE RIDING / LACK OF SOLIDARITY

Closing of the border (September and October 2015) only rerouted the flow

Waving though approximately 233 000 persons without registration

Attacking the relocation decision in the CJEU in December 2015

Refraining from resettlement, including under the Turkey – EU deal of March 18

Initiating a **referendum** against any compulsory relocation scheme

After the failed referendum **failed attempt** to amend the **Fundamental Law in order to block EU decision**

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

6. BREACHING THE LAW

Building the fence in violation of environmental and nature conservation rules

Violating procedural guarantees in the border procedure (Including the lack of effective remedy)

Violating rights of minors and access to translation in the criminal procedure

Systemic return to Serbia without obeying the EU-Serbia return agreement

Inhuman conditions in front of the „transit zones” and in the Körmend reception centre

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 the Dublin regulation

**BACK TO THE LARGER
PICTURE!**

New York v. Valetta

OUTCOME DOCUMENT FOR 19 SEPTEMBER 2016 HIGH-LEVEL MEETING TO ADDRESS LARGE MOVEMENTS OF REFUGEES AND MIGRANTS

The New York Declaration, 19 September 2016

The word „illegal” does not appear

„4.5 We underline the **centrality of international cooperation** to the refugee protection regime. We **recognize the burdens** that large movements of refugees place on national resources, especially in the case of developing countries. To address the needs of refugees and receiving States, **we commit to a more equitable sharing of the burden and responsibility** for hosting and supporting the world's refugees, while taking account of existing contributions and the differing capacities and resources among States.”

Malta Declaration by the members of the European Council on the external aspects of migration: addressing the Central Mediterranean route, 3 February 2017

The words „refugee”, „asylum” do not appear

Priorities:

- a) Training and equipping Libyan border guard
- b) Disrupting smugglers’ models and routes
- c) Enhancing resilience of local communities
- d) Reception capacities and conditions in Libya
- e) Support for IOM for voluntary returns
- f) Info campaigns in Libya and countries of origin
- g) Enhancing Libya’s land border protection with neighbours
- h) Surveilling alternative routes
- i) Supporting Italy- Libya bilateral deals
- j) Dialogue and cooperation with Libya’s neighbours on preventing departure and managing returns

Literature

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Thanks!

Boldizsár Nagy
Central European University

nagyb@ceu.hu
www.nagyboldizsar.hu