

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

Presentation by
Boldizsár Nagy

at the “Constitutional Dimensions of the Refugee Crisis”
German Law Journal Special Issue — Panel Discussion
Lexington, Washington & Lee University,
28 November 2016

CNN reports, 28 August, 2015



Fleeing war to be left dead in truck

Austria says 71 bodies likely those of Syrians who suffocated

Tide of death: Migrants' bodies wash in | One migrant's journey | 'Better bombed in my homeland than die here'

Hungary: epochs of the refugee history

- 1945 – 1989 - **closure** (Greeks, Chileans. Escape from Hungary)
- 1988 – 1991 – **arrival from Romania** (mainly ethnic Hungarians, informal, swift integration)
- 1991 – 1995 - The **Southern Slav** wars – welcome, but temporary protection
- 1995 – 2004 - In the **mainstream** (1998 Lifting of the geographic limitation)
- 2004 – 2014 - **Co-operative member** of the EU. Managable application numbers, lots of absconding
- 2015 - - **Betrayal** of refugee and human rights law, antisoladaristic attitude within the EU. Lack of loyal (sincere) co-operation

Conceptual frame

- Securitisation
- Majority identitarian populism
- Crimmigration

- 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

Thanks!

Boldizsár Nagy
Central European University
and Eötvös Loránd University
Budapest

nagyb@ceu.hu
www.nagyboldizsar.hu