The V4 Towards Migration Challenges in Europe
An Analysis and Recommendations

edited by
Robert Łoś, Anna Kobierecka
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Introduction
The culmination of the large-scale influx of migrants in the European area in 2015 and 2016 has not only led to severe pressure on the affected countries – transit countries as well as countries of destination –, but also to the questioning of fundamental achievements of the European Union such as the freedom of movement. The migrant crisis also shed light on pressing issues still in need of satisfying responses reflecting reality, such as the case of the revision of the 1951 Geneva Convention on the status of refugees and the Dublin III Regulation setting forth that an asylum application needs to be filed in the first country of entry. Not only did the crisis reveal already existing ruptures between Western and Eastern Europe, but it also showed that the European Union as such is incapable of taking firm and swift decisions regarding the protection of its own borders and citizens against an unprecedented influx of irregular migrants – many of them without official documents.

The migrants crisis also led to a paradigmatic shift associated mainly with the significance of political territoriality in the European political space. This shift was primarily a result of the clash between the V4 countries (Czech Republic, Hungary, Poland and Slovakia) and the European “core” regarding what the correct solutions for the migration crisis are. For the V4 countries the problem of integration deficit among several groups of immigrants in Western Europe and the societal, economic and security challenges and consequences thereof has also functioned as a warning signal against large-scale irregular migration from countries, significantly differing from the Judeo-Christian European societies in terms of culture, religion and demography. According to official data from European Asylum Support Office (EASO) more than 1,2 million asylum applications were lodged during 2016, which is purely a 9% decrease compared to the record year of 2015, when around 1,4 million persons applied for asylum in the EU+ countries (including Norway and Switzerland). The minor decrease is merely a symbolic development regarding all the efforts taken during 2016 to stem the continuing flow of irregular migrants towards a European Union (eg. enhanced border controls, the EU-Turkey agreement, strengthening of Frontex).

A survey carried out by the Spring 2015 Standard Eurobarometer has also demonstrated the negative potential of the lack of efficient border management related to the illegal migration: “...citizens see immigration as the major challenge facing the EU currently.”2 These findings came well before the actual culmination of the migration crisis. The gradual increase in migration and the deepening of the crisis further exacerbated the disagreements between the V4 countries (which placed great emphasis on the security approach, i.e. threat to public order and security, the welfare state as well as the identity of the host society) and the European “core” (especially Germany and the European Commission, which placed emphasis on the positivist humanitarian approach). The traditional Western European host countries tended to initially disregard from the V4 approach and have clearly considered the opinion of the V4 as irrelevant to EU decision making. This approach resulted in a serious underestimation of the driving forces emerging from the sense of external threat leading to an attempt, or aiming at stopping contact with an undesirable or dangerous neighbor.3 In this case aiming at intersection of the post-modern world (or Barnett’s Functioning Core) with the pre-modern world (or Barnett’s Non-Integrating Gap) where non-state threats are coming from. Theoretically it has been a conflict between the realistic paradigm with the liberal one according to which: “the primary function of state borders is to ensure contacts between the neighboring countries and facilitate their interaction.”4

The dynamics of illegal migration in 2015 questions the very concept and practice of the 1951 Refugee Convention which lies at the core of the EU’s neo-liberal immigration and asylum policy. The related loss of control over territorial jurisdiction (effective border management), borders and both internal and external security created a condition of chaos under which authorities were unable to responsibly evaluate which individuals are fleeing from conflict zones and thus qualifying for the refugee status and which are cases of economic migrants seeking economic privileges.

Despite the fact that asylum law is a national competence of the Member States of the European Union, several Member States felt the aching lack of responses to efficiently protect the external borders of the Union. Hence, seve-

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eral countries – such as Hungary, Croatia, Slovenia and Austria at a later stage – felt forced to unilaterally adopt own security measures to protect their territory and citizens. This is also the case of the V4 countries, who do not question the purpose and true intent of the 1951 Geneva Convention, but who refuse to provide any form of protection to irregular migrants claiming to have the right to freely choose the country of final destination (so called “asylum-shopping”) and who do not respecting the sanctity of state borders, nor the laws of the country they are in. This has been in a sharp contrast with the pseudo-humanitarian approach ignoring a state’s responsibility to control and protect borders, to provide a public order and security but also to provide its citizens with a basic facts on the background of the persons entering the country. Even F. Crépeau (Special Rapporteur on the human rights of migrants, UNHCR) when urging “Europe” to open its borders because it was claimed to be a moral imperative to save lives, ignored basic facts that this would probably only function as a tacit invitation to more people to reach the EU. Still the EU is stuck in a moral dilemma and is unable to acknowledge the fact that many of these migrants end up in less pleasant situations due to their own behaviour. This concerns both the those entitled to refugee protection as well as the economic migrants. The inability of the EU put a working plan on the table to cope with the migrant crisis reflects the large gap between policy and reality, as the introduction of the borderless EU (removal of internal borders) still does not walk hand in hand with a proper border management of external Schengen borders.

This political clash reached its climax at the beginning of 2016, when the V4 summit in Prague (15 February 2016) united the V4 countries around the criticism of the German immigration strategy and called for an alternative back-up plan to stop the migrants at the borders of Greece. The EU thus became engulfed in a double clash of ideas – on one hand, there was the issue of how to react to the “eastern threat”; on the other, an adequate reaction to the southern threat had to be found. This clash clearly showed the limits of the supra-national solution, while at the same time enabling reflections on the more complex processes taking place on global level – the very processes, which the post-modern EU long refused to consider. In fact, we are dealing with a fundamental paradigmatic shift stemming from the dichotomic nature of globalization. As S. Gradanos, Z. Murphy, K. Schaul and A. Faiola have recently no-

ted in The Washington Post: “A generation ago, globalization shrunk the world. Nations linked by trade and technology began to erase old boundaries. But now barriers are rising again, driven by waves of migration, spillover from wars and the growing threat of terrorism.”6 The authors, in their duly named article “A New Age of Walls”, identified and empirically researched a trend, which could be labelled border hardening, re-bordering (other fitting terminology could also be used), and which is becoming a more and more apparent element of the political process.

**Root Causes of Migration towards Europe**

As it has been held many times previously: migration is as old as mankind itself. The notion of migration covers all types of migratory movements: intra-state, international, voluntary or forced, regular and irregular. The causes of the present-day migration are complex and multicausal, as pointed by Robert Zetter. Zetter indentifies the following drivers (or push factors) of migration, which interact with and reinforce each other: 1) intrastate conflicts, existence of violent non-state territorial actors such as Da’esh (VNSTA), 2) poor-governance, political instability, and repression, 3) environmental factors.7 What is important is that demographic pressure may also be added to the list. Intrastate conflicts lies at the core of migration from countries like Syria, Iraq or Libya, poor governance and political oppression in the case of Eritrea for instance, and environmental factors might explain driving forces behind the migration from Sub-Saharan Africa and the Horn of Africa. Although Somalia is currently not ranking among the top source countries of migration towards, it offers an empirical example of the country struck by all above mentioned factors: political instability since the end of 1980s, political oppression by various and competing VNSTA, environmental factors (resulting in famine and drought), the violent action of the terrorist organisation al-Shabaab and ongoing intrastate conflicts and etc. The last factor reflects broader geopolitical changes in the EU’s proximity (Libya, Syria). The year 2014 witnessed the highest number of conflicts reported since 1999, growing number of internationalized armed conflicts, the highest yearly death toll in the post-Cold War period.8

Pull factors might be coined as the other side of the coin including 1) secure environment, 2) liberal political system guaranteeing political rights and civic liberties, 3) economically developed including benefits of welfare states,

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4) open migration policies. For Oxford economics professor Paul Collier things are crystal clear: “Angela Merkel is responsible for the refugee crisis. Who else?”

Although Angela Merkel might be attributed an authorship of Germany’s open doors policy, it can not itself explain all the underlying causes of the migrant crisis of 2015 which only has increased afterwards. Standard of living in the EU is an important pull factors for economic migrants coming from the global south. As F. Crépeau admits: “[t]hese people (economic migrants) know there are jobs… Migrants are not stupid, they would not go to places where there are no jobs.”

However this assumption contradicts not only the unemployment rate in many EU Member States but also official data on the employment rate among migrants and refugees. “The survey of refugees’ employment status, educational background and values was conducted by the research department of the Federal Office for Migration and Refugees and the IAB and DIW research institutes. It shows that of the refugees who arrived last year and in January 2016, 13 percent are in work.”

This reflects a sharp contrast with a situation in 1950’s when the major Western European economies were recovering from the aftermaths of the Second World War and needed (cheap) workforce.

### Migration and the Process of Re-bordering in the European Area

Re-bordering is by far not a new phenomenon, but it was the migration wave of 2015 which brought to the EU: “[p]aradigmatic shifts: from drawing an optimistic perspective of a borderless world (or the ‘Europeanisation’ of national borders) to a focus on re-bordering, fencing and increasing securitization…”

V. Kolossov and J. Scott have pointed out already in 2013 “the renaissance of border studies”, which in reality represents “counter-narratives to globalization discourses of the late 1980s and early 1990s. For a rather short but influential period, prophesies of ‘borderless worlds’ abounded in which global technologies, cyberspace, capital flows, East-West political convergence and interstate integration would make political borders obsolete.”

This “backlash” with regard to the emphasis placed on political territoriality cannot be considered just as a reflection of the common cliché concerning the generally ever-worsening security environment. On the contrary, it should be

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9 Benner, T., op. cit.
10 Jackson, G., op. cit.
13 Ibidem, p. 36.
14 Ibidem, p. 50.
considered a belated reaction or the result of a lack of timely strategic analysis reflecting in an objective manner the various processes taking place in the geographic neighbourhood of Europe. Whether we deal with the ever-more assertive behaviour of the actors living in Cooper’s modern world (something that the EU could witness first hand already in 2008 during the conflict in Georgia), or the geopolitical situation and threats associated with it (civil wars, human trafficking, illegal migration, international terrorism, acts of violent non-state actors) in many pre-modern world states, these issues have not appeared out of the blue in 2015. Rather, the EU has simply reacted belatedly to a prevailing global trend, which has left the discourse about the “‘borderless world’ where walls and fences would become increasingly anachronistic”\textsuperscript{15} and is heading towards a completely opposite process, where we can clearly witness “the global trend toward hardened borders... by the massive development of barriers on international borders.”\textsuperscript{16}

The reinvented emphasis on the political significance of borders – “a process of re-bordering on a global scale has already been taking place after 9/11\textsuperscript{17} – is thus a practical and specific reaction to different types of geopolitical threats originating from qualitatively and geographically different worlds – from the pre-modern (southern) and modern (eastern) worlds. The threats are also different with regards to their nature. However, the reaction on the supra-national and national level is, perhaps surprisingly, very much similar, and it consists of re-discovering the “traditional understanding of borders as markers of sovereignty.”\textsuperscript{18} As Kolossov and Scott further point out, the “relationships between borders and national sovereignty remain important to research debate as these are at the heart of contemporary geopolitical orders.”\textsuperscript{19}

The ongoing crises in the European area have again initiated the debate about the erosion of a sovereign state, which was especially intensive in the academia at the very end of the 20\textsuperscript{th} century. At this time, there was “the idea that political boundaries are being eroded by crises of state sovereignty and the new forms of ‘globalized political authority’ and the networked nature of the world system indicate a relative shift of political power away from the State.”\textsuperscript{20}

The group of authors emphasizing the centrifugal impact on state sovereignty mainly stressed the economic aspect of globalization while overlooking the po-

\textsuperscript{16} Ibidem, p. 220.
\textsuperscript{17} Kolossov, V., op. cit., p. 50.
\textsuperscript{18} Ibidem.
\textsuperscript{19} Ibidem.
\textsuperscript{20} Ibidem.
political and security dimension. Consequently they wrongly assessed the impact of internationalization of economic life the diminishing role of state’s borders and their role as noted by V. Kolossov.\footnote{Ibidem.}

Especially the latter of these, however, has been coming to the fore since the 9/11 attacks. It was this shift in priorities which was manifested in the significance of borders: “…open and more flexible borders are vital for economic reasons, while tighter and more closed borders are seen as important security measures.”\footnote{Ibidem.} É. Vallet a C.-P. David note that the “9/11 marked a watershed in international relations. One of the results has been the growing fortification of borders... September 11 sparked not only a quantitative surge in wall-building but also a qualitative break.”\footnote{Carter, D.B., Poast, P., “Why Do States Build Walls? Political Economy, Security, and Border Stability”, Journal of Conflict Research, 2015, published online before print September 2015.}

M. Carr has already in 2012 referred to this ongoing dichotomic process, which is especially closely tied with the phenomenon of migration: “This dual process of softening/hardening borders has been particularly striking in the European Union” (CARR referred 2012). At the same time, Carr also pointed out various factors, which are still the object of an expert and political discussion on the international level, leading to a renewed emphasis on the political territoriality and the political importance of borders. In the 1990s, “borders were studies as a laboratory of globalisation and mostly considered as a remainder of an old territoriality.”\footnote{Vallet, E., David C.-P., “Introduction: The (Re)Building of the Wall in International Relations”, Journal of Borderland Studies, 2012, Vol. 27, No. 2, pp. 111–119.}

D.B. Carter and P. Poast, for example, by using political-economic theory, reject the claim that this process is a reaction to the migration wave, and they state: “However, we do not find any support for the idea that a higher number of refugees flows are associated with building walls.”\footnote{Carter, D.B., Poast, P., op. cit.} Processes taking place in the political space, especially the construction of border fences – D.B. Carter and P. Poast talking about “…the most aggressive strategies being the construction of physical barriers...”\footnote{Ibidem.} – yet have a clearly traceable linkage to the migration crisis. “The new political prioritisation of borders has been shaped by various factors, from economic insecurity and anxieties about national identity to law enforcement and security concerns. But the overriding priority behind the new border regimes, from the Rio Grande and the Sinai to the Greek-Turkish border, is the prevention of ‘illegal migration’ – a category that generally refers

\begin{itemize}
\item[21] Ibidem.
\item[22] Ibidem.
\item[26] Ibidem.
\end{itemize}
to undocumented migrants from the global south, whether defined as, economic migrants or refugees and asylum seekers.” The developments inside the Schengen Area and on the external borders (e.g. to keep non-OCED illegal migrants out of the Spanish exclaves in Morocco) have testified to this well before the developments of 2015. J.B. Cannon also argues that one of the reasons that states erect border fences “is to keep undesirable elements such as migrants or terrorists out of their territory,”27 and he lists specific examples that would fall into this category: “Completed in 2014, the three-metre high border wall separating Bulgaria and the European Union (EU) from Turkey is an extension of the border wall built between Greece and Turkey and completed in 2012. Bulgaria built the wall in response to refugees moving north from Greece and crossing into Bulgaria, and by extension the EU, after Greece erected its wall.”28

**EU in the New Era of Globalisation**

The above-mentioned process, which has been since the 2010s also taking place in Europe, was labelled by S. Ballif and S. Rosière in 2019 as teichopolitics. S. Rosière and R. Jones then further argue that in the teichopolitics era: “…(the politics of building barriers on borders for various security purposes)... the purpose of borders has shifted again to become a sire where privilege is protected and undesirable movements are prevented. Indeed, most of the new border barriers are erected to fight against illegal migrations, even if this dimension is often mixed with other concerns such as terrorism and security, it is primarily linked with controlling migrations.”29 They also mention explicitly the “next era of globalisation... characterized by a coercive turn towards hard power”,30 with the emphasis shifting steadily towards security issues.

Both the migration crisis and the crisis in Ukraine have, somewhat paradoxically, proven that the basic element of even the most advanced integration project – the EU – remain the sovereign states, which are now rediscovering the meaning of political territoriality. The crisis in Ukraine has demonstrated the limits of the EU to adapt to the current trend of turning towards hard power. This had a clearly measurable impact in Estonia, which reacted to the Russian behaviour by erecting a border fence in an attempt to clearly mark its state borders. In the case of Ukraine, the same process or trend led even to the revisiting of the original military function of the border, with the borders

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28 Ibidem.
29 Rosière, S., Jones, R., *op. cit.*, p. 221.
30 Ibidem.
de facto being raised inside the state territory. On the other hand, the migration crisis has then shown the limits of liberal paradigm and inability to enforce an effective border management on the supra-national level, when the EU had encountered e.g. the resistance from Greece to deploy military forces from other countries on its territory or when it had been forced to cooperate with NATO, a military alliance. In Europe, the uncontrolled migration wave has accelerated the securitarian discourse through 2015. The existence of this discourse in other parts of the world, on the other hand, can be empirically proven already in the previous decades. “Securitization discourses have been accompanied by the construction of physical barriers to movement of people and goods which can take a form of concrete walls, barbed wires, virtual fence or even mined fields.”

The EU is now entering a new era characterized by unilateral and aggressive border management. S. Rosière and R. Jones call this era the next era of globalisation, in which priority is given to security and attempts are made to physically separate the privileged and unprivileged worlds. At the same time, the awareness of how people in the privileged world live increases in the unprivileged world. The teichopolitics phenomenon can thus be seen also as the most visible aspect of “a confrontation between geopolitical black holes and bright spots.” S. Gradanos et al point out that: “In 2015, work started on more new barriers around the world than at any other point in modern history. There are now 63 borders where walls or fences separate neighbouring countries.”

This trend has already picked up pace in the previous decades. D.B. Carter and D. Poast conclude “that over 50% of border walls built in the last two centuries were built in the post-Cold War era.” It is essential here to consider both the quantitative and the qualitative factors. “A quantitative analysis suggests that walls are, indeed, a global phenomenon that merits further attention... Between 1945 and 1991, 19 walls and barriers were built..., between 1991 and 2001, only 7 walls were added to the 13 that survived the Cold War... As of 2012, there were nearly 45 border walls (soon to be 48) totalling more than 29,000 km².” Analysis in The Washington Post has shown that more than dozen other walls were constructed in the following four years.

31 Kolossov, V., op. cit.
32 Rosière, S., Jones, R., op. cit.
The paradigmatic shift concerning the issue of re-bordering was initially rejected by the European institutions, because it has been standing in a sharp contrast with the dominant discourse about borderless Europe and with the humanitarian approach towards migration. “First, even as those across a wide political spectrum neoliberals, cosmopolitans, humanitarians, and left activists fantasize a world without borders (whether consequent to global entrepreneurship, global markets, global citizenship, or global governance), nation-states, rich and poor, exhibit a passion for wall building.”  

Disintegration potential of the migration crisis was reflecting the ongoing conflict between the liberal paradigm preferred by the European institutions and EU’s member states’ societies showing as observed already in 2010 by Brown: „The striking popular desire for walling and resulting from “The sense of external threat gives rise to a desire to minimize or stop contact with an undesirable or dangerous neighbor.”

G. Friedman has pointed out the transformation of the paradigm and has argued that the Europe of today is a continent of borders. It is the national borders that are at the centre of the main crises engulfing Europe at the moment – especially the crisis in Ukraine and the migration crisis. The role of borders became the focal point of the clash between the V4 countries and the European institutions, which were, according to G. Friedman, on the hand unable to provide protection for the Schengen Area and, on the other, to ensure that “the borders could lose their significance.” In fact, the issue at stake here was related to a wider discussion about the meaning and significance of the national state, where “...the Union lacked the power to abolish the nation-state – it was too fundamental to the Europeans’ sense of identity... The idea of borders being archaic is meaningful only if the nation-state is archaic. There is no evidence that this is true in Europe... The European crisis, taken as a whole, is rooted in borders.” The EU has been experiencing a radical geopolitical turn-around from the questioning of the importance of the geographic factor in geopolitics in the golden era of globalization with the emphasis on “a new international landscape ushered in an era of globalization in which states appeared irrevocably condemned to obsolescence, a world without borders... in which the state was relegated to secondary importance in international relations, coupled with the disappearance of physical borders.” The pressure stemming from the crisis of

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38 Ibidem.
39 Kolossov, V., *op. cit.*
41 Ibidem.
42 Ibidem.
43 Vallet, E., David, C.-P., *op. cit.*
borders forces the EU to accept that it is no longer possible to perceive the outside environment through its own moral imperative; it is this pressure exerted by the external environment which forces it to accept the function of “the security barriers that shield rich economies from the rest of the world have been described as a great wall of globalization” and the need to react to the political, economic and societal incompatibility between the individual worlds as defined by R. Cooper, or to the dichotomic division of the world between the Functioning Core a Non-Integrating Gap according to T. Barnett. Migration crisis indirectly steers European states towards realization that: “The discourse about a borderless world concerns only ‘integrated’, open borders, mainly in Europe and North America. They constitute no more than 5% of state land borders.” Thus it’s necessary to apply the same logic to critical analysis of the post-modern paradigm, which continues to criticize: “barrier functions, are not only ineffective, but harmful to the economy and society.” On the contrary it’s is inevitable to understand that effective fight against non-state threats requires effective border management, enforcing the existing rules (visa regime, entry conditions, etc.), but this is far remote to the complete closure or isolation as post-modernist assert. The border-hardening process within the EU is a late reaction to the changing international environment, including the rising intersection of the state failure process and other non-state threats as noted by W. Brown: „These walls target nonstate transnational actors – individuals, groups, movements, organizations, and industries. They react to transnational, rather than international relations and respond to persistent, but often informal or subterranean powers, rather than to military undertakings… barriers that divide richer from poorer parts of the globe. This landscape signifies the ungovernability by law and politics of many powers unleashed by globalization and late modern colonialization.” The general trend of rebordering and securitization in Europe is especially visible when discussing the the clash between the V4 countries and the European institutions, concerning different visions of handling the phenomenon of current migration crisis.

Migration Crisis

Migration crisis which struck Europe in recent years is of great importance for the European Union as a whole, but to the V4 region as well. Czech Republic, Hungary, Poland and Slovakia are all sceptical towards the idea of po-

44 Ibidem.
45 Kolossov, V., op. cit., p. 43.
46 Ibidem, p. 49.
47 Brown, W., op. cit.
sitivist humanitarian approach towards migrations and introducing limits on accepting refugees for each EU state. Such reluctance derives from many different aspects, from political and geopolitical to social and cultural. What is more, dynamically changing international situation and recognition of new security threats additionally result in desire for increasing safety measures. Even Germany and Sweden, which were the most open countries in response to the growing refugee crisis are changing their internal policies. The migration crisis together with repeating terrorist attacks in Europe sparked a debate on migration, migration and integration policy and distribution of responsibility for refugees among European states.

Populations of V4 countries are one of the most homogenous ethnically in European Union and the percentage of immigrants and native-born offspring of immigrants is below 10%. In Czech Republic it was around 8% in 2013, in Hungary, Poland and Slovakia less than 5%. According to Eurostat, only 1% of Polish population has been born abroad. Until now, all V4 states has been classified as countries with immigrant population shaped by border changes or by national minorities. It means that until recent migration crisis, those states has not faced more critical or grave threats resulting from ethnic diversity. Such low proportion of immigrant populations results in lower tolerance towards foreigners and any signs of distinctiveness. Tolerance of ethnic minorities is in general decline in Europe since 2007. In the period of 2007 and 2012 in Poland the positive attitude declined by 10%, in Czech Republic more than 5%, Slovakia by 5% and Hungary by approximately 4%.

The migration crisis can result in change in those proportions, influencing the V4 states in terms of their internal stability and security. It also highlights the lack of efficient mechanisms of dealing with such intensive migration flows, both in the field of migration, asylum and integration policies.

**V4 and Migration Crisis – Factors Determining the Attitude towards Migration**

The effectiveness of Visegrad Group is based on selection of common goals and aims. Owing to this, they can more efficiently advocate their national and regional interests.\(^{48}\) It is evident in case of migration crisis, which is cause of many concerns in V4 region. All the V4 states’ governments voice their anxiety, additionally deepened by latest terrorist attacks (Charlie Hebdo attack, Paris attacks, Niece attacks, Brussels attacks). What is more, such closeness of common goals and interests has been elaborated in spite of many historical

territorial disputes. However, cultural closeness of those states, considered as Slavian (except Hungary) made a cooperation possible, at least to some extent. What is more, common past as a client states of USSR, then transition proces and at last, the EU accession proces made natural circumstances for cooperation.

The aspect of common past deserves more attention as the shared heritage of over 40 years of communist rule left an imprint on all V4 states. Their governments constructed restrictive migration policies which made their boundaries almost airtight. This is one of the reasons, why populations of Czech Republik, Hungary, Poland and Slovakia are that homogenous, with mostly national minorities of historical origin. Migration patterns initiated at the end of World War II, which encompassed returns of prisoners and fugitives of war and involuntary population movements. It meant, that in case of Poland, most of German population has been forced to leave the country. The emergence of Cold War interrupted all those processes and the communist rule concentrated its efforts on safeguarding the homogeneity of the populations in the Soviet Block. Inclusion of V4 states into the area of Soviet control and influence also resulted in introducing and implanting in the societies certain patterns of behaviour, like fear of unknown, hesitancy towards foreign people, feeling of distinctiveness from the rest of Western European countries and societies. What is more, communist rule contributed to poor economic condition and the need to make an extreme effort of meeting Western standards.

The economy condition of V4 states has a significant meaning. Owing to their communist past and late integration with Western Europe and its organisational structures, post-soviet states have to chase after more prosperous Western countries until present times. Both political and market transformation were a burden, resulting in many difficulties, inter alia high unemployment rate. This is one of the reasons for reluctance towards foreign labour force. In 2012 quarter of host-countries population in Europe considered immigration as having negative impact on economy. Mostly Southern and Central European countries’ populations views were most negative. Polish population until now seemed to be the most favorable of all V4 states in case of economic impact of immigration – only 18% of population perceived immigration to have bad impact on economy, while in Hungary 44%. In the survey from 2015, conducted by IPSOS for International Organisation for Migration situation changed and 40% of Polish respondents stated that they thought the

51 Ibidem.
migrants impact on labour market was negative, while 29% claimed it was positive. In the same survey conducted one year later, the outcomes were even less positive – 45% of respondents evaluated the migrants impact as negative while only 25% stated it was positive. It is then evident, that migration crises has radicalised the attitudes of Poles. What is more, in Poland only 48.9% perceived their area as a good place for migrants to settle in comparison to Czech Republic where 58.7% found their city as good for migrants from other countries to live in. Another aspect of hesitancy among V4 states towards migrants in regard to economy is the unemployment rate among foreign born. The unemployment rate among foreign-born population in V4 states is not blatantly high – in 2012 it was 8.6% in Czech Republic, 9.47% in Hungary, 9.84% in Poland and in Slovak Republic 11.11%. The total percentage for EU was 15.85%.

**Threats to V4 Region**

Does V4 region is in fact threatened by migration crisis? It is evident, that Hungary being the transit state can face significant threats. However, none of those states have the status of settlement countries or logstanding destinations. The most popular states among refugees until recently has been Germany and Sweden, owing to their prosperous economies, good social care, the range of state’s welfare support and relatively high rate of tolerance towards migrants and ethnic diversification.

In 2015 nearly 1,300,000 asylum applications in EU member states have been registered. In Hungary for example the number of immigrants grew from 22,600 in 2007 to 26,000 in 2014, which is a 15% growth. In Poland it is 40,600 to 60,000 respectively (48% growth). On the other hand, in Slovakia and Czech Republic the number of immigrants decreased. Growing numbers of asylum seekers, since vast of them come from Syrian Arab Republic (47% of all sea arrivals to Greece in 2016 and 28% of all sea arrivals in 2016), Afghanistan (25%), Iraq (15%), Pakistan (5%), Iran (3%) and only 5% from other states are equal with even more growing ethnical diversity in Europe.

However, refugees reaching especially Poland do not come from a culturally distant states. Traditionally, the highest number of refugees come from Russia – 86% with Chechen nationality. Since the escalation of the conflict in Ukraine, there has been an unprecedented increase in the number of Ukrainians seeking protection in Poland as well. 52 Syrian who are the most numerous group of refugees reaching Europe seem to be less interested in V4 states as their destination. According to data from Eurostat, only 16% of asylum seekers

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52 Segeš-Frelak, J., “Poland as a Country of Migrants?”, *New Eastern Europe*, 1 November 2015.
in 2014 in Poland were granted protection, whereas the EU average is 40%.\textsuperscript{55} It is evidence for more restrictive migration and asylum policy in Poland. In 2015 Poland received only 285 asylum applications from Syria, Czech Republik 130, in Slovakia no applications from Syria were registered but 170 from Afghanistan. The worst situation is in Hungary, where 64,080 applications from Syrian citizens were registered. It should then be no surprise, that Hungarian attitude is the most negative towards migration crisis and migrants themselves. However, owing to strict internal policy towards refugees, the number of asylum applications in Hungary dropped from 30,500 in September 2015 to less than 1,000 at the end of 2015.

It is important to note, that late transformation and former communist rule left V4 states with nearly no migration or integration policies. Accession to EU meant the necessity of gradual adjustments of migration policies (especially visa and asylum regulations). However, the integration policies stayed neglected, mostly due to already mentioned low percentage of foreign-born population within receiving societies of V4 states. Another aspect of the problem is the temporary character of migrations, mostly aimed at seasonal work. This is the main legal gap that should be completed by V4 states’ governments in the light of ongoing migration crisis and introduced EU’s refugee quotas. What is more, the problem of illegal immigration and undeclared workforce of foreign origin should be solved as well. This is the problem that has its roots in the communist rule in the V4 states, which introduced wide tolerance of informal business practices. Both legal problems should be solved, as full isolation from immigration is rather impossible. Most of the European countries face the problem of ageing societies – fertility levels are decreasing and life expectancy is growing. In such conditions, most of the economic research and reports underline the importance of labour migration. Both mechanisms of integrating foreigners and counteracting illegal migration will allow better protection of each state’s security, stability and interests, as well as the whole V4 region.

\textbf{The Quota Compromise and V4’s Response}

The intensified inflow of refugees to Europe, mostly Greece, Italy and Hungary, resulted in proposal of temporary derogation from the Dublin Regulation, determining responsibility for the examination of asylum applications. Such high number of applications could result in the standstill of the asylum system. Therefore, relocation of refugees from the most burdened states has been planned, together with establishing the so-called hot spots facilitating early identification of those in need of protection. The EU’s agreement reached

\textsuperscript{55} Ibidem.
in September 2015 meant relocation of 160,000 of refugees in total. However, the appointed quotas brought many doubts and concerns, especially within V4 region and the whole process of relocation is undergoing slowly. Until May 2016 only 1,500 refugees from Italy and Greece has been relocated. The migration crisis cause a vivid reaction within V4 area, which is most sceptical towards welcoming refugees mostly from Syria. Czech Republic, Hungary, Poland and Slovakia are mostly concerned about their internal security and stability. Since the V4 states seem to be less tolerant and open towards migration and cultural diversity, according to most of OECD data, political leaders of those states are trying to seek for alternative ways of facing the challenges deriving from migration crisis.

Those alternative methods are mostly connected with strengthening the borders. The V4’s proposal from February 2016 affects Macedonia and Bulgaria and it should lead to better control over Western Balkans migration route (Visegrad 4 Call for EU “Back-up Plan” to Block Migrants). Any ideas concerning sealing borders in the South of Europe are not receiving a warm welcome in the rest of EU’s member states due to main assault of leading to exclusion of Greece from Schengen Area. What is more, most reluctant Hungary decided on building fences on its borders with Serbia and Croatia and recently has conducted referendum concerning on rejecting EU’s plan to settle refugees in the country. Orban’s allies state, that such firm and decided standpoint of Hungary will contribute to other states, also having growing doubts about intensive inflows of migrants.54

International Developments – Most Significant Research Results

Main concerns deriving from migration crisis are associated with economic and cultural aspects. V4’s population fears mostly of taking over jobs by migrants or of poor qualified refugees inflow. Michal Vašečka, working in the Centre for the Research of Ethnicity and Culture in Bratislava during a Visegrad Group debate on migrations voiced such concerns: “In many Western European countries, and in all Visegrad countries, there have been entire sectors of the economy gradually taken over by particular ethnic groups. This is going to be characteristic for our countries as well. We can see it with the Vietnamese and the Chinese, but gradually there will be other people arriving from other Asian countries.”55

This statement pictures some of the V4 states’ worries. However, even stronger fears seem to be tied with the increase of unemployment rates, especially within foreign-born population. Such worries are the aftermath of already evo-

ked communist rule and worse economic condition of V4 states in comparison to old EU’s member states. For several years we can observe the tendency of growing unemployment among foreigners in European countries, especially among newly arrived migrants. In spite of this fact, most of the empirical studies do not show a negative impact of immigration on the labour market. According to some research, immigrants increase the labour force and consumer demand, enhancing growth at the same time. What is more, immigrants seem to pay more in taxes than they claim in government benefits. They are also often taking jobs hard to fill by native-born population, mostly in child care, nursery and other occupations not needing high qualifications (Europe should see refugees…). Immigrants seem to be the most important for the countries with growing old nations and low birthrates.

What is more, owing to increasing cultural diversity of European societies, culturally based worries also grow. They are additionally fueled by frequent terrorist attacks in Europe and others expressions of violence. In Poland the indicators associated with tolerance are dangerously changing – Poles negatively evaluate foreign-born population’s impact on labour market, economy in general and perceive migration as a cultural threat. The same process is happening in Hungary, were already 76% of respondents claim that refugees increase likelihood of terrorist attacks and 69% perceive refugees from Syria as a major, general threat (PEW Research Centre). Human Rights Watch highlights the risks deriving from such radicalisation of European and V4 states’ societies. In World Report 2016 it is said: “(...) the uncontrolled and at times chaotic refugee flow had sparked deep concern throughout Europe even before ISIS attacked Paris in November, using at least two attackers who may have entered Europe with the refugees. That attack intensified the EU’s reaction: new wire-razor fences were erected, border restrictions mushroomed, fear-mongering and Islamophobia mounted, and the EU promised Turkey €3 billion in aid with the understanding that Turkey would curtail the flow. These steps reflect the EU’s longstanding effort to push responsibility for refugees (...)”

All this shows that European Union as a whole and the Visegrad Group as a vulnerable area, facing many problems deriving from its historical past and geopolitical factors, need to take serious steps aimed at counteracting the challenges of migration crisis. It seems that main obstacles in finding consistent solutions lies in legal, cultural and socio-political aspects. Natural hesitancy towards foreign-born, caused by substantially high level of homogeneousness of the V4 states’ societies and strong attachment to traditional and religious values, is additionally increased by political and specific rhetoric using emotio-
nal narrative. Such processes are visible not only within Visegrad Group but in most of European states. This may result in definite change in European discourse – V4 may not be the only area afraid of negative results of migration crisis. Great Britain, even before Brexit, did not support the quota proposal. French society is reluctant towards new flows of refugees as well. Even most open societies of Germany and Sweden are showing growing tendencies of intolerance.

Since change in general worldview of V4 states’ populations would be the hardest strategy to reach and fulfil, it would not solve potential threats within security and economy fields. However, identification, development and then implementation of best possible legal solutions and mechanisms of cooperating within the field of softening the negative effects of migration crisis may be the answer.
Chapter 1

Migration as a Political and Public Phenomenon: The Case of Czech Republic
1.1. Introduction: Scene-setter (Jan Bečka, Jakub Landovský, Martin Riegler)

For the last two years, migration became one of the most discussed topics in many European countries. With the waves of refugees and migrants in general arriving to Europe from the war-torn countries of the Middle East and from African countries, the European political representatives as well as the general public have been largely caught off guard. By September 2016, for example, there were almost 120,000 first-time asylum seekers in the EU-28.¹ According to the UNHCR, there were 362,376 migrants and refugees arriving to Europe just by the Mediterranean route in 2016, not counting others.² The migration flows that Europe has been witnessing as a part of the current crisis are the biggest since the wars in the Balkans in the 1990s and perhaps the most significant since the end of Second World War.

Throughout Europe, the reactions to the migration crisis varied. Some countries, like Germany, have pursued a welcoming policy towards migrants, pledging to accept them in great numbers and integrate them into the society. On the other hand, the sheer numbers of migrants and refugees coming to Europe have also created a backlash, with certain segments of society but also politicians using the issue to call for more restrictive asylum and migration policies, for strengthening the EU border protection (in some cases going so far as to effectively suspend Schengen rules, albeit temporarily) and for building walls and fences. It is clear by now that the current European migration discourse is moving within a very wide spectrum of opinions, attitudes and approaches, shaped not only by national attitudes and concerns but also by economic, social, ethnic and in some cases religious factors. At the same time, the issue of migration is often coupled with security threats such as international terrorism, the situation in Syria and Iraq (from where many of the migrants/refugees...
actually originate)\(^3\) and, in some cases, even with the developments in Eastern Europe and the attempts of Russia to destabilize and weaken the European Union using various means. Migration has thus become a security issue while at the same time, the humanitarian aspect is always present. This dichotomy makes it often hard for the public but even the politicians to discuss the roots and causes of the migration crisis and the possible solutions objectively and without bringing in populist and sometimes even racist undertones.

The Czech Republic, which this chapter deals with, is in a particular position when it comes to the migration crisis. For the vast majority of migrants/refugees, it has served neither as the destination country nor even as the transit country as they bound for Germany, France or the United Kingdom. Indeed, for the entire year 2016, there were only 1,475 people applying for asylum in the Czech Republic (as compared to 1,525 in 2015 and 1,156 in 2014).\(^4\) Given such a low number, it can be asserted with a degree of confidence that most citizens of the Czech Republic have not encountered any newly arrived refugees/migrants even at the height of the migration crisis. Yet, at the same time, the Czech Republic is among those European countries that are most vocal in criticizing “liberal migration policies” and that call for tougher measures to be taken on the external borders while at the same time repeatedly rejecting quotas for resettling the migrants in the individual EU member states. On the domestic political scene, a number of political parties and groupings were established in the wake of the refugee crisis, using the anti-migration rhetoric (often coupled with a strong criticism of the EU) as a way to gain public support. Even some politicians from the mainstream political parties have picked up on the topic. One of the questions that this short case-study will be trying to answer is why is the debate about migration often so emotional in the Czech Republic, when, in fact, at the moment there is little reason for it. What are the main factors behind the prevalent Czech attitude towards migration, both on the political level and among the public?

The primary purpose of this chapter, however, is to provide the readers with an overview of the relevant asylum and migration policies of the Czech Republic, the steps Prague has taken both domestically and on the international scene (within the Central European region, in the Western Balkans and on the EU

\(^3\) Since 1 January 2016, these two countries alone have accounted for 31% of arrivals to Europe through the Mediterranean route, \textit{ibidem}.

\(^4\) Out of the 1,475 applications in 2016, 1,213 were new applications and 262 repeated applications. See “Statistické zprávy o mezinárodní ochraně za jednotlivé měsíce v roce 2016 [Statistical Reports about International Protection for the Individual Months of 2016], Ministry of Interior of the Czech Republic, file://C:/Users/Po%C4%8D%C3%ADta%C4%8D%20Knov%C3%ADz/Desktop/CS_stat_prosinec_2016_1.pdf [accessed: 15.02.2017].
level), the impact the migration crisis has had so far on the Czech political scene (with the possible ramifications for the future) and of the general perception of refugees/migrants among the general public. In order to achieve this purpose, the text will be divided into sub-chapters, each dealing with a specific topic as outlined above. At the end, general conclusions will be drawn and comparisons offered to other European countries.

1.2. The Czech Asylum and Migration Policies within the EU Framework (Filip Gantner, Jakub Landovský, Lenka Pítrová, Scarlett Waitzmanová)

In order to be able to analyse properly the migration discourse in the Czech Republic, the legal framework both on the national, but also on the EU level, must be at least be briefly discussed. This will provide the necessary basis for understanding and evaluating the Czech stance within the EU and also the moves Prague has made to deal with the migration crisis and their justification.

1.2.1. The EU Asylum Policy Framework

The basis for the common visa, asylum and migration policy of the EU member states is the primary law of the European Union, which delineates this area as a shared competence of the Union and the individual member states. In Title V of the Treaty on the Functioning of the European Union (henceforward “the Treaty”), the area of freedom, security and justice are addressed; in Chapter 2 (art. 77–80) the border controls, asylum and migration are discussed. The primary law thus makes a normative distinction between the asylum policy and the migration policy. While these two categories (migrants and refugees) are often mixed in political rhetoric, the policies governing them have different aims and objectives. H. Scheu states that the asylum law is based on international obligations in the area of human rights and, indeed, on the broadest definition of the term humanity itself. Article 78 of the Treaty makes an explicit reference to the Geneva Convention relating to the Status of Refugees.

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from 1951 as modified by the 1967 Protocol (henceforward the “Geneva Convention”) and to other relevant agreements. All the EU directives regulating asylum policy refer to the generally accepted human rights standards. On the other hand, the migration law is primarily concerned with other objectives, such as fulfilling the security and economic goals of a state, finding a solution to demographic problems and/or building special relations with specific partner countries.

The Union asylum law, which the Czech legal framework is based (as discussed below), thus seeks to fulfil international obligations and the high standard of human rights protection. This is true not only the secondary directives adopted during the first phase of the communitarisation of the asylum policy (as part of the Amsterdam novelisation of the primary law), but also for the new legislative framework, adopted after the Lisbon Treaty entered into force (new qualification directive, reception directive and the procedural directive. In addition to the Geneva Convention of 1951, the post-Lisbon legal documents also refer to the Charter of the Basic EU Rights (especially art. 18), the UN Convention on the Rights of a Child of 1989, and, related to the definition of a third country, to the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950. From the point of view of actual practical competence, the asylum law mainly includes the institute of the unified asylum status, subsidiary protection, rules for the asylum proceedings and/or the Dublin system regulating the competence of the member states to deal with the applications for the international protection.\footnote{The Convention defines refugee as a person displaced from his homeland and having justified concerns about being discriminated for racial, religious or ethnic reasons, for being a part of a certain segment of society or for having a certain political orientation. This person is then not able to accept, or refuses to accept (because of the above mentioned concerns), the protection of his homeland (see art. 1/A.2 of the Geneva Convention of 1951, http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx [accessed: 15.02.2017]). The refugee status is however temporary – the persons can either receive new citizenship, or the persecution in his/her home country stops and the persons again accepts protection from this country.}


\footnote{DIRECTIVE 2013/33/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 26 June 2013 laying down standards for the reception of applicants for international protection [accessed: 15.02.2017].}

\footnote{See, for example, point 33 of the preamble and art. 39 par. 2 of the procedural directive.}

\footnote{See art. 78 of the Treaty.
As a part of the EU migration policy, various normative acts were adopted regulating, among other things, the conditions for legal entry to the territory of the member states in relation to improving the educational segment of the workforce and competitiveness, the legal standing of the migrants and especially the measures against the illegal entry and stay on the territory of the member states.\textsuperscript{13}

Although it is in the area of asylum policy where the human rights obligations and their fulfilment remains the main concern, these obligations also play their part in the area of migration policy. One of the important institutes in this regard, which also connects the two policy areas together, is the institute of family reunion, which is based primarily on art. 8 of the European Convention about the Protection of Human Rights and Basic Freedoms, and on the legal opinions of the European Court for Human Rights. The Council Directive 2003/86/ES regulating the right for the families to be reunited is then the basic document for granting this right to the migrants and asylees in the EU as well.

The entire area of asylum and migration policy and the arrangements of the border controls is governed by the Treaty (specifically art. 80), and by the principle of solidarity and justified division of responsibility between the member states. The interpretation of this principle eventually gave rise to certain controversial decisions such as the relocation mechanism (see below).

\subsection*{1.2.2. The Refugee Legal Framework in the Czech Republic}

It has to be mentioned, as already described in the previous sub-chapter, that the EU asylum legal framework (within the EU Common European Asylum System/CEAS) is, if we consider the minimum standard, highly harmonized and/or addressed by directly applicable normative acts, both in the personal dimension (as to how a refugee is defined) and in the procedural dimension (how to process the asylum application). The Czech legal system represents a transposition and implementation of the EU asylum law.

The constitutional guarantee of the right to asylum in the Czech Republic is defined and provided mainly by art. 43 by the Charter of Fundamental Rights and Freedoms of the Czech Republic. This article guarantees the right to asylum only to those aliens who are persecuted for exercising their rights and freedoms. Based on this article, the asylum could be denied to anyone who acted in disagreement with the basic human rights and freedoms. This, however, does not change the basic assumption that the Czech Republic is obliged to follow the relevant international treaty and by the above mentioned legislative measures of the EU and to provide asylum in a wider spectrum of cases.

\textsuperscript{13} See art. 79 of the Treaty.
The basic legal provision which regulates the conditions and the procedure for granting an asylum in the Czech Republic is the Law no. 325/1999 Sb., on asylum, as amended further (henceforth the “Law on asylum”). This law enables the transposition of the EU legislation and is mostly concerned with the following:

a) the conditions for entry and for residence for the citizens of third countries seeking international protection by the means of asylum or subsidiary protection in the Czech Republic;
b) conditions for the stay of asylees or the persons enjoying the subsidiary protection on the territory of the Czech Republic;
c) the rules of the procedure for granting and removing international protection by the means of asylum or subsidiary protection;
d) the rights and duties of the applicant for international protection, asylee and the person enjoying the subsidiary protection;
e) the rules of the integration programme;
f) the definition of facilities used during the asylum procedure.

This legal measure is applied especially in the cases dealing with persons that have applied for international protection in the Czech Republic. The statistical data, however, shows that the number of asylum applications in the Czech Republic is minimal and if anything, the Czech Republic is considered more of a transit country. Most of the provisions of this law are thus not going to be applicable to the aliens that consider the Czech Republic only a transit country. In accordance with the European Union law, the applicant has the right to ask for international protection by the means of asylum or subsidiary protection in another EU member state. This would mean that the application would also be evaluated and considered by the other EU member state, with the state where the applicant has submitted his first application being the competent one. Thus, the Czech Republic could theoretically make the decision to accept the competence over the process of granting international protection, pursuant to the conditions specified in the Dublin III directive.

The applicant for the extension of international protection is defined as a person that came to the Czech Republic and has asked for the extension of international protection. Up to the moment that a legally binding decision is issued by the Ministry of Interior of the Czech Republic, this person remains an applicant (see some of the further remarks below). Furthermore, any alien that has sought the extension of international protection in another country is

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14 See ff. 4 for more information.
also considered an applicant.\(^{15}\) The processes applied in these cases are governed by the Law on asylum.

The applicant possesses a broad spectrum of rights and duties. His fingerprints are taken, a digital photographic image is recorder in order to ascertain or verify his/her identity, his travel documents are taken into safekeeping and he/she normally also has to go through a medical check-up and through the search of personal belongings.\(^{16}\)

The applicant is then relocated to the “residence facility”, where he/she would await the decision issued by the Ministry of Interior of the Czech Republic. If the identity of the applicant could not be verified (he/she does not have travel documents, or if the document submitted has been forged – especially the first possibility is quite commonplace), the applicant could be detained in the so-called “reception facility” for up to 120 days in order to perform the necessary identity check-up.\(^{17}\)

The applicant is entitled to stay on the territory of the Czech Republic; at the same time, he/she is not entitled to receive a residency permit as defined by the Law no. 326/1999 Sb., concerning the residence of aliens on the territory of the Czech Republic, as further amended (henceforth the “Law on aliens”). The Ministry of Interior of the Czech Republic has the right to limit the freedom of movement of the applicant for international protection a clearly delineated part of the territory or even to the transit area of the airport.\(^{18}\)

The applicant for the extension of international protection who is registered to stay in an asylum facility is to be provided accommodation, food, the basic necessities for personal hygiene, per diem financial remuneration and the basic medical services. Furthermore, the Ministry of Interior would provide psychological, social and other necessary services.

As stated above, in addition to the asylum law it is necessary to also mention the provision of the law on aliens. This law deals with the conditions regulating the entry of aliens on the territory of the Czech Republic and their traveling options. When considering the applicants for the extension of international protection, it has to be mentioned that this particular law does not apply to persons, who are applying for an asylum or subsidiary protection as de-

\(^{15}\) See par. 1 of the Law on asylum.
\(^{16}\) See par. 45. of the Law on asylum.
\(^{17}\) See par. 46a of the Law on asylum.
\(^{18}\) See par. 3d of the Law on asylum.
\(^{19}\) See par. 42 of the Law on asylum.
fined by the Law on asylum. The Law on aliens is applicable to refugees in the cases when the Czech Republic is not the state competent for processing the application for granting the international protection (i.e. a different country is competent). In these cases, in accordance with art. 28 of the law and with the directives of Dublin III regarding the detention of these individuals and their relocation into the other EU member state are coming into effect. The law on aliens would also be applied if the application for asylum or subsidiary protection is rejected.

In these cases, the law stipulates the specific conditions under which the aliens are detained (normally, they would be relocated into detention facilities) and relocated to the territory of other EU member states, or even to countries outside of the EU (usually the country of origin). In this regard, especially the Title XI of the law under question – i.e. The Special Arrangements Made for the Purpose of the Alien Travelling outside of the Territory and the Detention of the Alien (par. 123b–129a). The law also stipulates the conditions of the functioning of the detention facilities (par. 130–151).

From the procedural point of view, there is a general normative act dealing with administrative procedures (Law no. 500/2004 Sb., about the administrative law and code), which can be applied in accordance with the principle of subsidiarity, both for the granting of international protection by the means of asylum or the subsidiary protection, and even with regards to the detention of aliens and their relocation according to the Law no. 326/1999 Sb., about the residence of aliens in the territory of the Czech Republic. Both of these laws, however, contain a number of deviations from the standardized legal and administrative procedure. If we look at the judicial protection with regards to illegal decision on the issue of international protection, we have to take into account the law no. 150/2002 Sb., about the judicial procedures in the area of administrative law, as modified by further legal provisions.

It could thus be concluded, based on the examples provided, that the Czech legal system and judicial system follows the trends of the asylum law developments leading, on the one hand, to a swifter and effective administrative process and judicial review of the administrative decisions taken on the other, with the objective to guarantee the basic rights and freedoms. This is also the current trend of the changes and modifications proposed in the asylum law on the European level.

In conclusion, while surveying the relevant Czech legislative measures, it is also possible mention the Law no. 221/2003 Sb., about the temporary protec-
tion of aliens, as further amended. This law enabled the transposition of the Directive of the European Council no. 2001/55/ES, which aims at creating an equilibrium between the individual EU member states. This law should only be applied when temporary protection is decreed by the decision of the Council, which has the authority to declare such a temporary protection in cases of massive migration waves caused by military conflicts, civil wars, natural disasters etc. In addition, it is possible to mention Law no. 117/1995 Sb., about state social support, Law no 359/1999, about the legal and social protection of children and adolescents, Law no. 435/2004 Sb., about employment, Law no. 561/2004 Sb., about pre-school, elementary, middle and vocational schooling (the education law), Law no. 91/2012 Sb., about international private law, Law no. 104/2013 Sb., about international justice cooperation in criminal matters, or the Law no. 301/2000 Sb., about registers, names and surnames.

1.2.3. A Closer Look into the Rights and Duties of the Asylum Seekers and Seekers of International Protection

Any person, who was granted an asylum in the Czech Republic (after the relevant decision of the Ministry of Interior of the Czech Republic entered into force), is called an asylee by the legal documents applicable. Based on par. 12 of the Law on asylum, it was established during the proceedings that the alien was persecuted in his country of origin. For the purposes of uniting the families, it is possible to also granted the asylum to the family member(s) of the asylee.20

Throughout the duration of the asylum, the asylee is entitled to permanent residence on the territory of the host country. The legal status of the asylee is governed by the asylum law and the law on aliens. Asylee thus has rights and duties similar to the citizens of the Czech Republic during the period under question, albeit with certain exceptions (the suffrage, ability to hold public office, service in the armed forces, etc.). The Ministry of Interior issues the necessary residence certificate to the asylee. By being granted an asylum, the person is also entitled to become a part of the State Integration Programme21, which is serving the primary purpose of integrating the asylees into the society. As a part of this programme, free Czech classes are offered as well as assistance with finding housing. Participation in this programme is voluntary.

The asylum seeker is entitled to hold employment in the Czech Republic. In order to be able to be employed, he/she needs a residence permit, which is

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20 Par. 2/4 of the Law on asylum states that the term persecution denotes a significant human rights violation and any measures that are intended to exert psychological pressure.

21 Par. 68–70 of the Law on asylum.
obtained as a part of the asylum seeker status (the employment is illegal, if the person under question does not hold a valid residence permit\(^{22}\)). The labour bureau can also assist the asylum seeker with finding adequate employment. In the area of employment, the asylum seekers have the same rights as the citizens of the Czech Republic.

The Ministry of Interior would turn down the appeal of an alien for international protection as evidently unjustified (§ 16 of the asylum law), if it finds out during the asylum evaluation procedure that:

- the applicant has only economic justification;
- the applicant comes from a country considered safe by the Czech Republic;
- the applicant, without proper reasons, provided erroneous information about his identity or citizenship;
- the applicant uses arguments which are evidently not trustworthy;
- the applicant has damaged or concealed his/her travel documents.

If the application for international protection is rejected, the alien is obliged by law to leave the territory of the Czech Republic. Starting from 2015, the Ministry of Interior provides 400 CZK per person to cover travel expenses to move to another state. If the unsuccessful asylum seeker decided voluntarily to return to the country of origin, his/her one way airplane ticket is purchased. The asylum evaluation procedure could also be stopped, if the alien does not provide adequate cooperation during the process (does not attend the required interviews, does not disclose information) or if he/she entered the territory of another country during the process or his/her location of temporary residence. As stated above, it is possible to sue the decision of the Ministry of Interior using the proper judicial mechanisms.

1.2.4. Conclusions: Reaction to the Migration Crisis and Its Reflection in the Legislation

Since 2015, a number of the above mentioned laws and legislative measures were novelised, in most cases, however, these changes of rather limited technical/procedural nature. The most notable exception to this rule is the Law no. 314/2015 Sb. (henceforth the “novelised version”), which amends the law on asylum, law on the residence of aliens and also the law no. 221/2003 Sb., about granting temporary protection to aliens. As a part of the second phase of the building of the joint European asylum system, this newly adopted law brought a com-

\(^{22}\) For more information, see the Law no. 435/2004 Sb., on employment.
plex amendment to all the three mentioned laws, mainly because of the need to ensure transposition of the procedural and reception EU directives.

The novelised version also reflected Dublin III in the areas of evaluation the competence of a given state to carry out the asylum proceedings. In addition, the novelised version also reflected the developments on the territory of the Czech Republic itself (e.g. making the proceedings to grant international protection more effective, amending the process of providing financial support and other benefits to those seeking international protection).

With regards to the migration crisis itself, the changes to the asylum law (approx. 200 changes in total) must also be taken into account, as these have an impact on all the stages of the asylum proceedings. New legal terms have been introduced (e.g. vulnerable person), a more precise definition of the already existent terms provided (e.g. seeker of international protection, safe country of origin, safe third country, persecution) and a more detailed or a completely new approach to the individual stages of the process and the institutions involved delineated (e.g. repeated applications or the wider spectrum of factors making the application invalid/unacceptable).

In a number of areas, the relevant legislative acts have been amended as to be stricter from the point of view of applicant, for example by granting the legal period for issuing the final decision on granting the international protection from the initial 90 days to six months; in especially complicated cases, this legal period could be further granted up to 18 months and the possibility to interrupt the proceedings to grant the international protection just for the time period when the situation in the country of origin remains unstable (it is not possible, however, to granted this interruption to a period longer than 21 months).

The novelised version includes also changes of the legal framework in favour of the applicants, such as the option given to the applicants to legally work already 6 months after submitting the application for granting the international protection, as opposed to the original 12 months (the directive itself provides the possibility to set the limiting clause at 9 months), or the presence of the authorized person representing the applicant during an interview with the administrative institution(s) involved.

One of the proposals which are seen as productive is the complex novelisation of the process of detention of the applicant for international protection during the asylum proceedings. The state institutions are obliged to give precedence to the so-called special measures (e.g. the obligation to report in person to the Ministry of Interior) to the actual physical detention of the applicant in the reception facility or in the detention facility for aliens. The novelised version also expands the justifications for detaining the applicant, including the
situations when the applicant does not provide the required cooperation and thus complicated the proceedings in the area of granting international protection, or in the cases when it is justified to assume that he/she represents a threat to national security and public order, and also when there is an imminent danger of the person to be relocated based on Dublin III escaping. Although this novel was not drafted as a direct or immediate reaction to the migration wave in 2015, the solutions proposed (within the framework of the unified EU law) definitely reflect the migration crisis.

At the moment, the Chamber of Deputies of the Parliament of the Czech Republic is ready to discuss a law proposed by the Government, which would amend the Law on the residence of aliens and other related laws. These changes are related primarily to migration coupled with employment and long-term residence for investments purposes. In addition, however, the Committee for European Affairs of the Chamber of Deputies has agreed on 15 January 2015 (no. 115) to request the government to strengthen the security aspects inherent within the migration process, also in relation to the terrorist attacks in Paris in January 2015. The government, in reaction to this request, has proposed certain modifications within the administrative code and procedures with regards to the residence of aliens. The objective is to prevent the abuse of the rules now in place, in particular the fact that certain foreign nationals remain in the Czech Republic even when they do not meet the criteria for doing so.

The other changes deal, for example, with the detention of aliens (the new factor here is the role of office of the state attorney in supervising the implementation of the relevant legal measures while detaining the alien in the detention facility). It is also worth the time to mention the proposals leading to a stronger protection of classified information, which are in certain cases used as the main basis for issuing decisions according to the Law on aliens. The suggested novelised version of the law also includes several incremental changes to the Law on asylum, including for example the possibility to attend the court hearing on the extension of international protection through a video-conference. In the same manner, it should be possible to ensure that an interpreter is present during the proceedings. The proposed novelised version went through the debate in the Chamber of Deputies of the Czech Republic during the 54. session on 11 January 2016 and it was given over to the Committee on Security for further debate.

So far as the legal framework on the level of the EU is concerned, the European Commission has made public a communication in September 2015, which contains the short-term and long-term measures to solve the migration
The ways to make the common asylum system more effective form part of the suggested solutions, including both the short-term measures (the so-called hot-spots, see below) or the changes to the EU legislative framework in the more long-term perspective.

At the moment, the evaluation of the implementation and application of the Dublin III directives and related measures are taking place in all the countries that apply the Dublin system in practice. The outputs of these evaluations should serve as one of the main background documents for the revision of the Dublin III directive and for the preparation of a new directive (so-called Dublin IV).

The changes should impact a whole range of areas and legislative measures. The current proposals count with the implementation of the so-called corrective distribution mechanism (which would be applied automatically, if a country, based on the size of its territory and its wealth, would face a disproportionate number of asylum applications; in such a case, these applications would be forwarded to other EU countries). If certain do not temporarily participate in this reallocation mechanism, they would have to pay a solidarity fee of 250,000 EUR. The obligation for asylum seekers to remain in the EU member state where they have submitted their asylum application, would be introduced. It has to be mentioned, however, that this proposal faces very strong criticism for being too rashly produced and submitted, for not being complex enough to cover the issues under question and for not offering comprehensive solutions.

1.2.5. The Enhancement of the Procedure Leading to the Decision on Granting the Asylum and for the Judicial Review

As mentioned above, the EU legislative framework for the asylum law is highly harmonized and addressed by directly applicable normative acts, both with regards to the personal dimension (i.e., who is considered to be a refugee) and to the procedural dimension (the procedures to be taken after the application for an asylum is lodged). The Czech legal framework presents a transposition and implementation of the EU asylum law and the EU laws give the member states very little room for manoeuvre. The differences in the legal approach to the asylum law and to the asylum granting procedure cannot be the main reason for the decision to choose a certain country of destination or for its attractivity. Even then, it is still possible and even necessary to discuss...
possible improvements in the area of asylum law, which could lead to better crisis management procedures. From the procedural point of view it would seem reasonable to support such changes in the EU law which would lead to making the asylum procedure swifter and more effective. Such attempts can already be seen in the proposals to modify the EU law as submitted by the European Commission\(^{24}\) and also from the trends which are present for a long time in the Czech legal system (as mentioned above). These changes concern mostly the rules and the maximum period for the judicial ruling on the decision concerning the international protection.

### 1.2.6. The Relocation of Refugees

The measures based on relocation mechanisms for the distribution of refugees are in general seen as very problematic by the Czech politicians, but also by the experts. This concerns both the temporary relocations mechanisms\(^{25}\) and the proposal to establish a permanent relocation mechanism for crisis situations.\(^{26}\) Although the Czech Republic has not openly refuted the agreement on these measures and has not filed a complaint to the EU Court of Justice,\(^{27}\) the solidarity clause in this case is seen more in the area of financial and practical assistance in border protection and dealing with the refugee crisis.

### 1.2.7. The Issue of Detentions

The Geneva Convention of 1951 does not specifically deal with the detention of refugees. In art. 9, it simply states in case of war or other extraordinary circumstances, a country could undertake specific measures towards specific persons, which it deems necessary for the national security.

The Dublin III directive then mentions that a person should not be detained just before he/she ask for international protection. If this happens anyway, the

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detention should be limited to the minimum time period necessary and should be subject to the principles of indispensability and proportionality. When it comes to the conditions of detention as specified by this directive, it is stated that the member states should also apply the contents of the reception directive.

The constraints and detention of the asylum seekers in the EU is considered to be problematic, as the measures associated with such an act in general infringe on the personal freedom as one of the fundamental human rights (see art. 6 of the European Convention of the Fundamental Rights 2012/C 326/02, where this right is guaranteed to everyone together with the personal security). The European Court of Justice has found, for example, in its decision in the case of Sélina Affum that the legislative acts of individual member states cannot decide that a citizen of third country (who has already crossed the borders of any EU member state illegally) and whose proceedings concerning his/her return as based on the so-called returns directive be given a prison sentence just for crossing the borders illegally and for an illegal stay on the territory of the EU.

1.2.8. Additional Crisis Management Measure

The focal point of finding solutions to the migration crisis, however, could probably be located in other areas than in unifying the asylum procedure and the conditions required for granting the international protection. Some of these measures are already implemented on the European Union level, and the Czech Republic has supported those. Yet some others are in the competence of the individual member states. For the sake of providing at least some specific examples, the following could be listed: strengthening of the common border protection, an effective returns policy, prevention of the negative factors influencing the refugees in the countries of origin and the related development aid.

1.2.9. Current Legal Problems and the Possible Way Ahead

The current legal problems related to the procedural aspects of migration to the EU countries are caused by a number of factors. It is obvious that the approach of some of the EU member states is not adequate to the complexity and massiveness of the problem currently at hand, and also with regards to the future. It also needs to be taken into account that certain member states do not fulfil the obligations that stem from the Dublin system, which makes the entire system much less predictable and creates a feeling of uncertainty. The practical application of the legal framework and norms is further complicated by the commentaries and the implementation procedures of the Convention on the Legal Position of the Refugees and the European Convention on the Protection of Human Rights in the individual member states, which are far from being unified and consistent. The EU is further complicating the matters by continually supporting the standard asylum procedure, which puts a strain on the institutions carrying it out in terms of time consumption, financial resources and the sheer bureaucracy needed to carry out properly. This often lead to the extension of asylum or supplementary protection, which turn out to be a permanent status in nature. At the moment, one possibility from the legal point of view seems to the activation of the temporary protection (EC Directive 2001/55/ES) for persons already located on the EU territory, coupled with a stronger emphasis placed on the cooperation with the third countries in the process of returning those migrants who did not qualify for the international protection on the EU territory.

1.3. Integration Policies and Programmes of the Czech Government – Key Documents and Responsible Institutions (Filip Gantner, Jakub Landovský, Lenka Pírová, Scarlett Waitzmanová)

As discussed above, the asylum and migration policy are a firm part of the overall EU legal framework. Their implementation, however, varies country by country, as does the general attitude towards migrants/refugees. The following chapter deals with the steps taken by the Czech government to ensure the in-

establishing_a_return_handbook_for_member_states_competent_authorities_to_deal_with_return_related_tasks_en.pdf [accessed: 15.02.2017].
clusiveness of society and the various programmes that it has developed with regards to refugees.

1.3.1. The Basic Principles of the Czech Migration and Integration Policy

The Czech Republic is well aware of the fact that migration is a natural and permanent historical phenomenon, which creates new opportunities for both the migrant and the country of destination, but also for the country of origin. International trade, foreign investments, study abroad, international scholarships and exchange programmes, highly skilled foreign experts and workers – all these facets and aspects of migration. Any significant limitations or even a completely shut-down of migration would be a blow to the economy and to the competitiveness of the given country, but it would also have an impact on the freedom of movement of its own citizens. In the light of this, the Czech Republic’s migration policy has the long-term objective to make the migration a success story by regulating its flows and also by providing the necessary tools to integrate the migrants/refugees into the society.32

In addition to the laws and legal measures described in the previous chapter, there are some key conceptual and strategic documents which should be mentioned here. The basic strategic framework for migration policy is provided by the document “Strategie migrační politiky ČR [Strategy of the Czech Migration Policy]”33 from 2015. The primary goal of this strategy is to define a balanced a flexible migration policy for the Czech Republic, including the guiding principles, objectives and tools. The migration strategy should strengthen the positive aspects of migration while eliminating or weakening the negative aspects, impacts and risks. The strategy defines seven priorities – integration, illegal migration and returns policy, asylum procedure, the external dimension of migration policy, freedom of movement within the EU and Schengen cooperation, legal migration, and the international and European obligations of the Czech Republic in the area of migration. It could thus be said that it covers all the key aspects of migration and is a useful tool for formulating and implementing the migration policy.


From the point of view of integration of foreigners the Czech Republic has a novelised document called “Koncepce integrace cizinců [Foreigner Integration Concept]”. This document was updated in 2016 under the new title “In Mutual Respect”. The institutions mainly responsible for the implementation of the concept are the Ministry of Interior, Ministry of Labour and Social Welfare, and the Ministry of Education. The concept reflects the current situation and the needs within the integration process for all the foreigners living on the territory of the Czech Republic. It also analyses the current state of affairs with regards to migration. The concept represents a reaction to the current developments and it brings a number of new measures and changes. The target group of the document, in addition to the foreigners from third countries and the EU who are in some sort of a difficult situation, are now also the asylees and asylum seekers. The goal of the document is to strengthen the public trust through new communication strategy, which makes it possible to share information concerning migration and integration with the public and to enrich the public discourse on the topic.

The integration policy in the Czech Republic thus focuses on creating a complex system of integrated care for foreigners. The priority is to strengthen the overall awareness of the foreigners concerning their rights and duties. Based on the documents mentioned above, classes are offered to migrants to assist them with the initial orientation and adaptation and also with learning the language. The integration measures are also implemented by the regional and local administration, especially through the expanding network of regional Centres for the Integration of Foreigners and through integration projects of individual communities. The concept also counts on the continued cooperation with NGOs and with supporting own activities of the foreigners.

In 2015, a new “Státní integrační program [State Integration Programme – SIP]”, which focuses on assisting persons that have been granted the international protection with their integration into the society. The guiding principles included in the SIP provide a detailed description of the process of integration including the necessary financial resources and their oversight. SIP focuses on three basic areas of integration assistance: teaching the Czech language, entry into the labour market (including the necessary requalification of integration including the necessary financial resources and their oversight. SIP focuses on three basic areas of integration assistance: teaching the Czech language, entry into the labour market (including the necessary requalification and asylum seekers. The goal of the document is to strengthen the public trust through new communication strategy, which makes it possible to share information concerning migration and integration with the public and to enrich the public discourse on the topic.

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overseen by the Ministry of labour) and assistance with finding housing (over-
seen by the Ministry of Interior) – the housing assistance could have two forms: 1) the renting of apartments owned by the local administration and giving
the administration a one-time financial assistance; 2) the renting of privately
owned apartments with the government paying part of the rent to the owner.
SIP also assists people with physical disabilities and older people with financing
their stay in social care facilities. SIP also includes legal and social counselling,
the possibility to stay for a limited period of time in the integration asylum
centres of the Ministry of Interior, provision of basic education to children,36
etc. SIP was drafted and approved based on the request of the government fol-
lowing a decision made on 8 July 2015 to voluntarily accept 400 persons from
outside of the EU within the period of two years (July 2015 – June 2017) and
further 1,100 persons to be resettled from Italy and Greece. On 22 September
2015, the Justice and Home Affairs Council gave the Czech Republic the obli-
gation to accept 1,591 additional migrants from Italy and Greece.37

In its migration policy strategy, the Czech Republic has pledged to fulfil its
obligation to ensure that its citizens will have a peaceful coexistence with the
foreigners who are being integrated and that this integration will eliminate ne-
gative social impacts of migration. It also promised to provide security to the
citizens and to ensure effective law enforcement in the area of illegal migra-
tion, returns policy and organized crime connected to human trafficking and
smuggling. The Czech Republic also pledged to fulfil its obligations regarding
granting asylums and that it will make its system more flexible and enhance
activities with the purpose helping the refugees abroad in order to curb the mi-
gration flows. The Czech Republic will insist on maintaining the advantages
stemming from the freedom of movement within the EU and in the Schengen
Area and it will also focus on supporting legal migration, which brings benefits
to both the country and its citizens.38

In 2016, approximately 54 mil. CZK were allocated from the state budget
to support the integration of migrants. In addition, the individual ministries
are allocating additional resources to support integration. For example, the
Ministry of Interior could be mentioned with the earmarked sum of approx.
40 mil. CZK, or the Ministry of Education with 13 mil. CZK.

The migration is a multidimensional phenomenon and this is clearly re-
flexed in the number of state institutions involved in reacting to it and coop-

36 Office of the Government of the Czech Republic.
erating on intra-governmental basis. Already in December 2006, the Ministry of Interior has established under its auspices the Coordination Institution for the Management of State Border Protection and Migration (henceforth the “Coordination Institution”). The members of the Coordination Institution are the deputy ministers of foreign affairs, industry and trade, labour and social welfare, education, defence, local development, finance, justice and healthcare. The other members include the police president, the deputy minister for human rights, equal opportunities and legislation, the deputy prime minister for science, research and innovation, and the government secretary for European affairs.

As a follow-up to the adoption of the migration policy strategy and of the communication strategy on migration and based on the decision made by the Czech government on 12 October 2015, the Coordination Institution also meets on the level of ministers. The division of individual competencies and portfolios is described in “Zpráva o situaci v oblasti migrace a integrace cizinců na území ČR [Report on the Situation in the Area of Migration and Integration of Foreigners on the Territory of the Czech Republic]”. The ministries are, to a certain extent, involved within the security framework of the migration policy, with the individual portfolios being as follows:

- Ministry of Interior – coordination of the asylum and migration policy with border protection, coordination of integration policy, crisis management;
- Ministry of Foreign Affairs – development aid and humanitarian assistance, issuing of temporary Schengen visa, visa and consular agenda;
- Ministry of Defence – defence of the Czech Republic in coordination with armed forces of other countries;
- Ministry of Industry and Trade – commercial activities of foreigners;
- Ministry of Labour and Social Welfare – employment and social security of foreigners, integration on the labour market;
- Ministry of Education – education and integration of foreigners in the pre-school, elementary, middle, vocational and university education systems;
- Ministry of Finance – allocation of financial resources, duties and customs, persecution of illegal employment;
- Ministry of Justice – legislative measures in criminal law, extraditions and expulsions;

39 This report is drafted annually based on the decision of the government no. 467/1993 and the decision issued by the Chamber of Deputies of the Parliament no. 225 (12 October 1993) and the subsequent decision of the Chamber of Deputies no. 716 (28 June 1995).
Within the security framework, obviously the intelligence services are also included, based on their competence as given by the relevant laws, and in line with priorities that are set yearly by the government.

1.3.2. The Humanitarian and Development Aid in the Migration Context

The Czech Republic is aware of the push and pull factors regarding migration. The push factors (security, economic, natural, etc.), are everything that influences a person in his home country and which bolsters his/her decision to leave. The Czech Republic is convinced that the EU must be very active in this regard, as well as the regional groupings (for example the Visegrad Group) and the individual states including the Czech Republic itself. Thus, the Czech Republic is very active in using the tools to prevent migration from the countries of origin by various specialized support programmes. For example, it is possible to mention the activities of the Czech Republic in negotiating the migration compacts with third countries, as presented by the European Commission in Cooperation with EEAS as a part of the new framework for partnership with third countries.\(^40\) The Czech Republic actively contributes to the Trust Fund for Africa and the Trust Fund for the Middle East and Western Balkans (MADAD). At the same time, the Czech Republic also financially supports the World Food Programme (WFP) and the Office of the UN High Commissioner for Refugees (UNHCR).

The tools on the national level included the foreign development aid, humanitarian aid and specialized programmes such as the programme of the Ministry of Interior to assist the refugees in their countries/regions of origin and to prevent larger migration waves in 2016 or conceptual document of the Ministry of Interior aiming at assisting refugees and states under strong migrant pressure (for 2016, a total amount of 150 mil. CZK was allocated for these purposes).\(^41\) In reaction to the armed clashes in the city of Aleppo in Syria and in its vicinity at the end of 2015 and in the beginning of 2016, when another

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migration wave was set into motion, the Czech Republic has approved and provided a one-time immediate financial gift to the Turkish government, specifically to the Office for the Management of Disasters and Emergencies (AFAD) of 15 mil. CZK. These resources were earmarked for the assistance to the Syrian refugees coming from the Aleppo area.\textsuperscript{42}

The need to expand the assistance provided to the EU countries and to the countries in the neighbourhood of the EU which became transit countries and had to face a lot of pressure due to the ongoing migration crisis became evident in the spring of 2016. Based on the outputs of the European Council which met in March 2016 (see Chapter IV), the Czech Republic has decided to establish a programme of the Ministry of Interior for the support of the EU member states and countries in the EU neighbourhood facing significant migration pressures. The goal of these programmes was to support those member states whose asylum and migration systems were put under extreme pressure.\textsuperscript{43}

On the other hand, pull factors include all the individual aspects that are attracting the migrant to the country of destination, such as the social benefits, affordable and efficient health care, the attitude of the society to migration, the willingness of the majority to tolerate illegal migration, the size of the community already settled in the destination country, loopholes in the administrative procedures on asylum etc. The size of the diaspora, together with the means to find employment or start a career, are an important pull factor for a number of illegal migrants.

\section*{1.4. The Perception of Migrants/Refugees in the Czech Republic and the Impact of the Migration Crisis on the Czech Political Scene (Jan Bečka, Bohumil Doboš, Martin Riegl, Scarlett Waitzmanová)}

So far, this article has been dealing primarily with the legal framework, especially with the approach to migration on the EU level and the mutual harmonization of the EU policies and legal acts with those of the Czech Republic. While the legal framework is extremely important from the point of view
of providing the necessary level of legal protection and support for the refugees/migrants, it is only a part of the puzzle. As mentioned in the introduction, migration has been “securitized” and it is thus no longer “just” a legal question, but an important topic of the national political and societal discourse as well. In this sub-chapter, the public perception of migration/migrants/refugees will be analysed as well as the impact on the Czech politics.

1.4.1. The Perception of Migrants/Refugees among the General Public in the Czech Republic

As mentioned earlier, despite the fact that the Czech Republic is neither a destination for the refugees/migrants nor does it serve as a major transit country, the issue of migration is felt and discussed very intensively by at least some segments of the Czech society. Here, some statistic and public opinion polls are necessary to substantiate the claims made above.

According to an opinion poll/survey conducted by the Czech Institute of Sociology in early 2016, 61% of the respondents polled expressed the opinion that the Czech Republic should not be receiving any refugees, even from war-torn countries – even more staggering is the fact that among the rest of the respondents who would welcome the refugees under certain conditions, only 3% would allow them to settle in the Czech Republic on more than just temporary basis and to become a part of the society; there are actually significant differences in how the Czech society views the refugees from different parts of the world – 40% of those polled would accept refugees from Ukraine, while only 16% would accept those from the Middle East and Africa (with 78% against).44

The numbers are obviously constant and not liable to major changes. In another poll conducted in December 2016, 64% of those polled were against any refugees/migrants being accepted by the Czech Republic, while 30% would accept them on temporary basis only.45 In February 2017, in an opinion poll conducted on the threats felt by the population, 31% of those interviewed responded that they see migration as one of the major threats (coupled with terrorism).46

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It has to be mentioned that when considering the perception of refugees in the Czech Republic, we are often dealing with the “fear of the unknown” and that very few people actually have a first hand experience with the refugees, especially those from predominantly Islamic countries of the Middle East and North Africa. To a certain degree, the refusal to accept the presence of the refugees “personally”, i.e. to live near to them and to take them as a part of the everyday space that an individual encounters, could be from the psychological and sociological perspective compared to a similar refusal to, for example, have a storage facility for used nuclear fuel close to one’s home or within the community where one lives in general. It could be also argued that this is the classic example of the NYMB (Not in My Backyard) syndrome, where the fear of the unknown and of the change (and the possible negatives the change would bring with it) overweighs the considerations based on the feelings of humanity and solidarity, which are often felt by the majority of society. This seems to be the case in many places in the Czech Republic, for example in the town of Králiky, where the locals have been very strongly against opening a reception facility for migrants during the recent migration crisis, and also on the Czech-German border near the village of Moldava, where the sheer presence of migrants on the other (German) side of the border created a public outrage despite the fact that no incidents occurred. In both of these cases, the issues were strongly medialized and not only the local population but also politicians on both the local and the national level expressed their doubts about welcoming the migrants.47

Where is this highly sceptical attitude towards the refugees/migrants coming from when, as was already mentioned several times in this case-study, very few people have a direct, first-hand negative (or, for that matter, positive) experience with people coming from the Middle East or Africa? It would be easy to simply brand the Czech as racists and xenophobes, but the data that are available do not justify such a simple conclusion.

In the following sub-chapter, attention will be paid mostly to how the issue of migration crisis has been picked up by the politicians both on extreme poles of the political spectrum, but also from the mainstream parties. This has been important in shaping the public opinion but also the political discourse on both the national and international level, as the refugees are often associated with terrorism and security risks and one of the prevalent factors in this debate is thus fear.

1.4.2. Migration as a Topic of the General Political Discourse in the Czech Republic

In general, it could be argued that recent years have witnessed an unprecedented rise of populism on the European continent. Without getting into unnecessary details about other countries here\(^48\) in this article, it is necessary to illustrate some specific aspects of the Czech populism and political discourse on migration.

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The Czech Republic is considered one of the most Eurosceptic countries in Europe and this tendency has been rather on the rise. According to a survey taken in April/May 2016, during the time when the migration crisis was in full swing, only 25% of those polled declared they are happy with the EU membership (3% very happy/very satisfied, 22% more or less happy/satisfied), while 36% were either dissatisfied or extremely unhappy. Criticizing and bashing the European Union for both real and imagined mistakes and “infringements” on the freedom and rights of the national states and even individuals has thus become a sort of favourite national past-time activity (especially in certain segments of the society) and it would indeed be strange if the pattern was not followed by certain politicians vying for the public support.

As the graph on the previous page shows, there is a correlation in the minds of the public between the migration crisis and the (in)ability of the EU to more effectively stem the migration flows. Again, as argued above, it is then natural that even mainstream politicians will follow the trend and will use similar, if not the same arguments in order to please the public. One of the most outspoken mainstream politicians in the Czech Republic who regularly makes remarks concerning migrants and migration and who criticizes the EU is the President Milos Zeman. As an example, we could use his “Christmas Address” to the nation, broadcasted on 26 December 2016. In his address, Zeman, among other things, stated: “To place Muslim migrants difficult to integrate on our territory would be to create the conditions for possible terrorist attacks, which I would want to warn very seriously against.”

Earlier, in October 2016, Zeman said that the economic refugees should be “deported into empty spots /wastelands in North Africa or Greece.” This statement provoked a reaction from the Minister of Foreign Affairs Lubomir Zaoralek, who said that Zeman’s words do not represent the official position of the Czech Republic. It can be argued that Zeman, even though in the past he was already known for contro-
versial statements about a number of issues, is trying to cater to the public opinion, especially with the presidential elections (in which he would likely stand for re-election) coming up in 2018. At the same time, given the president’s relatively high and stable popularity (in March 2016, during the migration crisis, he had the approval rating of 63% of those polled\(^\text{52}\)), the question is whether migration is indeed a topic he needs to embark upon.

Overall, the coalition government which has been in power since January 2017, has been able to hold a relatively consistent line on the migration crisis. While certain politicians, such as the Minister of Interior Milan Chovanec\(^\text{53}\) and the Deputy Prime Minister and Minister of Finance Andrej Babiš\(^\text{54}\) have perhaps began more vocal on the topic than some others, the government has been able to communicate the same message on the various levels when meeting with the representatives of the other EU member states and of the partner countries (see Chapter IV for more details on these negotiations and on the stance of the Czech Republic and other V4 countries with regards to migration).

So far, the political statements and actions of the mainstream politicians and representatives of the political institutions were discussed. It has to be kept in mind, however, that the above mentioned rise of populism in Europe also gave rise to a number of more or less obscure political movements that have anti-migration policy and anti-Islamism as their main agenda. In this regard, the name Martin Konvicka, lecturer at the South Bohemian University and a co-founder of several of these platforms should definitely be mentioned. Konvicka profiles himself as the defender of “traditional values”, “traditional Europe”, etc.

At certain points, especially during the height of the migration crisis, it seemed that his political initiatives and he personally had a reasonable chance to pass the threshold for being elected into the Parliament. Like with most of the populist movements based on one or two single topics, however, it now seems that the initial popular support has petered out as the migration crisis begun to we-


\(^{53}\) Milan Chovanec commented for the media for example the case of the group of Iraqi asylum seekers that were accepted to the Czech Republic, but soon most of them travelled to Germany and later to Iraq. Chovanec was strongly critical to this particular project of asylum seekers and ordered it halted. See for example: http://www.tyden.cz/rubriky/domaci/chovanec-iracit-uprchlici-dodnes-se-pretahujemes-nemci_414652.html [accessed: 14.01.2017]; http://zpravy.idnes.cz/chovanec-zastavil-projekt-generace-21-dvy-/domaci.aspx?c=A160401_154722_domaci_san [accessed: 14.01.2017].

akken. In elections to the Senate in October 2016, Konvicka only received 8% of the vote in his electoral district, finishing next to last.\textsuperscript{55} According to the latest opinion polls, his political party is nowhere near meeting the 5% threshold needed to enter the Chamber of Deputies of the Parliament.

\textbf{Figure 1.2}

\begin{center}
\textbf{Public Preferences by Political Party, January 2017}
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\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure12.png}
\caption{Public Preferences by Political Party, January 2017}
\end{figure}


The other example of a nationalist/populist movement that has lately focused largely on migration and anti-Islamism is the Úsvit [Dawn] party of Tomio Okamura, which has managed to enter the Parliament in the last elections. Okamura has always used populist topics (direct democracy, reform

\textsuperscript{55} For the full information on the election results, see e.g. http://www.parlamentnilisty.cz/politika/politici-volicum/Vysledky-voleb-do-Senatu-TABOR-obvod-13-457314 [accessed: 14.01.2017].
of the social welfare system in favour of the “normal people”, struggle against “corrupt politicians”). In 2015 and 2016, however, his main agenda started to become the migration crisis. Okamura repeatedly stated\textsuperscript{56} that there are no refugees, just migrants seeking economic benefits and better life in Europe. He also stated that they represent a danger to the European way of life, to national security and to public health. Yet, once more, in the latest election polls his party is well below the necessary threshold.

What conclusions could be drawn concerning the Czech electorate and the populist (mis)use of the migration crisis? It would seem that the migration crisis is not such a large topic after all, especially given the fact that there are almost no refugees in the Czech Republic at the moment and thus they are not threatening anyone or taking anyone’s job away (referring to the migrants coming from the Middle East and Africa). Some of the mainstream parties (or at least their politicians) have also made a number of populist statements regarding the migrants, but their parties do not depend on these topics – after all, improvements to the tax, healthcare and social welfare system, which only the established parties could realistically offer, are much more important for the electorate than a fight against threat, which is at the moment present only in the media. Should the situation change in the future and the Czech Republic become a destination country with all the possible positive and negative impacts associated with this change, then the migration issue might play a bigger role in shaping the results of the elections. At the moment, however, especially when the migration crisis seems to recede, its lasting to mid-term impact on the Czech political scene can be seen as rather limited.

\section*{1.5. The Czech Republic and the Reactions to the Migration Crisis on the International Scene (Bohumil Doboš, Jakub Landovský, Martin Riegl, Scarlett Waitzmanová)}

As discussed above, the Czech discourse on migration has been often shaped by fear of the refugees and by the opposition to the attempts of the European Union and some countries, notably Germany, to force the other EU countries to become more active and to show more solidarity. Does this, however, mean

that Prague has been entirely passive and intransigent in the meetings on the EU level, or has it attempted to pursue an agenda of its own? And if so, how successful has been it so far?

The following chapter deals how the Czech Republic attempted to use its presidency in the Visegrad Group (V4) in 2016 to shape the refugee agenda on the European level, and also what practical steps it suggested the EU should take. While it was often criticized for not showing solidarity with the countries worst hit by the crisis, it will be seen that it has actually done quite a lot in their support. On the other hand, it has not been willing to agree with such steps on the European level which it sees as either erroneous or infringing on the freedoms of the individual states.

1.5.1. The Visegrad Group (V4), the Czech Presidency and Its Activities on the EU Level

The Czech Presidency of the Visegrad Group (from now V4) came at a time (1 July 2015 – 30 June 2016) of immensely turbulent developments in the area of international affairs and foreign policy. The period under question thus presented many challenges not only for the Czech Republic, but for all the member states of the European Union and also for the countries in the Western Balkans. The issue of migration inevitably became a major factor of influence of the Czech V4 Presidency, reflecting both the need to resolve the crisis on the international level and the need to assuage the fears of the domestic population in the V4 countries. The activities planned initially to be carried out within the framework of the Visegrad cooperation gradually lost priority because of the pressing need to find ad hoc solutions to the ongoing situation. In particular, it was necessary to allocate adequate resources for resolving the so-called migration crisis. One of the important aspects of the Czech Presidency was thus the coordination of the individual positions of the V4 countries prior to the meetings of the European Council (from now on the Council) as well as the meetings of other EU institutions (Foreign Affairs Council – FAC, General Affairs Council – GAC, Justice and Home Affairs Council – JHA, etc.). This coordination, carried out on regular basis especially before the meetings on the European level, helped to formulate and present a coherent and well-argued position of the V4 countries regarding the migration-relevant agendas of the EU. It should be noted that on the issue of illegal migration and of the perception of the intrinsic significance of the migration agenda there was a general agreement between the top-level political institutions in the Czech Republic from the outset of the crisis.
Within the framework of its V4 Presidency, the Czech Republic has organized four summits of the V4 prime ministers to deal with the issue of migration. The same agenda was also dealt with by two joint meetings of foreign ministers of the V4 countries, Luxembourg and Germany. All the meetings of V4 foreign ministers tackled this problem as well.\(^57\)

Already by 4 September 2015, an extraordinary summit of the V4 was organized to deal solely with the issue migration. During the summit, a joint statement of the Prime Ministers of the Visegrad Group regarding migration was adopted. Among other things, the V4 countries declared their full solidarity with Hungary, which was at the time dealing with an unprecedented migration pressure, to cope with the challenge. It was also stated that the other V4 countries are ready to provide even more aid to Hungary as an expression of their solidarity.

Subsequently, on 11 September 2015, a meeting of foreign ministers of the V4 countries, Luxembourg and Germany took place in Prague, with the main topic being once more migration. The ministers have agreed on the need of a joint Union position and of solidarity between the individual EU member states while stressing the need for finding solutions to the root causes of migration. They have expressed their support for the Council proposal to compile a list of safe countries of origin and also the proposal to establish a trust fund to help the African countries. They have also agreed that it was necessary to assist the transit countries with the reception and registration of migrants. On the other hand, there was a continued disagreement concerning the proposed redistribution mechanism and the very fact that a permanent mechanism should be implemented to redistribute the migrants among the EU member states. The main output of the working lunch was a joint V4 communiqué which focused on the migration route through the Western Balkans, stabilization of the countries in the European neighbourhood, fight against human smugglers and traffickers, development and humanitarian aid, international cooperation between the UN, the African Union and the League of Arab states and on the further organization of conferences focusing on migration.\(^58\)

The issues related with migration were also discussed at an extraordinary meeting of the V4 defence ministers, which took place on 17 December 2015 in Prague. On the top of the agenda were the refugee crisis, the security situ-

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\(^57\) For more details, see the document „Informace o průběhu předsednictví České republiky ve Visegrádské skupině v letech 2015–2016, PRO INFORMACI ČLENŮ Vlády, MZV ČR, čj.:107504/2016-OSE [Information regarding the Activities during the Czech Presidency of the Visegrad Group in 2015–2016, FOR INFORMATION TO THE MEMBERS OF THE GOVERNMENT]”, no. 107504/2016-OSE.

ation in the Central European region and (in this case not so much related to migration) the possible joint assistance and support to the Baltic countries within the framework of the NATO reassurance measures. The participants have agreed, while discussing the migration crisis and the fight against terrorism, that the basic precondition for mitigating the migration crisis in Europe is instituting and enforcing an effective protection of the external borders of the Schengen Area and strict adherence to the existing regulations. The representative of Hungary has greatly appreciated the aid extended by the other V4 countries towards protecting the Hungarian borders. The V4 representatives have also agreed that the stability of the Western Balkans is crucial for the security of Central Europe and they have declared that if the migration flow intensifies further in the upcoming spring months, the V4 countries must enhance and strengthen their cooperation with FYROM and other Balkans countries and, if needed, offer their security capacities, including the military assets (personnel, financial resources, materiel and technical support). It was also agreed that the V4 countries would share information about their bilateral negotiations with France and the United States related to strengthening the military contribution to the fight against terrorism in North Africa, Sahel and the Middle East.

The second extraordinary summit of the V4 dealing with migration and also with the UK reform agenda, organized at the same time to commemorate the 25th anniversary of the establishment of the Visegrad Group, took place in Prague on 15 February 2016. The FYROM President Georgi Ivanov and the Bulgarian Prime Minister Boyko Borisov were also invited to attend. The main topic of the summit was once more finding the solution to the migration crisis, cooperation between the V4 and the countries of the Western Balkans, provision of aid to the countries worst hit by the migration contingency (and the above mentioned 25th anniversary of the Visegrad Group). Two declarations were adopted at the summit: the Prague Declaration commemorating the 25th anniversary of the V4\(^\text{59}\); and the Joint Statement on Migration, which, among other things, has confirmed the effort on part of the V4 to reach a common European solution for the migration crisis, especially the need to significantly curb the migration flow, swiftly improve the protection of the EU external borders and implement the \textit{Joint EU-Turkey Action Plan} (from now on the \textit{EU-Turkey Plan}). Furthermore, the declaration also contained the pledge to continue assisting the countries of the Western Balkans, which have been worst hit by the migration crisis. In this regard, the role of Greece was singled out, as

well as the determination of the V4 to help the Greeks to carry out a more efficient registration of the refugees and to more efficiently cope with the various migration pressures. The declaration also mentioned the possibility of implementing a backup/alternative plan (“Plan B”). This plan would be designed to prevent mutually uncoordinated closures of the internal borders within the EU and of the borders in the Balkans in case the provisions of the agreement between the EU and Turkey would not be implemented in a satisfactory fashion. During the meetings, the V4 again emphasised its negative stance toward a permanent relocation mechanism; at the same time, the V4 declared its full support to the measures taken on the EU level with the purpose to more efficiently protect the external borders, including a more intensive cooperation with the third countries.60

As the Czech Presidency in the Visegrad Group was coming to an end, a summit of the prime ministers of the V4 countries was held in Prague on 8 June 2016. On this occasion, the prime ministers have issued a joint declaration. In this declaration, they pointed out the need of a deeper mutual understanding in Europe, of an active and constructive dialogue, and of finding a compromise solution to the problems that divide the European countries and societies. The joint declaration dealt primarily with the issue of migration, defence, BREXIT referendum, continued assistance to Ukraine, the medium term financial framework and the solution of the situation on the markets with agricultural commodities. When it came to migration, the V4 countries stressed that it was necessary to strive for joint and coherent solution on the European level and to focus on the root causes of the migration crisis. An important issue to be taken into account was the protection of the external EU borders, fully functioning hotspots (for more on hotspots, see the further chapters), an efficient returns policy and, last but not least, an effective reform of the Dublin Regulation.61

The cooperation of the V4 countries has also been smooth and efficient with regards to the coordination of the joint positions before the meetings of the Council or the Council of Europe (from now CE). The issue of migration was discussed at the extraordinary meeting of the Council, which took place already on 23 April 2015. The aim of this meeting was to find an efficient common response of the EU and its member states to the ongoing migration crisis on the EU’s southern borders on the backdrop of the tragic events in the Mediterranean. The outcome of the meeting was the adoption of the

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joint statement about specific measures to be taken in four areas – saving human lives, combating the criminal aspects of migration, prevention of illegal migration and the strengthening of solidarity and responsibility within the EU. The Council made a decision on these issues and called on the High Representative of the European Union for Foreign Affairs and Security Policy Frederica Mogherini to prepare a plan for an EU military mission with the objective to identify, seize and destroy vessels used for human trafficking in the Mediterranean Sea. A decision was also made to strengthen the general presence on the seas, mainly to prevent the regular drowning of the migrants in the Mediterranean Sea, and also to allocate more financial resources to the rescue operations carried out by FRONTEX (operations Triton and Poseidon). The member states have declared their resolve to undertake more drastic steps against the human trafficking networks and to punish the related illegal activities, as well as the resolve to cooperate in a more intensive fashion with the EUROPOL, FRONTEX, EASO and EUROJUST agencies. The Czech Republic in particular has offered to provide CZK 10 million for the FRONTEX rescue operations, 60 experts to cooperate in the joint endeavours as well as technical equipment (CASA aircraft with military crew for search and rescue operations on the seas, ATVs, night vision equipment, etc.).

On 25–26 June 2015, a regular meeting of the Council took place, with the main emphasis on a thorough discussion of both the proposal of the European Commission (from now on EC) to establish a relocation and resettlement mechanism for the refugees and on the issue of the returns policy and cooperation with the third countries. Before the Council meeting started, the prime ministers of the V4 countries met with the EC President Donald Tusk. After this meeting, the V4 prime ministers met for the traditional coordination to prepare a joint position for the upcoming talks.

During the long discussions on the final conclusions of the meeting, the V4 countries were able to include the reference to the voluntary nature as the basic principle of the proposed relocation and resettlement mechanism. The temporary and extraordinary nature of the relocation scheme was also emphasised and it was established that a consensus is needed when a decision would be made concerning the redistribution and resettlement among the member states. The Council agreed with the proposed relocation of the 40,000 refugees from Italy and Greece and with the resettlement of 20,000 persons from third

countries, but only if the principle of voluntariness and consensus was maintained. Thus, the initial proposal of the Council to set mandatory quotas for the redistribution of migrants was rejected and the right of each individual EU member state to decide on the nature and scope of its involvement in the solidarity-based activities in the area of migration was upheld. The preparation of the conference on migration in La Valletta was also supported by the Council. The Council agreed on the establishment of reception facilities in the member states worst hit by the migration crisis, the so-called hotspots. During the talks, the Czech Republic was arguing for geographically balanced measures in the migration area, more effective returns policy, balance between the principle of solidarity and responsibility of the member states; at the same time, it opposed the implementation of a mandatory mechanism of migrant distribution.

The next extraordinary and informal meeting of the European Council dedicated to the migration and refugee crisis took place on 23 September 2015 in Brussels. Before the meeting, the V4 countries issued a joint statement on the current migration situation, using some of the long-term V4 policy objectives and priorities. Among other things, this document states: “...that an effective management of the root causes of migration flows must be the steppingstone of EU approach to the current situation”, and further that “the key elements of the EU common approach for the coming months should include especially: ensure effective control and protection of the EU external borders in all aspects; swift adoption of a common EU list of safe countries of origin; more effective return policy accompanied by operational readmission agreements with key countries; swift implementation of functional hotspots; strengthening the fight against organized crime and trafficking; more active engagement in solving the situation in Libya, Syria and the Middle East; more effective and targeted assistance (including through conditionality) to countries of origin and of transit with the aim of combating root causes of migration.” The declaration included an appeal to the EC to present a detailed and realistic plan of implementation of similar measures as those described. The V4 countries have also confirmed their readiness to participate in the common effort to manage the migration crisis and to contribute their share in implementing the specific plan.66

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On the top of the agenda of the Council meeting was the protection of external borders (the discussion focused primarily on the creation of Union Coast and Border Guard), relations with Turkey and the need to further deepen the mutual cooperation, increasing the financial support provided to the UNHCR, WFP and the third countries in the impacted region in order to improve the conditions of the refugees stationed outside of the EU area, and intensification of the aid provided to Lebanon, Jordan and Turkey and the countries of the Western Balkans to deal with refugee influx. The prime ministers have issued a declaration which includes the basic constituent elements of the V4 position regarding the long-term solutions to the issue of migration. The need to uphold the existing rules and regulations, including the Dublin Regulation and the Schengen acquis, was emphasised in the document. In addition, the priority areas of activities needed to react to the migration crisis were outlined here. The declaration also contained a specific time table for the launching of the hotspots, which were supposed to be in operation by the end of November 2015 at latest.

As seen from Prague, the discussion at the summit was dealing with priorities that the Czech Republic has been in any case supporting in the long run. In accordance with the priorities established in the mandate approved for this meeting, the Czech Prime Minister Sobotka stressed the need to find the solutions of the root causes of illegal migration and the protection of the EU external borders. He also expressed his full support for the adoption of a joint declaration, which outlines specific measures to be taken in this direction. The Czech Republic has also pledged to further enhance its participation in the measures undertaken to tackle the migration crisis and it has supported the efforts to improve the living conditions of the refugees in Syria and the neighbouring countries and announced its intention to increase its financial contribution to the budget of the World Food Programme.

The Council has welcomed the EU-Turkey Plan, the implementation of which should have led, among other things, to the facilitation of the visa liberalization between the EU and Turkey and to the fulfilment of the readmission treaty. In the conclusions, the Council has appealed for a proper implementation of the returns directives by the member states and for strengthening of the role of the FRONTEX agency in returns policy. The HR Federica Mogherini

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was tasked with preparing incentives for the third countries to become more active in cooperating in the area of returns (i.e., negotiating and implementing the readmission agreements). The Czech Republic has been able, with the support of other V4 countries, to influence the conclusions by including the principles of better interconnectedness between the establishment and the functioning of hotspots with the already approved relocation measures so that the conclusions would not presuppose or exclude any potential future options in the area of relocation (for example the permanent relocation mechanism).

On 12 November 2015, an extraordinary meeting of the heads of state and governments of the EU member states took place in La Valletta, Malta. The meeting was called to tackle the issue of migration and refugee crisis. It was an informal meeting, which meant that there was no formal written directive adopted as its immediate outcome. The Czech delegation was led by the Prime Minister Bohuslav Sobotka who, at the behest of the Polish government, represented also Poland.

Before the meeting, the by now traditional coordination of the V4 took place. The prime ministers of the Czech Republic, Hungary and Slovakia have adopted a declaration which outlined priorities for solving the root causes of the migration crisis. In this declaration, they have also pledged to increase the joint contribution of the V4 to the EU trust fund for Africa by 400,000 EUR. They have also declared that each of the countries will provide 75 additional experts to the FONTEX and EASO agencies to strengthen the protection of the external borders.

The sole topic of the summit in La Valletta was migration. The primary issue under question was the strengthening of cooperation with third countries in order to curb the migration flow, the establishment of hotspots in Italy and Greece, the furnishing of adequate capacities to the FRONTEX and EASO agencies and the strengthening of the protection of the external borders. The discussion was primarily centred on the cooperation with Turkey in the area of dealing with the migration crisis. The president and the vice-president of the EC have informed the members of the Council about the developments in the negotiations regarding the implementation of the Action Plan between the EU and Turkey. The representatives of the member states and governments

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of the EU countries have agreed on the need to organize a summit as soon as possible. The pledge to provide Turkey financial assistance up to EUR 3 billion to improve the living conditions of the refugees staying on the Turkish soil was also declared.\textsuperscript{72}

On 17 and 18 December 2015, a regular session of the Council took place in Brussels. This was the last meeting to take place in 2015. The meeting was dealing primarily with the issues of migration, the United Kingdom, fight against terrorism, the economic and monetary union, the internal market, energy union and climate change policy and external relations. Before the beginning of the Council, the usual coordination meeting of the V4 took place, which led to the adoption of the joint statement of the prime ministers of the V4 countries on migration, the United Kingdom and energy policy.\textsuperscript{73}

The Council has declared that for the sake of maintaining the integrity of the Schengen Area, it is necessary to restore control over its external borders. In this regard, the Council has asked for a swift solution of the deficiencies related to the functioning of the existing \textit{hotspots}, i.e. to ensure the registration of all migrants entering the EU is taking place. This would include providing sufficient capacities and resources for the proper functioning of \textit{hotspots}, providing a clear and precise time table for launching additional \textit{hotspots} and ensuring that the FRONTEX and EASO agencies have all the tools they need. It was also emphasised that it is necessary to carry out the controls on the external borders in a systematic fashion. In the area of cooperation with the third countries, the Council has stressed the importance of the implementation of the outputs from the conference on the migration routes through the Eastern Mediterranean and Western Balkans (25 October 2015), the La Valletta Migration summit (11–12 November 2015) and the EU-Turkey Summit (29 November 2015).

From the viewpoint of the Czech Republic, this could be seen as a successful Council meeting. The Czech delegation supported the approval of the final version of the conclusions, which were worded in line with the mandate given to the Czech prime minister. The Czech Republic welcomed the fact that the European Council has focused on the protection of the external borders, which has been a long-term priority of the Czech Republic. In accordance with its declared stance, the Czech Republic has urged the European Council to facilitate a swifter launching of the \textit{hotspots} in order to register all the migrants at


their entry points into the EU. The majority of the member states including the Czech Republic have also expressed their support to the Council initiative to establish the European Coastal and Boarder Guard. The Czech Republic, together with the other V4 countries, has been able to stress in the final version of the Council conclusions\(^{74}\) the continued need to preserve the Schengen Area, to strengthen the protection of the external border and to extend aid to the non-member states situated along the Western Balkans migration route.\(^{75}\)

In 2016, the first regular meeting of the Council took place on 18–19 February in Brussels and dealt with topics such as the United Kingdom, migration, external relation and the European Semester. The V4 countries met before the Council session; the discussion about providing personnel and technical aid to FYROM in order to bolster the protection of its borders was also attended by the prime minister of Croatia and Slovenia. At the beginning of the Council session, the heads of state and the presidents of the Union institutions have adopted a joint statement condemning the terrorist attacks in Ankara (16 February 2016) and expressing the solidarity of Europe with Turkey. The Council has declared that the main goal in the area of migration is the abrupt curbing of the migration flow, protection of the external borders, putting limits to illegal migration in general and the preservation of integrity of the Schengen Area. The Council has also welcomed the decision of NATO to launch an operation in the Aegean Sea and it has declared its intention to closely cooperate with the Alliance, especially through the FRONTEX Agency. The priority, according to the Council, was the implementation of the \textit{EU-Turkey Plan}.

The Council has also appreciated that an agreement was reached on the financial facility designed to help the refugees in Turkey and on the preparation of the voluntary mechanism for the resettlement of migrants/refugees from Greece. Regarding the Western Balkans migration route, it was declared by the Council that it is necessary to prevent the uncontrolled passage of migrants and to avoid uncoordinated measures taken by the individual states. The Council has called for a total adherence to the Schengen Border Codex and for a full functioning of the \textit{hotspots}, so that all the incoming migrants could be properly identified and registered. It also asked for speeding up the preparation of the proposal to establish the European Coast and Border Guard.

The Czech Republic supported the presented wording of the conclusions on migration, since it was in line with the long-term priorities of both the Czech Republic and the V4. It has also welcomed the emphasis that was placed on cur-


bing the migration flows, protection of the external borders, attaining the full functioning of the hotspots and the implementation of the EU-Turkey Plan.76

On 7 March 2016, as a follow-up to the Council session in February, an extraordinary meeting of the heads of state of the EU member states was organized in Brussels. The meeting was also attended by the Turkish Prime Minister Davutoğlu. This extraordinary summit focused primarily on the cooperation between EU and Turkey during the migration crisis and on the current situation with regards to the Western Balkans migration route. The new proposals of Ankara regarding the joint efforts to deal with the migration crisis were presented at the summit, which were accepted as the basic premises for further endeavours on this topic in the future. The main outcome of this meeting was the statement issued by the heads of state and the prime ministers of the EU countries.77

The Czech Republic has considered the cooperation with Turkey to be one of the key elements and tools to resolve the migration crisis, and thus it had appreciated the outcomes of the summit. It had also declared that it is ready to work towards their implementation. The crucial part of the cooperation with Turkey, as seen from Prague, is the returns policy. The Czech Republic supports the visa liberalization given that all the conditions included in the currently effective liberalization plan are met. Together with the other V4 countries, the Czech Republic has been able to promote the inclusion of a guarantee that the cooperation with Turkey would not lead to an increase in the already approved quotas for the individual member states for relocation and resettlement. It was also successful in including the pledge to assist the countries located along the Western Balkans migration route, which is in line with the long-term Czech position.78

The issue of cooperation with Turkey has also been the focus of the regular Council session on 17–18 March 2016. The conclusions regarding migration were ultimately approved and, with the Turkish Prime Minister Davutoğlu being present, also the joint statement of the EU and Turkey. In this statement, the EU and Turkey have agreed on various aspects of their cooperation with the aim to curb the irregular migration flow from Turkey to the European mainland. Turkey has pledged that by 20 March 2016, it will start accepting all the migrants that will be returned from the Greek islands.79


78 See “Informace ze setkáníhlav států a vlád členských zemí EU a Turecka dne 7. března 2016 [Information from the Meeting of Heads of State and Government of the EU and Turkey on 7 March 2016]”, Úřad vlády ČR [Office of the Government of the Czech Republic].

In the approved conclusions, the Council has confirmed its standing strategy to deal with migration crisis, with the priority being the recovery of control over the external borders. The Council has called for providing more assistance to Greece in the area of humanitarian aid, the full functioning of hotspots and implementing the returns to Turkey. The Council conclusions also declared that the jointly accepted Declaration of the EU and Turkey does not presuppose any new obligations for the member states in the area of relocations and resettlement. At the same time, the EU has declared that it expects Turkey to meet the highest standards in the area of democracy, the rule of law and the adherence to the basic civic rights and freedoms such as the free expression. The European has also called for enhancing the existing cooperation with the countries of the Western Balkans and it tasked the European Investment Bank (EIB) to prepare an incentive package in support of the sustainable growth in the countries of the region of Western Balkans and in the southern EU neighbourhood in general. In addition to this, the Council has also asked for the continued support of Jordan and Lebanon to improve the situation of refugees in both countries. Furthermore, it has declared its readiness to support the national unity government in Libya.80

In general, the Czech Republic has welcomed the agreements with Turkey concerning the cooperation in the area of migration and it has supported the ratification of this treaty in line with the mandate given to the prime minister based on the official Czech policy. At the same time, the Czech Republic has achieved, together with the other V4 countries, to influence in a significant way the final wording of the EU-Turkey Joint Declaration and of the conclusions of the Council. The Czech Republic has been able to include an article into the text of the agreement, which stipulates that the agreed framework will be terminated in case that the available resources for relocation and resettlement would be all spent. The Czech Republic was also able to include a guarantee into the Council conclusions that the agreement with Turkey would not lead to any new pledges on part of the member states for relocation and resettlement. The Czech Republic has welcomed, however, that the agreement enables the speeding of the process visa liberalization only if and when the condition that Turkey fulfils all the points of the visa liberalization plan is met. The Czech Republic has thus scored a victory in including the emphasis on the protection of the basic rights and freedoms into the EC conclusions; at the same time, it managed to push through an addendum to the conclusions with regards to the cooperation with the countries of the Western Balkans.81


The last regular session of the Council during the Czech Presidency of the V4 took place on 28 and 29 June 2016 in Brussels. This session focused on the issue of migration, economic problems, external relations and, above all, the results of the referendum about the future membership of the UK in the EU.

The accepted conclusions stated that, as a follow-up to the agreement between the EU and Turkey and to the agreement to fully implement the Schengen Border Codex, the migration flow coming through the Western Balkans route has been stopped. The Council stated that more efforts are needed to develop a sustainable solution to the current situation and it also called for the continued implementation of the agreement, permanent assistance to the countries of the Western Balkans and watchfulness regarding the possible emergence of new migration routes. The Council members have agreed on the need to develop an effective partnership framework of cooperation with the individual countries of origin and transit, which should be based on efficient incentives and adequate conditionality.

The Czech Republic supported the conclusions of the EC. Regarding the migration issue, it has welcomed the focus on the external aspects of migration, as these have been in line with the long-term position of the Czech Republic to resolve the root causes of the migration crisis. The Czech Republic has supported the implementation of the agreement with Turkey, which has, in combination with the closure of the Western Balkans migration route, led to the migration situation in Europe becoming much more pacified. At the same time, the Czech Republic supported the enhancement of the dialogue with the countries of origin and transit countries and it has appreciated that the Council has confirmed that this cooperation would be based on conditionality.

The strongest emphasis of the Czech V4 Presidency was placed on the internal cohesion of the Visegrad Group. Despite the fact that in this particular time period a number of dynamic developments in the area of international relations have taken place, the V4 countries have mostly been able to agree on all the key issues. The cooperation between the V4 countries can thus be seen as constructive and consensual. The strongly articulated position of the V4 has contributed to the “V4 brand” being perceived as relevant on the European level. In certain areas, unfortunately, this increased relevance and perception had also negative impacts for the image of the V4 as its position has often been criticized for being too defensive and for not exhibiting enough solidarity with the other countries.


The documents related to the migration agenda, which have been adopted by the V4 countries during the Czech Presidency, have a reflected quite a broad consensus on these issues. The emphasis was placed primarily on the preservation of the voluntary nature of the EU solidarity measures. In line with this principle, the proposed mandatory redistribution mechanism was rejected. Emphasis was also placed on the protection of the external borders of the EU.

1.5.2. The Alternative V4 Plan (“Plan B”)

On 15 February 2016, an extraordinary summit of the V4 countries took place in Prague, with the president of FYROM and prime minister of Bulgaria also attending. The main issue discussed was the cooperation of the participating countries in the context of the migration crisis. At the same time, the summit served as a coordination meeting for the preparation of the joint position V4 position before the upcoming Council session which was intended to focus on the protection of the external border of the Schengen Area.

The V4 countries have presented an alternative plan for providing security of the external Schengen borders in case the cooperation with Greece and Turkey (very much promoted by Germany) have failed. All the V4 countries emphasized that they would prefer a common European solution. In case when it would not be possible to enhance the external Schengen border, the idea was to establish a “reserve border management system” in Europe. This system would operate on the general line Bulgaria – FYROM. This plan was presented to the media by the Czech Prime Minister Bohuslav Sobotka during a press conference in the Czech Parliament. He stated that the crucial turning point is the agreement in Syria and he also emphasised the need for the common European Coast and Border Guard and the fulfilment of the agreements on part of Turkey. The Prime Minister declared: “Without resolving the war in Syria at least half of the push factors behind the present strong wave of migration will not be resolved.” He added: “We need to strengthen the protection of the external Schengen borders and establish common European coast and border guard... And if none of this works out, we need to create a back-up system on the line Bulgaria-FYROM, prepare certain technical measures there so that we would be able to regulate the migration, if it will not be regulated...

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in Turkey or in Greece.”85 The representatives of the other Czech political parties have largely welcomed the prime minister's proposal. For example, Ondřej Benešík, the head of the Parliament European Committee and an MP for the People’s Party, stated for the Czech Press Agency (ČTK): “It seems like a logical solution.” According to Benešík, the gist of the problem is in other words to remove Greece from Schengen. The first deputy chairman of the TOP 09 Party Marek Ženíšek said that bolstering the northern borders of Greece would to a more effective control, while the deputy chairman of the Communist Party Jiří Dolejš added that from purely technical point of view such a solution is feasible, but the diplomatic aspects of it would be more complicated. The chairman of the opposition ODS Party Petr Fiala expressed his opinion that the prime minister should stop “coming up with impromptu solutions” and present a specific plan. He said: “So far, we have witnessed how the members of the government compete with each other in coming up with various ideas, but these are often contradictory.”86

The Czech Prime Minister Sobotka further stated that in the upcoming negotiations and talks in Brussels, the Czech Republic will still push for taking specific and practical steps to help manage the migration crisis and that Prague is ready to help others. In an interview given to the Czech Radio, he mentioned: “This is nothing against Greece. We will not propose expelling Greece from Schengen.” Greece, however, must start to carry out its duties with regards to guarding the external Schengen borders.87 So far as aid to Greece and Italy was concerned, Sobotka saw the main problem with the fact that these countries are often not able to specify what the Czech Republic could actually do for them. Especially the Athens are often criticized by the Czech, but also other European politicians, because of their inability to manage the influx of refugees. If the “back-up border system” was set up, the EU would not have to rely on Greece in case that Germany and/or Austria would close their borders.88

If Germany and/or Austria were to close its borders, the Czech prime minister would see it as a sign that the Western Balkans was thrown overboard. This could, according to his opinion, easily bring back to life old grievances.

86 For more information, see ibidem.
88 For more information, see “Sobotkův plán B…”
and enmities, which have led to the wars and conflicts in the Balkans in the past. Sobotka also stated that it has been proven that the quotas are no longer working. With regards to this, he also said: “It is reasonable to reach a deal with Turkey, but it cannot be the only solution, we must have a back-up plan.” He has discussed this proposed back-up plan in a phone call with the Austrian Chancellor Werner Faymann. As the spokesperson of the Czech Office of the Government Martin Ayer later summed up: “Both heads of government have agreed on the pressing need to regulate the migration flow, to include the Western Balkans into the process of finding the solution to the migration crisis and on the need of the joint European coordinated response.” The State Secretary for European Affairs Tomáš Prouza added: “We all want the agreement between the EU and Turkey to be functional. It is well manageable to stop the flow of refugees in Turkey; it gets much more difficult anywhere further on the European soil.”

The V4 countries have communicated in an intensive manner with Croatia, Greece, Serbia and Slovenia prior to the summit on migration. Prime Minister Sobotka repeatedly argued that: “Visegrad region priority remains the implementation of the EU-Turkey Action Plan, which so far has not brought satisfactory results.” The goal of the V4 summit, according to Sobotka, was to assure the Western Balkans states of the Central European solidarity with them: “The countries must not remain alone in this time of crisis and the entire European Union must help them.” The main topic of the summit was focused on finding a way to help the Western Balkans countries with protection of their borders.

The forthcoming V4 summit was not seen as good news in Germany. According to the German magazine Der Spiegel, the V4 countries and their intention to protect the Schengen borders and to close the Balkans refugee route have stood up against the plan of the German Chancellor Angela Merkel, which was counting on including Turkey in the solution to the migration crisis. The Slovak Prime Minister Robert Fico has stated that Germany has complained about the V4 summit to the Slovak ministry of foreign affairs. The Czech State Secretary for European Affairs Tomáš Prouza was approached by the German Ambassador to the Czech Republic who was inquiring about the main goals and the agenda of the meeting.90

The FYROM President Giorgi Ivanov has just prior to the summit met with the Czech President Miloš Zeman, who is outspoken on the issue of insufficient integration of the Muslim refugees into the society and who warns that these refugees represent a security risk to Europe. While meeting with Ivanov, Zeman

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89 For more information, see “Musí být záložní řešení…”
90 Ibidem.
stated: “I am glad that the Czech Republic is taking part in providing assistance to your country.” The FYROM president reacted by saying: “Friendship is best known by how we help each other in times of hardship and distress”. At the beginning of February 2016, the Czech Republic has sent 27 police officers to FYROM to help guard the borders. President Ivanov has mentioned during the meeting with the Czech Prime Minister Sobotka that the assistance provided to FYROM by the EC is virtually non-existent. The Bulgarian Prime Minister Boyko Borisov has met the German Chancellor Merkel before the V4 summit and assured her that Bulgaria and FYROM do not wish the Balkans to become a buffer zone dividing the EU and the migrant wave. The office of the Bulgarian prime minister stated in this regard: “The Prime Minister has informed the Chancellor about the position that Bulgaria will present at the upcoming meeting in Prague and has underlined the solidarity of Bulgaria with Greece and the Bulgarian disagreement with the building of fence between FYROM and Greece.” The Greek Minister of Foreign Affairs Nikos Kotzias was also supposed to attend the V4 summit, but he has apologized and cancelled his participation at the last minute. On the same day as the summit, a meeting of the V4 ministers of interior also took place. At the meeting, the ministers have agreed to jointly send their experts to FYROM within two weeks. This mission had the main objective of ascertaining the real needs and the required scope of cooperation in the area of border protection and migration control on the Western Balkans migration route. It was agreed that Serbia and Slovenia will be also be invited to take part in the mission.

1.5.3. The Regional Outreach – CEDC, the Salzburg Forum and Their Significance

Throughout 2016, during the presidency of Austria, the cooperation between Central European Defence Cooperation (CEDC – Austria, Croatia, Czech Republic, Hungary, Poland as an observer, Slovakia, Slovenia) countries was intensified in a significant way, especially in the area of managing the migration crisis and assisting the countries situated on the Western Balkans migration route. On 7–8 November 2015, an important meeting of the defence ministers of the CEDC countries took place in Vienna. Also invited were the representatives of Montenegro, FYROM and Serbia; the second day of this event was spent visiting Sarajevo which was supposed to symbolize the support of CEDC to Bosnia-Herzegovina in its efforts to integrate into the Euro-At-

91 Ibidem.
92 For more information, see “Sobotkův plán B…”
lantic structures. In 2017, the presidency of the CEDC is taken by the Czech Republic and it is expected that it will continue in the same direction that Austria has initiated.

Another regional platform, where migration was discussed, was the Salzburg Forum. The member states at the moment are Austria, Bulgaria, the Czech Republic, Croatia, Hungary, Poland, Romania, Slovakia and Slovenia. The Salzburg Declaration has identified the key areas of cooperation for the ministers of interior of the countries of Central and Eastern Europe, namely police cooperation, border controls, illegal migration, harmonization of asylum standards and procedures and regular exchange of information and positions on these issues.

In the second half of 2016, the Czech Republic was presiding over the forum. It thus had the opportunity to shape the content of the individual meetings to a large degree. On 3–4 November 2016 a ministerial conference took place in Prague with the participation of the representatives from the Western Balkans countries. The participating countries then adopted a joint declaration.93

The agenda of the conference focused on security issues (primarily on the cross-border security cooperation, the migration issue and information sharing in the fight against terrorism. The significance of the closing of the Western Balkans migration route was emphasised; the protection of the external borders, implementation of the EU-Turkey Plan and providing aid to the countries of the Western Balkans have remained among the priorities. A discussion also transpired on the concept of flexible solidarity where differences still exist between the Salzburg Forum states, the European Commission and Malta. The ministers have expressed their support for improvements in information exchange, information sharing and interoperability of the individual systems. The Czech Republic took the floor concerning the issue of fight against extremism and it has mentioned the problems associated with the Russian online activities and the results of the ongoing Audit of National Security. The Malta EU Presidency used this opportunity to present its priorities – revision of the common European asylum system, legal migration and the blue card directive, preparation of compacts and framework treaties with third countries, the ETIAS, fight against illegal migration, visa policy, fight against terrorism, enhancing of information exchange, new action plan against drug smuggling for the years 2017–2020.

1.5.4. The Practical Assistance Provided by the Czech Ministry of Defence (MoD) and the Czech Army to Deal with the Migration Crisis (as of 31 December 2016)

With regards to the deteriorating situation on the Western Balkans route, and in the light of the lack of coordinated effort and control over the situation, the Czech Republic has decided to contribute to a swift and effective solution of the migration crisis by providing support on bilateral basis. In particular, the Czech Ministry of Defence (MoD) has reacted by extending aid to Hungary and Slovenia.

Hungary, prior to the construction of the border fence, was one of the main entry points into the EU for the refugees. The Czech Government has approved on 5 October 2015 the deployment of up to 25 military personnel to Hungary with the task of aiding the Hungarian authorities to guard and protect the external boundaries of the EU and the Schengen Area against the migration wave. The deployment of the Czech military personnel was carried out on the basis of a bilateral agreement between the Czech Republic and Hungary and as a response to an invitation from Hungary. The Czech assistance had the form of the joint exercise BALATON 2015, which took place over a period of two months from 15 October to 15 December 2015. Overall, 21 Czech military personnel from the 153rd engineering battalion (based in Olomouc), from the 151st engineering battalion (based in Bechyně) and from the Logistics Agency participated in the exercise. Czech military personnel, primarily drivers and machine operators, were deployed to the Hómezövásárhely base in the vicinity of Kaposvár about 40 kilometres from the border line. They carried out tasks in support of the Hungarian Armed Forces in the area of logistics support.

The next joint exercise codenamed BLED 2015/2016 took place in Slovenia. At the request of the Slovenian side, 27 Czech troops were deployed in the mid-November 2015 to assist their Slovenian colleagues with dealing with migration crisis by providing basic medical aid and logistic support. The Czech engineers, together with the Slovenian soldiers, also exercised putting up barriers. The military medicine task force was providing aid and expert counsel on the border crossing in Šentilj near Maribor. As part of the BLED exercise in 2015 and 2016, a total of 36 members of the Military Medical Agency (Agentura vojenského zdravotnictví) and 18 members of the 15th engineering regiment took part. The primary goal of this activity was to exercise and improve the capability and capacity of the Czech Army to bolster the protection of the state borders, both internal and external as related to the Schen-
gen Area. The provision of medical care was not the initial priority of this exercise but, also due to fact that the service members taking part were deployed to the border, it became a part of their everyday work.

The Czech Minister of Defence Martin Stropnický commented on both of these bilateral exercises: “The deployment of our military personnel to Hungary and Slovenia in the fall of this year [2015] was our rapid and specific assistance to deal with the migration influx. We are ready to continue this cooperation if needed.” He also said: “For the Czech soldiers, the assistance provided was an invaluable experience. We are ready to provide further required assistance to Hungarians, Slovenians and other allies at any time to deal with the migration crisis and the border protection. This assistance could be both in term of providing materiel and of deploying our soldiers.”

Based on the interest expressed by Bulgaria, FYROM and Greece, the Ministry of Defence of the Czech Republic has prepared and presented an offer of possible bilateral cooperation in the context of the migration crisis, which would have a similar form like that extended to Hungary and Slovenia. The Czech side has offered three specific options for joint bilateral exercises in the fall of 2016 – 1) deployment of medical team to Greece and/or FYROM (up to 12 military personnel); deployment of an engineering unit to FYROM and/or Bulgaria (to build a border fence or to provide logistic support); 3) the deployment of a reconnaissance company to FYROM and/or Bulgaria (to monitor the state borders). None of the target countries have so far (by the end of 2016) made use of any of these options offered. As a result, no joint exercises have taken place.

1.5.5. The Contribution of the Ministry of Interior of the Czech Republic and the Czech Police in Dealing with Migration Crisis

The Czech Republic has voluntarily joined the joint European resettlement programme, taking on the pledge to resettle 400 refugees from the third countries between July 2015 and June 2017. By mid-November 2016, 20 Syrian refugees from Jordan were resettled (in 2015) as well as 32 Iraqi refugees from Lebanon (January–March 2016). The Czech Republic also continues with the implementation of the humanitarian reception programme focused on the internally displaced refugees in Iraq (Kurdistan); in the first three months

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of 2016, the first group of 57 persons was resettled as part of this programme. The Czech Republic has also put into motion the process of resettling 88 Syrian refugees from Turkey. At the moment, the screening of the personal profiles and security screening are taking place.

The relocations are a much more difficult task to handle. On 5 February 2016, the Czech Republic made an offer to accept the first 20 migrants/refugees from Greece and 10 from Italy. Ultimately, by 25 April 2016, only 4 persons from Greece were chosen to be relocated (3 persons have in the end not arrived to attend the transfer procedure). On 13 May 2016, the Czech Republic has declared to Greece and Italy its readiness to accept 10 more migrants/refugees from each of these countries. By 15 November 2016, Italy has not reacted to this offer. Thus, in the end, the Czech Republic accepted 8 Syrian refugees from Greece.

The Czech Ministry of Interior significantly contributes with its experts and police officers to the work of the EASO and FRONTEX agencies. In 2015 and 2016 alone, 57 experts were chosen to work for the EASO. A total of 45 of these experts were sent to Greece and Italy. This makes the Czech Republic one of the most active EU countries in this regard. By the end of 2016, there were 7 Czech experts working in the hotspots (4 in Greece and 3 in Italy). In the beginning of 2017, five more experts should be deployed. There are additional 33 experts nominated for the purposes of the EASO Asylum Intervention Pool – these experts would be available for operations of EASO in the EU member states that are facing a significant pressure resulting from the migration wave.

For the purposes of supporting the FRONTEX agency, a special Czech task force was assembled – European Border Guard Team (EBGT). This team consists of 95 persons. The members of the police force are deployed in joint operations on regular basis; in 2015 alone, 43 police officers were deployed in this manner. In 2016, this number has increased to 157 police officers. The highest number of these was allocated for the mission in Greece (92) and Italy (24). In addition to these missions, Czech police officers participated in other operations in Bulgaria, France, Germany, Hungary, Poland and Spain.

The Czech Ministry of Interior has contributed to the various missions and operations also within the bilateral cooperation framework. It has been involved in Hungary, in two distinct phases. In the time period form 29 October to 15 December 2015, 50 police officers were deployed to perform joint patrols on all the external land borders (the green border line, border fence). The second phase of the deployment was carried out from 5 September to 30 October, again with 50 police officers being deployed. With regards to Slovenia, from 9 November to 15 December 2015 a total of 20 Czech police
officers were present, assisting in carrying out joint patrols on the external borders (the green border, controls on the train stations, escorting the trains to the Austrian borders.

1.6. Conclusion (*Jan Bečka, Jakub Landovský, Martin Riegl*)

What can be said in conclusion to this chapter on the migration crisis perception and impacts as illustrated on the case of Czech Republic? The issue is indeed a complex one and it is difficult to draw authoritative conclusions from the information which had to be limited to the length of one chapter. Yet, it is possible to offer certain insights and suggestions.

The Czech Republic is often seen as one of the strongest opponents of immigration from the Middle East and North Africa to Europe, an opponent of multiculturalism and, lately, also of the EU which to many people comes to represent these phenomena. Prague was also criticized, on a number of occasions, for not demonstrating enough solidarity with the other member states hit by the crisis and for “not repaying its debt” to the European community. Is it really the case, though?

The research contained in the pages above shows so far as legal framework and integration and migration policy are concerned, the Czech Republic differs in no significant way from other European countries. Indeed, the legislative framework is to a large degree based on the EU primary law and the EU directives are often reflected in it. It is also obvious that the Czech government is taking migration seriously, and also in the light of the migration crisis, has taken new administrative, legal and practical steps to accommodate the refugees/migrants and to ease their integration into the Czech society. Indeed, the government is aware of the fact the labour market, the growing economy and the demography make it all necessary to bring in workers (and citizens) from abroad. The data clearly testifies to this trend – in 2016, over 382,000 foreigners worked in the Czech Republic, an increase by 123,000 over the last two years.\(^96\) Many of the organizations of employers are asking the government to bring in even more to satisfy the demand.

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On the international scene, the Czech Republic, together with the other V4, formed a certain bloc or platform within the EU, rejecting the mandatory quotas for resettling and redistribution of refugees, asking for a more effective system of border control and refugee registration (including the hotspots both in the EU but also outside of its territory) and more action to resolve the roots and causes rather than the impacts of the refugee crisis. Yet, it cannot be said that in many ways, the country was not active in assisting its partners, both in the EU and third countries, mainly in the Western Balkans. Chapter IV has discussed in detail the various contributions – financial, experts, military personnel, materiel – that were extended to other countries and to the EU itself over the last two years. At the same time, the government is trying to better target its humanitarian and development aid on the national level, also with the view to improve the situation in the countries/regions of origin of the migrants coming to Europe.

Perhaps the most controversial part then remains the overall discourse concerning migration on the domestic political scene and among the general public. As discussed above in Chapter III, there are several factors coming into play. On the part of the society, it is definitely the security aspect which should be mentioned here. Especially due to the extensive (but not always accurate) media coverage of the developments in the Middle East (Syria, Iraq, in some cases Yemen) but perhaps much more importantly of the terrorist attacks – both only planned and actually executed – in Western Europe, the mi-
Migration problem has been “securitized” and the migrants coming to Europe from the countries such as Iraq or Syria are often viewed with suspicion, if not with open enmity. This feeling is further bolstered by the news in the mainstream media about the crimes that the migrants have committed in Western Europe and their links to terrorist organizations. Again it has to be kept in mind that out of the tens of thousands of refugees, those guilty of crimes or supporters of terrorism and organizations like Islamic State form a definite minority, their image has grown to a disproportionate size in the public discourse. In addition, the Czech Muslim community is still comparatively extremely small, especially given the fact that the Czech Republic is not a desired country of destination.\(^7\) As mentioned earlier in the text, working with fear and anxiety is the easiest (although only temporarily successful) tactic for gaining public support and seems to have been working quite well so far in the Czech Republic.

This then leads to the final conclusion or suggestion. It has been discussed in Chapter III how migration, coupled with terrorism and with (so far mostly verbal) attacks on Islam and Muslims have become an important part of the discourse on the political level and how certain individuals, or even parties, are trying to use this to gain advantage in the upcoming elections. While this is definitely worrying, it has to be kept in mind that: a) this phenomenon is not unique to the Czech Republic – in fact, it is possible to witness the surge of populist political parties in a number of countries including France, Germany, the UK, Netherlands or even Finland and Sweden. While the opinion polls in the Czech Republic do not seem to give much chance to the populist parties of becoming a decisive or even important factor after the upcoming elections, in other countries they are coming much closer; b) the migration wave has apparently already reached its peak (at least for the time being) and has been receding. It could be expected that the interest of the public, and consequently the public support for the populists, will recede as well; c) as for the Czech political scene in general (as discussed above), some of the mainstream politicians have picked up on the issue of migration as well, but this could be seen as a reaction to the developments and the attempt to “steal back” votes from the populists. Once this becomes useless, it is likely that the migration issue will be accredited much less importance in the mainstream political discourse.

Migration has been "securitized" and the migrants coming to Europe from the countries such as Iraq or Syria are often viewed with suspicion, if not with open enmity. This feeling is further bolstered by the news in the mainstream media about the crimes that the migrants have committed in Western Europe and their links to terrorist organizations. Again it has to be kept in mind that out of the tens of thousands of refugees, those guilty of crimes or supporters of terrorism and organizations like Islamic State form a definite minority, their image has grown to a disproportionate size in the public discourse. In addition, the Czech Muslim community is still comparatively extremely small, especially given the fact that the Czech Republic is not a desired country of destination. As mentioned earlier in the text, working with fear and anxiety is the easiest (although only temporarily successful) tactic for gaining public support and seems to have been working quite well so far in the Czech Republic.

This then leads to the final conclusion or suggestion. It has been discussed in Chapter III how migration, coupled with terrorism and with (so far mostly verbal) attacks on Islam and Muslims have become an important part of the discourse on the political level and how certain individuals, or even parties, are trying to use this to gain advantage in the upcoming elections. While this is definitely worrying, it has to be kept in mind that: a) this phenomenon is not unique to the Czech Republic – in fact, it is possible to witness the surge of populist political parties in a number of countries including France, Germany, the UK, Netherlands or even Finland and Sweden. While the opinion polls in the Czech Republic do not seem to give much chance to the populist parties of becoming a decisive or even important factor after the upcoming elections, in other countries they are coming much closer; b) the migration wave has apparently already reached its peak (at least for the time being) and has been receiving. It could be expected that the interest of the public, and consequently the public support for the populists, will recede as well; c) as for the Czech political scene in general (as discussed above), some of the mainstream politicians have picked up on the issue of migration as well, but this could be seen as a reaction to the developments and the attempt to "steal back" votes from the populists. Once this becomes useless, it is likely that the migration issue will be accredited much less importance in the mainstream political discourse.

2.1. Introduction (Dániel Horváth, Hanga Horváth-Sántha)

Hungary demonstrates a relatively high level of ethnic and particularly high level of cultural homogeneity. Nevertheless, due to its geographical position, Hungary has played the role both as transit and source as well as destination country for both regular and irregular migration during the past decades. In the context of the recent large-scale irregular migration towards (Western) Europe, however, Hungary has rather been a transit country, experiencing serious pressure at its southern border urging the government to take firm action. As member of the European Union since 2004 and of the Schengen Treaty since 2007, a part of Hungary’s border forms the external borders of the European Union.

Understanding Hungary’s reaction and firm standpoint in relation to the large-scale influx of irregular migrants to the European continent needs a brief overview over the past couple of centuries of Hungarian history. From 1526 the Kingdom of Hungary suffered for nearly 160 years under the Ottoman Empire, splitting the country into three parts and opposing systems with devastating consequences for the Hungarian nation including a demographic catastrophe (with the population loss in some regions reaching 70 and 90%). Soon after the Ottoman conquest Hungary was incorporated into the Austro-Hungarian Monarchy after a freedom revolution crushed by Austrian and Russian troops in 1849. The 20th century brought even worse political traumas still vivid in the national remembrance of the nation: forced into the World War I as part of the Austrian Empire, Hungary lost 72% of its land through the Treaty of Trianon in 1920, including e.g. 3.7 million ethnic Hungarians, 62% of its rail lines, 85% of its forests, 50% of its arable land, 100% of its salt and steel mines. Neither did the second part of the 20th century bring prosperity to the Hungarian people: after World War II the country was invaded by the Soviet Red Army troops assuring that a Communist-dominated government was installed for the post-war period. The Soviet troops remained in the country with re-


ference to the so called mutual assistance treaty by the two countries’ governments, eventually resulting in the revolution of October 1956 crushed by the Soviets, killing thousands of civilians. After 1989 (and 1991, as the last Soviet tank left the country) Hungary tried to re-build its national community as “a homogenous, culturally rich and dynamic society, with limited resources, but with definitive democratic and modern values”.

The migrant crisis of 2015 was not the first time Hungary experienced large-scale migration. The first significant influx of refugees was during the 1980’s when tens of thousands of ethnic Hungarians fled the dictatorship and ethnic discrimination in neighbouring Romania as well as from former Yugoslavia when the civil war broke out. Hungary acceded to the 1951 Geneva Convention and the 1967 Protocol relating to the Status of Refugees in March 1989, the primary reason was to be able to clarify the legal situation of the ethnic Hungarians fleeing from the neighbouring countries, but during the coming decade Hungary also commenced to grant protection as refugees to persons originating from non-European states. Current statistics show that asylum seekers arrive to Hungary from a variety of source countries: during 2016 the top five countries of origin where Afghanistan, Syria, Pakistan, Iraq and Iran (Table 2.1 below). The persons from Afghanistan represented a third of all asylum seekers in Hungary (Table 2.1 below), doubling the number of Syrian and tripling the number of Iraqis, who in the overall European Union average remained the largest and the third largest categories of all asylum seekers.

Due to its location on the so called Western Balkan migrant route (via Turkey, Greece, the former Yugoslav Republic of Macedonia, Serbia or Croatia to then via Hungary to other EU Member States) Hungary, as traditionally a transit country, was heavily exposed to the large-scale influx of irregular migrants during the migrant crisis in the second part of 2015. The route had increased in popularity in the previous years as visa restrictions for five countries on the Balkans was relaxed in 2012 (Albania, Bosnia and Herzegovina, Montenegro, Serbia and the former Yugoslav Republic of Macedonia), but the record number of migrants arriving to the Greek islands in 2015 had a dramatic effect on the Western Balkan route with unprecedented numbers attempting to re-enter the European Union through Hungary.

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Table 2.1

The Number of Asylum Application by Nationality in Hungary 2016

<table>
<thead>
<tr>
<th>Citizenship</th>
<th>2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghan</td>
<td>11,052</td>
</tr>
<tr>
<td>Syrian</td>
<td>4,979</td>
</tr>
<tr>
<td>Pakistani</td>
<td>3,873</td>
</tr>
<tr>
<td>Iraqi</td>
<td>3,452</td>
</tr>
<tr>
<td>Iranian</td>
<td>1,286</td>
</tr>
<tr>
<td>Moroccan</td>
<td>1,033</td>
</tr>
<tr>
<td>Algerian</td>
<td>710</td>
</tr>
<tr>
<td>Turkish</td>
<td>425</td>
</tr>
<tr>
<td>Somali</td>
<td>331</td>
</tr>
<tr>
<td>Bangladeshi</td>
<td>279</td>
</tr>
<tr>
<td>Kosovar</td>
<td>135</td>
</tr>
<tr>
<td>Other</td>
<td>1,877</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>29,432</strong></td>
</tr>
</tbody>
</table>


Figure 2.1

The Western Balkan Route

During the period between January and August 2015 more than 400,000 persons entered the country illegally of which 132,006 applied for asylum. There is no official data available on the exact number of irregular migrants arriving, but according to estimations by the International Organization for Migration (IOM) the number of illegal border crossings attempted or completed in Hungary in 2015 was close to 411,515.\(^8\) According to the figures from IOM Hungary was on the third place (after Greece and Croatia) regarding the apprehended number of irregular migrants at its external borders.\(^9\) Approximations made by the Hungarian authorities suggest that the number of irregular migrants is in fact much higher and rather closer to 460,000; however, no official data confirms this figure. During these weeks it became clear to the Hungarian authorities that the tools and mechanisms for border control provided by the Schengen system were purely sufficient for smaller groups of persons entering the country, and as other countries on the Western Balkan route had proved incapable of performing the duty to register the potential asylum seekers, a large administrative burden fell on the Hungarian authorities.\(^10\) The Hungarian government awaited a joint response from the leaders of the European Union to act upon the crisis, but eventually started the construction of a barrier (barbed-wire fence) in June 2015 on the Serbian and Croatian borders with the priority to protect its nationals, as well as to maintain public order and security and to combat irregular migration. The fence had an immediate impact on the number of irregular migrants arriving to the country, decreasing the numbers dramatically, which at the highest point were moving around 7,000 persons a day.\(^11\) The strengthening of the border was complemented through amendments to the asylum law designating Serbia as safe third country and allowing for expedited asylum determination.\(^12\) In addition, climbing through the fence or damaging it became criminal offence punishable with imprisonment through an amendment to the Penal Code.\(^13\) There is no current data available on the number of persons sentenced according to the new amendment, but an article from the Hungarian news website Index dated February 2016 – referring

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\(^9\) Ibidem.


\(^11\) IOM, “Migration Issues in Hungary”...

\(^12\) Ibidem.

\(^13\) 352/B. § in the Hungarian Penal Code, entered into force on 15 September 2015 through law 2015. évi CXL. törvény 31. §.
to statistics from the City Courthouse of Szeged (located approximately 20 km from the Serbian border) – mentioned 1,052 persons found guilty of the crimes above.\textsuperscript{14}

Table 2.2

Average Daily Number of Irregular Migrants in Hungary during the Migrant Crisis in 2015

<table>
<thead>
<tr>
<th>Month</th>
<th>Number</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>May</td>
<td>274</td>
<td></td>
</tr>
<tr>
<td>June, July and August</td>
<td>1,500</td>
<td>447%</td>
</tr>
<tr>
<td>September and October</td>
<td>&gt;7,000</td>
<td>366%</td>
</tr>
<tr>
<td>November and December</td>
<td>10</td>
<td></td>
</tr>
</tbody>
</table>

Source: IOM and Hungarian Police. Table made by the Migration Research Institute, available at: http://www.iom.hu/migration-issues-hungary; http://www.police.hu/hirek-es-informaciok/hatarinfo/elfogott-migransok-szama-lekerdezes?honap%5Bvalue%5D%5Byear%5D=2015&honap%5Bvalue%5D%5Bmonth%5D=9 [accessed 25.02.2017].

Through a brief overlook over Hungary’s history of immigration from the 1980’s and onwards it becomes clear that immigration towards the country has mainly been dominated by persons originating from the neighbouring countries Romania, Ukraine, Yugoslavia and Slovakia (Figure 2.2 below). Between the years of 1988 and 2002 the number of immigrants arriving to the country was 295,000 of which 71\% from the neighbouring countries.\textsuperscript{15} It is important to bear in mind this seemingly high figure, as it makes immigration to Hungary rather unique in a sense that most of the persons originating from these countries (90\%) were of Hungarian origin.\textsuperscript{16} The most common motivational factor behind the migration to Hungary was the ethnic discrimination both by the states as well as by the members of the majority societies, further ethnic tensions and everyday conflicts, making life as an ethnic minority insecure. Hungary – as stated in its Fundamental Law\textsuperscript{17} – bears responsibility for the fate of Hungarians living beyond its borders. Originating from territories that once were integral parts of Hungary the sameness in language, culture and history self-evidently facilitated their social inclusion.

\textsuperscript{14} See http://index.hu/belfold/2016/02/08/alepte_az_azet_a_keritesmaszser_elitele_migransok_szama/ [accessed: 25.02.2017].


\textsuperscript{16} Ibidem.

\textsuperscript{17} See The Fundamental Law of Hungary, Article D; http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf [accessed: 25.02.2017].
Additionally, Hungary has also received a fairly huge number of immigrants coming both from the EU as well as from non-EU countries and from Asia (especially from Vietnam and China), but the number of persons originating from the American or the African continents have never been greater than a couple of hundred persons.\footnote{Ibidem.}

The main countries of origin regarding migration to Hungary of today are – as indicated in Table 2.1 above – non-EU countries mostly located in the Middle East and South-East Asia. During 2015 no less than 177,135 persons applied for asylum in Hungary (which was an increase with 314 per cent compared to 2014), with the number of the non-European asylum seekers increasing with 626 per cent (compared to 2014).\footnote{Statistics for 2015 from the Hungarian Immigration and Asylum Office, available at: http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=177&Itemid=1232&lang=hu [accessed: 3.03.2017].} More than 150,000 of the applications were terminated by the Hungarian Immigration and Asylum Office as the asylum seekers left the country.\footnote{Ibidem.} The number of asylum seekers de-
increased significantly in 2016 with 29,432 persons applying for asylum in Hungary. The recognition rate of those granted international protection was around 1–4%. Due to economic reasons (wages, social benefits and GDP per capita considerably lower than in the old EU member states) and to cultural factors (e.g. unique and rather difficult language), Hungary continues to prevail mostly as a transit country in recent mass migration.

Hungary uses a complex set of instruments to implement its broader migration priorities. These instruments include supporting a visa waiver for certain bordering countries (Ukraine, Serbia), upholding the established procedure and administrative system of simplified naturalization, expert and financial assistance for countries on the Western Balkans which already made steps towards an European integration, policy measures to motivate economic investments within the framework of the policy of Eastern Opening, and the proactive participation in regional (the Budapest Process, the Prague Process, the Eastern Partnership Panel on Migration and Asylum) and bilateral dialogs (e.g. with the USA, Russia, India), as well as mobility programs (e.g. the region of North Africa, countries of the Eastern Partnership).

In addition to all of the above, we should also be mindful of the fact that as a member state of the European Union, Hungary shares some of its migration-related competencies with the states of the Union. Accordingly, Hungary pays attention to EU objectives and the set of instruments available regarding visa policy, legal migration and mobility, illegal migration, international protection, and optimizing the development impact of migration and mobility, although the Hungarian Government has developed a new, reformist approach since the migration crisis of 2015, gradually breaking away from the Union’s federalist frames and structures. This is important, because membership in the EU also means that the decisions, appeals, and hardships of other member states have an immediate effect on Hungarian migration trends: the economic development and the social services of certain member states attract migrants who consider Hungary a transit country, and the inadequacies of a member state in migration management increase the migratory pressure on Hungary.

In addition, migration also involves public security and national security risks. One factor in this is that some Hungarian borders will remain the external border of the European Union and the Schengen area in the foreseeable future, with the responsibility and tasks of managing the Union’s border section.

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21 Ibidem.

Hungary has proven to be an eminent student since the beginning – when joining the Schengen area in December 21, 2007 –, and September 15, 2015, when the fencing system put in place on the Serbian and the Hungarian border section started to operate, did not change this. Conversely, Hungary – with periodical technical and human resource support from the Visegrad countries – continues to carry out its external border protection tasks, assuming even more responsibility and financial costs.23

2.2. Migration Policy (Dániel Horváth, Hanga Horváth-Sántha, Sándor Gallai)

2.2.1. Legal Framework: The History, the Pillars, and the Features of the Legal System of Migration (Dániel Horváth)

2.2.1.1. Asylum Outlook

The mass influx of Hungarians from Transylvania fleeing from the Romanian revolution in 1989–1991 was the first instance of Hungary facing the process of cross-border, or international migration. Although the unplanned migration put a substantial admission, procedure, and administrative burden on the country, the beyond the border Hungarians were – and still are – a preferential group for the political leadership, so their reception and support became a priority issue in national policy. Shortly after the first waves of migration initiated by the Romanian revolution, the effects the South Slavic crisis of 1991–1995 started to reach the country, and lead to the reception of tens of thousands of refugees from Vojvodina, the Slavonian part of Croatia, as well as refugees of German, Gypsy, and Serbian ethnicities. Although leaders of the young democracy that just got rid of the shackles of socialism had the right political intention and good will, the sparseness of information on what was happening in the war, and the lack of experience in asylum administration made it difficult at first to care for about fifty thousand refugees. Still, these initial experiences led to Hungary – then applying the rules of the 1951 Geneva Convention with territorial restrictions only – accepting its first asylum right law, which now conforms to the traditions of European asylum legislations.24

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23 Not counting the cost of the second defence line to be completed by the middle of 2017, the fencing system put in place over a 170 kilometer border section between Serbia and Hungary has drawn about 200 billion HUF from the taxpayers’ money.

24 CXXXIX Act of 1997 on the right to asylum.
Full accordance with the Union measures, the reforms mandatory due to the country’s accession to the Union in 2004, had to wait until January 1, 2008, when the new, fully EU-conform asylum law of the country came into force.\(^{25}\) The so-called executive regulations of these laws, which included the precepts, declared the procedural rules, the reception standards, and the rules of integration. The frame for these is set by Article XIV, paragraphs (2) and (3) of the Fundamental Law, which state the principle of non-refoulement, and of the conditional right to asylum.\(^{26}\) Major, institutional level changes of the period thereafter were related to the initiation of an asylum detention, the reform of the integration system, and the inauguration of certain special forms of procedure.

On July 1, 2013 – as a reaction to another rise in the number of asylum seekers, and the infringement procedure started by the European Commission – along with an open reception facility structure, the aliens policing detention practice was replaced by a so-called asylum detention practice, conforming to the Reception Directive. Even though the use of asylum detention was more of an exception rather than the general practice until 2016, Hungary has to this day remained one of the few member states of the Union where this legal instrument has developed to be a fully-fledged element in the system of asylum reception. The applicants spend an average of 45–53 days in closed asylum detention accommodations, six months is the longest. In case of families, the law sets the limit at thirty days, while unaccompanied minors can not be detained. Newly emerging intentions of the legislator can bring major changes into this process, inasmuch as the Parliament approves the most recent asylum reform package of the Government, according to which, asylum seekers would have to remain in transit zones for the entire time of the asylum procedure, and – in case it comes into force – the new regulation would also include those currently residing in reception facilities within the country. Consequently, we can forecast the elimination of open reception centres, as well as the asylum detention system in the medium term.

In reference to the defects of the former integration and support system (e.g. systematic weaknesses, the migration practices of clients, the labor market and language barriers) the new system, coming into force on January 1, 2014, was a fundamental reform of the integration system based on the financial support, and the services in kind provided for asylum seekers and people granted international protection. The latter emphasized the bilateral nature of the integration process, and introduced the institution of an integration contract, which

\(^{25}\) LXXX Act of 2007 on the right to asylum.

\(^{26}\) See http://www.kormany.hu/download/e/02/00000/The%20New%20Fundamental%20Law%20of%20Hungary.pdf [accessed: 5.03.2017].
led to more emphasis on the individual responsibility of clients. In 2014, the asylum authority entered into close to 600 contracts. As of June 1, 2016, however, the asylum integration system has also – along with several other measures aiming to raise the effectiveness of the asylum procedure – undergone major changes: the institution of integration contracts was ceased regarding the future, and the possibility for other financial and in kind benefit, based on the asylum law, also ceased. In the Government’s view, the primary goal should be the support of Hungarian families, and the support system of asylum seekers or third country citizens granted international protection should be aligned with that of Hungarian citizens. The unspoken message of the indisputably anti-migration package of measures was to create less appealing conditions for the migrants, and strengthen the transit migration character of the country even more.

As a clear governmental reflection to the European migration crisis started in 2015, the rules of the Hungarian asylum procedure were notably changed as of 1 August 2015: the asylum procedure is no longer divided into two parts, and the rules of the preliminary assessment procedure were removed from the law. The asylum authority decides in a uniform procedure on the possibility of the Dublin procedure, and on the possibility of an accelerated procedure.27 In accordance with the amended Section 47 of the Law on Asylum, applications for recognition as refugee or subsidiary protected person are subjected to examination by the refugee authority after their submission. During the examination, the refugee authority determines whether conditions are met for applying the Dublin Regulations, and determines whether the application is inadmissible, or if an accelerated procedure is possible.28 For inadmissible applications or those evaluated in accelerated procedures, a decision must be made within fifteen days after identifying the reason that justifies the inadmissibility or the accelerated procedure. If no shorter-term procedure is possible, it must be carried out within sixty days after the submission of the application – according to the original rules.

However, given the longer-term implications, hereby we refer to the fact that on March 17, 2016, in its decision number C-695/15 PPU, taken in the case of Shiraz Baig Mirza vs OIN (Office of Immigration and Nationality), the Court of Justice of the European Union ruled that the Hungarian legisla-

27 See Section 51 Act Nr. 127 of 2015 on amendment of laws regarding temporary security border closure and migration.

tion and its practical application complies with the Dublin III Regulation and the relevant refugee guidelines, which allows for a so-called inadmissibility investigation in case of applicants taken over within the Dublin system as well. Among others, an application is considered unacceptable in case the applicant is originated from a so-called safe third country, yet he/she applies for asylum in one of the Member States. Thus, even after the Dublin takeover, Hungarian authorities can legally examine the applicability of the safe third country concept, and if conditions are met, the applicant’s expulsion to that safe third country may be ordered legitimately.

Depending on the outcome of the judicial decision made in the Dublin procedure (i.e. whether the Member State charged is responsible of examining the application, or not) the Hungarian refugee authority orders the termination or continues the suspended asylum procedure. Legal remedies are provided for the applicant in both cases.

The duration of the judicial review is sixty days according to the law (but often more – from 4 to 9 months – in practice).

General experience has shown that the procedures usually take more time than expected not just because of the Dublin procedures being time-consuming, but mainly due to the excessive workload of the courts. However, statistics are improved by the fact that the majority of applicants (80–90%) abscond for an unknown location before the procedure is actually carried out, which though increases the number of terminated asylum procedures, but it is favorable for the number of cases involving judicial review.

In comparison with the number of asylum applications in 2013 (18,900) and 2014 (42,777), there was an unprecedented increase (177,135) in terms of asylum applications in Hungary last year. Comparing the figures from the first quarter of 2015 and that of 2016, we can clearly see direct effects of the government measures last year: while there were 33,549 applications submitted between January and March 2015, the figures intensively fell down a year after (7,182 applications up to the end of March in 2016). In total, there were altogether 29,432 asylum applications registered in Hungary in 2016.

Even though there is a high number of applications, most clients (97%) do not wait out the close of their procedure. This is also attested by the fact that the most common reason for eliminating procedures was the clients disappearing to unknown locations. The ratio of people recognized by the asylum authority as a refugee or a person granted other international protection was between 1 and 4% in comparison to total applications in the 2013–2016 time period.

30 For more information, see the appeal rules under http://www.asylumineurope.org/reports/country/Hungary/asylum-procedure/procedures/regular-procedure [accessed: 25.02.2017].
2.2.1.2. Aliens Policing Outlook

In Hungary, aliens policing tasks are carried out by the Immigration and Asylum Office, and the Police, with shared competence. As the general rule, the Police takes action against migrants arriving to the country illegally, when arrested in the border area, and carry out their expulsion and deportation to a third country or their country of origin at its own discretion. A change in competence takes place if the client submits an asylum application, or the Police can not remove the client from the country within 72 hours. In either case, the client is transferred to the competent regional directorship of the Immigration and Asylum Office.

Hungarian law – in attention to the country being a member state of the Union, and replacing the formerly unified regulation – now settles the rules for people with the right to free movement, and the entry and stay of third country citizens in separate sources of law (Act I. and II. of 2007), amended by implementing regulations. The constitutional framework concerns the protection of sovereignty and national identity, and related state tasks. These could have received an even more definite form in the proposed seventh amendment of the Fundamental Law in October 2016, if the initiative did not fail, due to lack of support from the opposition.

The mass influx of migration in 2015 created a new situation, however, and the legislator quickly responded, on the ground of the security interests of Hungary and the Union. The entry into force of the new legislation, creating a legal basis for the construction of a fence on the border between Hungary and Serbia, in conjunction with further legislative amendments criminalizing irregular entry and damage to the fence, has created a hostile environment towards those seeking asylum. Nevertheless, in relation to taking action against illegal migration in a more narrow sense, we have to note that the Police employs an adequate number of patrols and technical equipment in order to reduce the security risk possibly caused by illegal migrants to a minimum, through capturing, arresting, registering, and officially controlling them. Since the 2015 crisis, the Police can lean on the Hungarian Defence Force for primarily logistical and – in the transit zones – medical assistance, as authorized by the above mentioned legislative actions.

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31 See The XXXIX Act of 2001 on the entrance and stay of foreigners.
33 The above mentioned amendment could have become a constitutional barrier to the European Commission’s “mandatory settlement quota” plans as well.
According to the current legislation, the authorities do not start aliens policing procedures against illegal migrants – in case no other crime is committed, such as damaging the border barrier – intercepted within 8 kilometers from the border, but accompany them behind the fence, indicating that asylum applications can be submitted in one of the transit zones – presently operating in Röszke and in Tompa. Based on the authorities making a decision on the acceptability of their applications, the country can be entered only in this way (then within 8 days).

The present legislation change before the Parliament would modify this regulation in a way that in the future, all migrant persons not able to prove their identity, but applying for asylum, caught by the Police anywhere in the country, would be transported to a transit zone established in the southern, external borderline, and the client had to wait out the end of the asylum procedure there.

In order to understand the professional justification of the above mentioned governmental actions, we have to refer to the trends of illegal migration of the past few years. According to the statistics, illegal migration towards Hungary has grown steadily since 2012, intercepted only by the governmental actions and the tangible border barrier established on the border between Serbia and Hungary in the last quarter of 2015. Looking back, the Police arrested over 50,000 persons for unauthorized border crossing or its attempt in 2014. In 2015 – mainly before the southern border barrier started to operate –, the Hungarian authorities took measures against over 428,000 persons for illegal activities (the above mentioned unauthorized border crossing or its attempt for the most part), and this number went down to about 35,000 in 2016, due to the measures outlined above. Illegal arrivals from outside of Europe come through Turkey, Greece, Macedonia and Serbia, or on the Turkey-Bulgaria-Serbia route to reach Hungary, and the well known event of 2015 brought no change in this trend. The proportion of unauthorized border crossings and their attempt is exceptionally high on the border between Serbia and Hungary (about 90% in a countrywide comparison).

Also, it should be understood that the general tendency of the past few years showed a significant percentage of illegal migrants (over 96%) submitting an asylum application. As the large number of police arrests show, the problem was not the interception or arrest of people involved in illegal migration, but the abuse of those asylum procedures that are conducted according to mostly unified European standards. Prior to the more severe measures of 2015, the most effective way to get to Western Europe was this: after the Police caught and arrested the illegal migrants on the external Schengen border, the clients filed asylum applications to avoid aliens policing detention, and were placed
in open reception centres for the most part. Taking advantage of their right of free movement within Hungary during the asylum procedure, and the lack of control on the internal borders, they could reach their country of destination – Germany or Sweden in most cases – within 24 hours. We have to make a note about the administrative practice of these member states: there has been very limited possibilities for the detention of clients – even on the very height of the migration crisis –, essentially nothing hindered their free movement, and the escalation of social tensions. With its latest measures, the Hungarian political leadership seeks to constrain the processes that induce this circular migration, and wants to cut the reinforcement flow of illegal migration.

2.2.1.3. Citizenship and National Policy Outlook

As we have already mentioned, Article D of the Fundamental Law of Hungary assumes responsibility for Hungarians living beyond its borders, and Article G provides provisions related to Hungarian citizenship. The detailed rules for the origin, acquisition, and deprivation of Hungarian citizenship are laid out in Act LV of 1993, amended with the possibility of simplified naturalization for beyond the border Hungarians since 2011.\(^{36}\)

From the organizational perspective, it is worth to note that the authority responsible for citizenship affairs was the Office of Immigration and Nationality from 2000 until January 1, 2017. At the beginning of 2017, however, this responsibility – as outlined in the section on the Institutional system – was transferred to the Government Office of the Capital City Budapest for the most part, and to the Prime Minister’s Office for the less – generating predominantly central governing tasks. The former institution with exclusive jurisdiction over citizenship issues continues its operation as the Immigration and Asylum Office.

The practice of simplified naturalization is worth to mention from the perspective of our topic, especially because this procedure has been often abused, though the target value was reached, and the political leadership presently in power has since the beginnings had the national policy objective of making it easier for the Hungarians beyond the border to gain citizenship, and be able to show off one million new Hungarian citizens. According to the rules of simplified naturalization,\(^{37}\) an application can be submitted by people who fully meet the following (joint) requirements of preferential naturalization:

- he or any of his ancestors was a Hungarian citizen or if he serves reason to believe his or her origin is from Hungary,

\(^{36}\) As of March 1, 2013, the legislator introduced further changes and facilitations (regarding the acting body, and the scope of people entitled to preferential naturalization) in the simplified naturalization process.

– he proves his knowledge of the Hungarian language (inspected by the body receiving the application),
– according to Hungarian law, he has no criminal record and is not under prosecution, and
– his naturalization does not violate the public and national security of Hungary.

In our time, mainly Ukrainian, but to some extent also Romanian criminal circles support criminal organizations to gain Hungarian citizenship in a fraudulent way, to gain Hungarian (and thus, EU) travel documents in particular. The popularity of Hungarian travel documents is most likely due to the fact that they can be used for travelling to 150 countries of the world visa-free, and they are much easier to acquire than American or British documents for instance. Abuses have to do with the formal, or total lack of inspection on the knowledge of the Hungarian language in the first place. In addition, according present judicial practice, the lack of knowledge of the Hungarian language is not sufficient to revoke the citizenship, revoking requires the proof of other circumstances giving rise to further abuse.

2.2.2. Institutional Framework: Main Stakeholders and Reception Facilities (Dániel Horváth)

The Hungarian institutional administration system of migration has several actors: along the hierarchical structure of the home affairs sector, several departments carry co-ordinate responsibilities, and many international, intergovernmental and non-governmental organizations (NGOs) cooperate.

The prime actor is the ministry responsible for aliens policing, asylum, and fostering the social integration of foreigners, as it governs the executive organizations responsible for implementing aliens policing and asylum rights. Other ministries are also involved in the process of migration administration:

- The ministry responsible for foreign policy (e.g. Schengen visa issues, foreign policy embedding, and securing coherence);
- The Prime Minister’s Office (attending to general interdepartmental coordination, national policy, regulating citizenship, and administering simplified naturalization);
- The ministry responsible for employment policy (authorizing the employment of third country citizens in Hungary, administrative contribution, allocating quotas, managing the employment policy situation of migrants, providing services), and
• The ministry responsible for health care, education, social and retirement policy, and advancing equal opportunities in society (in educational issues, the social benefits for foreigners, their social rights, their social integration, the placement of unaccompanied minors, and the integration of foreigners in general).

On the implementation level, the two main aliens policing authorities directed by the Minister of Interior are the Immigration and Asylum Office, and the Police.

The Immigration and Asylum Office and its regional organizations attend to visa consultation tasks in the Schengen visa issuing procedure, and have the following competencies: issuing residence and settlement permits, a wide range of coercive measures that can be enacted against foreigners, carrying out asylum procedures and the assessment of statelessness, providing specific services for recognized refugees/subsidiary protected persons/admitted persons, and providing travel documents for foreigners.

The migration related tasks of the Police – apart from protecting the state border and monitoring cross-border traffic – include in-depth control, imposing aliens policing detention and expulsion, and carrying out deportations.

Finally, beyond the level of authorities, contact and cooperation with international and intergovernmental organizations in the field of migration and asylum should be highlighted [including, but not limited to organizations such as the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the International Committee of the Red Cross (ICRC), and the International Centre for Migration Policy Development (ICMPD)], and the Hungarian contribution to the activities of relevant European Agencies [chiefly the European Asylum Support Office (EASO), and the European Border and Coast Guard Agency (FRONTEX)].

Apart from the authorities, the non-governmental organizations (NGOs) are also crucial actors, who often fill in the niches of Hungarian migration tasks in the system, in areas such as finding employment in the labor market, housing assistance, or organizing language courses.

Recently, Hungary's institutional reception system has undergone major changes, in accordance with the change of priorities in the migration policy. Currently in Hungary, there are five different types of reception facilities.

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38 The Immigration and Asylum Office, successor of the former Office of Immigration and Nationality, has national authority over public authority tasks in relation to asylum and – authority still shared with the Police – aliens policing, as of January 1st, 2017. Citizenship and change of name matters, including pending administrative cases, were transferred to the Government Office of the Capital City Budapest at the date mentioned above, and – as the central governing body for native for registry matters – to the Prime Minister's Office.
to accommodate asylum seekers and persons granted international protection: (open) reception centre (in Kiskunhalas and Vámosszabadi), (open) temporary reception centre (in Kőrmend), closed asylum detention centre (Békéscsaba, Nyírbátor, Kiskunhalas), community shelter (in Balassagyarmat) and separate child protection institutions to accommodate unaccompanied minors (in Fót and Hódmezővásárhely). The asylum detention as such was introduced to the Hungarian law as of 1st July 2013, as a response to the infringement procedure launched by the European Commission criticizing the Hungarian law enforcement practice where asylum seekers could be put into aliens policing detention without prejudice to their special status. In 2015, there were 2,393 asylum de- 

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tentions ordered (1.3%), while in the subsequent year, this number was 2,621 (8.9%) in total. Statistical figures clearly reflect the shift towards a more severe asylum policy that aims to ensure the availability of the applicant for the entire length of the asylum procedure.39

The question of what type of reception facility each asylum seeker is placed at is decided by the refugee authority in each case, based on the circumstances and credibility of the applicant, the available information, and the knowledge of spare capacities. (Accommodating clients in one or another Hungarian reception facility according to their status was in practice only from 2008 to mid-2013. Subsequently, each open institution could receive clients regardless of their status.) In addition, the refugee authority may decide to limit the place at which the asylum seeker can stay to a particular area of the country for the period of the asylum procedure, which the client must not leave in principle. Finally, it is possible to place the applicant at a private accommodation. It is worth mentioning that in Hungarian law the alternative to asylum detention is the so-called asylum bail, which is rarely used by the refugee authority (in 2014, asylum detention was ordered for 4,829 applicants, and in 2015, for 2,393 applicants, which is 11% and 1% of all applicants, respectively).40

As a response to the latest national security challenges and the obvious nexus between migration and terrorism, the Hungarian Government announced to introduce a new reception system, where asylum seekers will be expected to remain within one of the so called transit zones (either in Röszke, or Tompa) for the entire length of the asylum procedure. Only those who are finally granted international protection will be allowed to enter Hungary. Although the governing rules are not yet available, one thing remains certain: the Hungarian reception system in its current form will be discontinued in the first half of 2017.

k2&view=item&layout=item&id=492&Itemid=1259&lang=en [accessed: 18.02.2017].
2.2.3. Other Policies (Sándor Gallai)

In order to understand the measures and policies that the Hungarian government implemented to tackle irregular mass migration, it can be helpful to identify those principles which were expressed by the prime minister and could be regarded as the bottom-line in the formulation of the national-level response to the 2015–2016 crisis. The government persistently made a difference between asylum and immigration policies and insisted that for the former European-level decision-making was well-placed, but the latter should prevail as a competence of the national governments. Given the amalgamation of refugees and economic migrants in the recent waves of immigration, the European asylum policy should rest on effective border control. The government regarded it as a prerequisite not only for minimizing the security risks, but also for detaching the illegal migrants from the legitimate asylum-seekers. Moreover, in the lack of strict control along the external borders of the Schengen area, it would be impossible to avoid the restoration of internal border checks and maintain the free movement of people. In the implementation of a joint European refugee policy the Hungarian government demanded to respect and apply the “first safe country” principle, in other words: it did not regard the choice of the destination country as a fundamental right of the asylum-seekers. The government also rejected all compulsory quota mechanisms of reallocation and resettlement, it only expressed support for voluntary participation in any such EU schemes. The Hungarian leadership argued that permanent solution to the crisis could only be given if the responses were to address the causes of people fleeing their homeland right in and near the conflict zones and if the countries in trouble would be assisted jointly not only by individual states, but also by the European Union and the entire international community.

Since the Hungarian government was negative on both the speed and the contents of EU reactions to irregular migration, it urged a more effective joint European policies based on firm border control, the registration of asylum-seekers, the return of economic migrants and the halt of the migration flows outside the territory of the EU. At the same time, the government also took steps at national level and introduced policies to end the crisis by stopping – or at least diverting – the flow of immigrants arriving to Hungary.

The first major set of policies was designed to establish an effective border control at the Southern ends of the country’s territory. To meet this objective, the
deployment of physical border barriers played a key role by reducing the number of illegal border crossing. The first physical obstacles were temporary razor wire fences, which had mostly been produced in correction centers by prison inmates. First they were installed by the army at the Serbian border, then similar fences were also deployed at the Croatian border. However, the actual deployment process was much slower than anticipated, and it did not prevent thousands of irregular migrants crossing the border every day. The government transported them to newly created transit zones in Budapest, from where they could continue their journey towards Austria. When this possibility was suspended, it resulted in a bottleneck and a chaotic situation at the Eastern Railway Station of Budapest, which only ended after the fence along the border had been completed. Behind the initially installed razor wire fence the government also succeeded to get a temporary security fence erected. It was announced that preparatory measures would be taken to secure the Eastern borders as well.

The installment of the wire fences was facilitated by a legal change (Act no. CXXVII/2015) that created a 10 meter wide zone along the borderline within which the state – in return for compensation – acquired the right to use the land on public interest. Since it was obviously rather easy to cut and pass the temporary wire fence, the governing majority also decided to declare the hindering of fence building as well as the damaging and the illegal crossing of the fence to be a criminal act which should be sentenced for imprisonment or expulsion (Act no. CXL/2015). For the legal submission of asylum claims two transit zones were open at the Serbian-Hungarian border. However, in order to prevent mass immigration, a rather low daily cap (originally set at 15, later reduced to 10) has been applied on the number of new entrants arriving at the border. After that legislation had been adopted, every swimming within an 8 kilometer wide security zone along the country’s borders, and the closure of the green borders led to a clash between the police and a group of immigrants.

42 Although fences can also be found at parts of the Spanish-Moroccan, Greek-Turkish, Bulgarian-Turkish and Latvian-Russian borders, Hungary received severe criticism from its neighbors, the EU and international organizations (e.g. https://www.nytimes.com/2015/06/19/world/europe/hungarys-plan-to-build-fence-to-deter-migrants-is-criticized.html?_r=0 [accessed: 25.02.2017]).

43 The official name was Quickly Installed Wire Barrier (Hungarian abbreviation: GYODA).

44 They were assisted by a small number of public workers (e.g. http://24.hu/belfold/2015/07/31/hatarzar-azt-mondtak-talaltak-munkat1-a-keritest-fogjuk-epiteni/ [accessed: 25.02.2017]).

45 The delay led to the resignation of the minister in charge (http://www.portfolio.hu/vallalatok/lemondott_hende_csaba_honvedelmi_miniszter.219212.html [accessed: 5.03.2017]).


48 The closing of the green borders led to a clash between the police and a group of immigrants (https://vs.hu/kozelet/oszes/oszczescapas-a-hataron-kimozditottak-a-keritest-0916 [accessed: 12.03.2017]).

49 Due to the low number of illegal border crossing at the Ukrainian and Romanian borders, those plans were not implemented. All the government did was some limited landscaping at a small part of the Romanian border.
among whom the vulnerable persons with special needs have enjoyed priority. The low figures demonstrated two things: on the one hand, the government did not want to introduce a mechanism that would encourage migrants to arrive in huge numbers at the Hungarian borders; on the other hand, it offered the possibility of saving some capacities of the naturally overburdened civil servants and agencies that were in charge of dealing with the cases of the arriving immigrants. The transit zones have been jointly operated by the Immigration and Asylum Office and the army. Along with the installation of the physical border barriers and the opening of transit zones at the Southern ends, the existing transit zones of the capital city, Budapest, were closed down. The government also decided to mark an 8 kilometer wide security zone along the country’s borders, and the corresponding law (Act no. XCIV/2016) stipulated that anyone caught within that zone, unable to prove his/her identity, shall be accompanied to one of the official crossing points and expelled from the country without starting an asylum procedure. Those who wish to apply for asylum are allowed to return to Hungary, but only through the transit zones for which they have to queue along with all other migrants arriving at the border. After that legislation had been adopted, every day an average 10-20 persons were accompanied to the border crossings.

The governing majority intended to increase the level of security for which the expansion of police and military capabilities was also necessary. As the migration crisis escalated, the government increased the number of permanent and stand-by military presence to ca. 6,000 officers who were also supported by 750 – mostly transport – vehicles. The maneuvers of the vehicles and the transport of military and police units were facilitated by the recent building of simple police roads all along the Serbian and Croatian borders. At the same time the government also decided to set up new units of police Border Guard. The hiring and training of the new border policemen takes place gradually with a target number of 3,000 new recruitments. The expansion of police forces and the recruitment of new border guarding policemen would allow ordinary policemen stationed at the borders to return to their original post.

At the proposal of the government, parliament codified a new case of special legal order, a state of emergency for situations when an emergency is caused by mass immigration (Act no. CXLII/2015). The conditions of this particular migration-caused state of emergency were primarily defined by the number of asylum seekers: the state of emergency shall be declared if the number of asylum claims in Hungary exceeded a daily average of 500 in a month/750 in a fortnight/800 in a week or if the number of immigrants in the transit zones surpassed a daily average of 1,000 in a month/1,500 in a fortnight/2,000 in a week. However, the state of emergency may also be declared if migration...
leads to a situation which poses direct risk to the public order of any settlement (i.e. not only the villages and the towns at the border, but also anywhere else in the territory of Hungary). When a state of emergency is declared for mass immigration, the police enjoys extended operational competences, including the possibility of imposing restrictions on traffic, closing buildings and public areas, forcing people to leave or hindering them to enter to or departure from such places, limiting the operation of public and publicly used institutions, and entering and staying in private homes\textsuperscript{50} for the purpose of check-up or for the observation and securing of a scene.

Under such special legal order the army also acquires the right to use weapons in violent conflicts to protect the borders; to settle a conflict situation which presents a direct risk to the protection of the border; to implement measures that are essential for tackling mass immigration; to stop violent actions which aim at disturbing the order at the state borders. When the special legal order is provoked by mass immigration, the state of emergency can be initiated by the national police chief and the director general of the Immigration and Asylum Office and it can be declared in a decree by the government at the proposal of the minister in charge. Once the act came into effect, the government declared a state of emergency nationwide. In September 2016 the government decided to extend it till 8 March 2017.

The policies against massive irregular migration have been repeatedly criticized by both the European Union and various international and domestic organizations. The government will certainly continue to face legal and political disputes over its measures and actions. Nevertheless, the inflow of asylum seekers slowed down considerably and their number dropped drastically (Figure 2.3).

The spectacularly lower figures were partly the result of domestic policies (e.g. more effective border control, bottlenecks in transit zones), but certain international developments (e.g. more rigorous policies in receiving countries, the Turkey-EU deal) also contributed to the change in situation. However, the level of cooperation between the asylum seekers and the authorities remained very low and more than 95% of the registered asylum claimants continued to disappear within the Schengen area without waiting for the termination of their asylum procedure. To put an end to the possibility of asylum seekers abusing their situation and the lack of internal borders within the Schengen area, the government made two important decisions. First, in February 2017, it agreed to hamper illegal border crossing by having a second fence built to the border, parallel with the already standing physical barrier, on the other side of the police road.\textsuperscript{51} The new barrier shall be ready by May 2017. It will have electronic detectors

\textsuperscript{50} The latter is only allowed in the possession of a written command.

and loudspeakers to warn the approaching persons in three different languages (English, Farsi and Arabic) of the illegality of crossing the (green) border.\textsuperscript{52} Second, the government also presented a bill, which was adopted by parliament in March (Act no. XX/2017). Among else it introduced two substantial changes: on the one hand, all legally arriving asylum seekers will need to wait in the transit zone until their claim will have been processed by the authorities; on the other hand, the 8 kilometer border zone will be extended to the entire country, so regardless of the place they are captured, all unregistered immigrants shall be taken back to the transit zones; the open reception centers will be closed down and their current 67 residents will also be transported to the transit zones, which will be expanded to a capacity of 100 and offer accommodation, health, social, telecom and meal service facilities.\textsuperscript{53} The transit zones are open to Serbia,\textsuperscript{54} but only those will get admittance to Hungary, whose claim for international protection is found grounded by the Hungarian authorities.

Figure 2.3

The Total Number of Registered Asylum Seekers in Hungary in 2015 and 2016

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{figure23.png}
\end{figure}


\textsuperscript{52} The loudspeakers are planned to say: “Attention, attention. I’m warning you that you are at the Hungarian border. If you damage the fence, cross illegally, or attempt to cross, it’s counted to be a crime in Hungary. I’m warning you to hold back from committing this crime. You can submit your asylum application at the transit zone” (http://www.reuters.com/article/us-europe-migrants-hungary-fence-idUSKBN1692MH [accessed: 25.02.2017]).


\textsuperscript{54} In 2015 the parliament adopted the Act no. CVI/2015, which enabled the government to issue a decree on the list of safe third countries. As it includes Serbia, the government argues that arrivals from the Southern border should not be eligible for international protection in Hungary as they arrived from a safe country.
2.2.4. Social Integration of Migrants and Refugees (*Hanga Horváth-Sántha*)

As the European experiences show, both migrant as well as refugee integration is a complex process including economic, legal, social, cultural and educational aspects. Factors that have an impact on the possibility of social inclusion are – among others – the legal norms concerning the situation of the migrants and refugees, the attitude of the host society towards them, the possibility to learn the language (and the difficulty of the given language) and access to the labour market.

It should also be noted that the integration of persons in need of international protection (i.e. refugees, persons with subsidiary protection or other type of protection) differ from other categories of migrants (labour migrants, intra-EU migrants, migrants with family status etc). The former category is often referred to as a particularly vulnerable group, nevertheless with very different demographics and skills, requiring specific integration policies.\(^{55}\) Due to the nature of their forced migration – often paired with traumatic experiences and psychological distress –, humanitarian migrants often need more targeted measures to be able to strengthen the rather weak attachment to the host society and to be able to integrate fully into the labour market.\(^{56}\)

In the literature as well as in the official policy documents of the European Union on the subject matter it is often emphasised that integration is a two-sided process, requiring the same efforts from both the members and institutions of the host society as well as from the persons who have been granted the right to stay in a country which is not their country of origin. The way of considering the integration process as a two-way process is captured well in the communication of the European Commission as well. In its *Communication on Integration, Immigration and Employment* the Commission highlights that “Integration should be understood as a two-way process based on mutual rights and corresponding obligations of legally resident third country nationals and the host society which provides for full participation of the immigrant. This implies on the one hand that it is the responsibility of the host society to ensure that the formal rights of immigrants are in place in such a way that the individual has the possibility of participating in economic, social, cultural and civil life and on the other, that immigrants respect the fundamental norms and values of the host society and participate actively in the integration process, wi-


\(^{56}\) Ibidem.
thout having to relinquish their own identity.”57 The meaning and importance of the two sides of the same coin was also reinforced by the Commission in its *Action Plan on the integration of third country nationals* in April 2016.58 Notwithstanding the different policy documents on EU level, integration remains primarily under national competence.

The quote underlines the important and fragile balance between the rights and the duties of the migrants and refugees who are granted a residence permit in the country of destination. In relation to the migrant population significant research has been conducted regarding their social integration and labour market integration in Hungary, showing optimistic results on their labour market integration and – to a certain extent – on their social integration as well. But regarding the refugees there is no available open source data on the current size of the refugee population in Hungary (their number is estimated at around 2,500 according to government circles), but it has been a clear trend – at least for the past decade – that an overwhelming majority of those granted refugee protection leave the country.59 Hence, assessing the successes of social inclusion and integration policies is only possibly through the small fraction of recognised refugees who actually decided to stay in Hungary during the past one or two decades, or those who came as other types of migrants not primarily fleeing from war or persecution. The same trend of leaving the country in short time was also very clear during the migrant crisis in 2015 when 97% of the persons entering as asylum seekers almost immediately left the country,60 the majority of them not even awaiting the end of the asylum process. This trend, however, was not new and solely induced by the migrant crises, but a well-known practice for the Immigration and Asylum Office already much earlier. As a consequence, the assessment of the success of social integration policies in relation to persons with international protection status is somewhat difficult and potentially misleading due to the relatively small numbers.

The migration research focusing on the social as well as the labour market integration on migrants in Hungary has during the past couple of years in large parts been financed through the European Integration Fund61, which has


59 Demény, G., op. cit., p. 117.

60 MTA MM, “Az Európába irányuló...”

61 Re-named to Asylum, Migration and Integration Fund in the EU budget period stretching from 2014 to 2020.
contributed to the realisation of larger empirical studies based on quantitative as well as qualitative methods, but also to civil society projects aiming the practical facilitation of the social inclusion process. The previously mentioned research funded by the European Integration Fund has been able to stretch the research to all relevant (policy) areas within the field of integration of migrants, as stated in the Zaragoza Declaration as well. Migration research was, however, self-evidently an existing important research even in earlier years, but then the focus within research on integration matters was mainly on the legal and/or policy aspects of social inclusion (as well as labour market integration), including several case studies.

2.2.4.1. Labour Market Integration of Migrants in Hungary

Despite the fact that the question of employment situation and labour market integration are integral parts of the policy discourse on integration of migrants, research purely focusing on these matters has been relatively underrepresented in the past decade. At the same time it is important to mention that almost all the research in relation to the social inclusion of migrants in Hungary dealt with the question of labour market integration as well. Analysis of surveys conducted by – among others – the Hungarian Demographic Research Institute suggest that migrants in Hungary have a higher employment situation than the Hungarian population, which is especially true regarding the migrants of Hungarian origin. According to the mentioned surveys ethnic Hungarian migrants have a higher employment and activity rate in comparison to the non-migrant citizens, and their unemployment rate is lower among them.

From the outcome of the survey “Migrants in Hungary” in 2009 (also funded by the European Integration Fund) it also became clear that the migrant groups showed great variation in terms of employment and labour market activity. The survey contained, i.e., a detailed comparison between six dif-
different group of migrants (ethnic Hungarians from the Transcarpathian region in Ukraine, Ukrainians, Chinese, Vietnamese, Turkish and Arab respondents) and aimed at identifying different integration strategies among the migrant groups themselves. When the survey was conducted, the average time spent in Hungary was 14 years among the Vietnamese respondents, 10 years among the Chinese, 9 years in the case of Transcarpathian Hungarians, Ukrainians and Arabs and the Turkish respondents.\footnote{Ibidem, p. 86.} Regarding the motivational factors behind their migration to Hungary two third of the respondents named family (or acquaintances) as the main reason, paired with favourable information about Hungary prior to the migration.\footnote{Ibidem, p. 87.} According to the survey the educational level among the respondents was quite high; 52% held a degree and 39% was in Hungary due to enrolment in higher education, hence, presumably they would, after some time, receive qualifications from an institution for higher education.\footnote{Ibidem, p. 90.}

With regard to the \textit{de facto} employment rate and labour market activity, the authors of the study highlighted that the success of this integration is not purely to be measured by the existence of a position, but also by the assessment whether the position in the country of destination is similar to the position held in the country of origin. A clearly positive trend was visible among the respondents: more than the half (54\%) had a position similar to the one in the home country, while 20\% held a better position.\footnote{Ibidem, p. 91.}

From the point of societal integration language skills are tremendously important, as language represents the bridge between the host society and the migrants. With regard to the migrants’ Hungarian language skills the survey showed an interesting variation among the non-ethnic Hungarian groups (who self-evidently spoke the language already prior to their migration). Half of the Ukrainian respondents spoke Hungarian, while one third of the Vietnamese, Chinese and Turkish respondents claimed to have a good conduct of the language (see, figure 2.4 below). There was, however, a group representing around 20\% each among the Turkish, Arab and Chinese respondent who claimed to have no knowledge of the Hungarian language and who did not wish to improve their skills either.\footnote{Ibidem, p. 95.} The attitude in relation to learning the language of the host society inevitably has an impact on the integration strategies developed by the different groups of migrants.
Regarding the relation toward the members of the host society the vast majority of the respondent groups claimed to accept Hungarians minimum as friends. Almost all respondents from the Transcarpathian Hungarians the Ukrainian groups claimed that they would not mind a Hungarian family member, but in this regard the Chinese and Vietnamese were much more hesitant. A group of 4% among the Chinese claimed not even wish to have Hungarians as their neighbours, while 13% of the Vietnamese claimed to accept Hungarians as neighbours at the most. Two third of the Turkish respondents claimed that they would not mind Hungarian family members, while the outcome was around 50% among the Arab respondents.75

2.2.4.2. Migrant and State Strategies towards Integration

Upon arrival in the host country migrants have several paths to choose from regarding their own integration.76 One strategy may be the one of learning the language, entering the labour market, making an effort to integrate into the host society and – eventually – applying for a citizenship in order to stay permanently in the new country of residence. Another strategy may be the one of finding a resort among the own community, not to learn the language of the host society and to live rather segregated. A third strategy is the one of transnational integration, entailing the capability to adapt to local conditions as well as to maintain close ties and networks to the country of origin, but where the

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75 Ibidem, p. 105.
possibility to increase the economic gain is one of the leading goals in choosing further migrant routes.\footnote{Ibidem.}

Among the above mentioned six groups of migrants in Hungary investigated in the study, the patterns regarding the integration strategies are quite clear: the majority of the ethnic Hungarians chose the first, assimilative strategy, while the majority of the Chinese, Turkish and Vietnamese migrants chose the strategy of segregation. The Arab group was special in a sense that the majority of the respondents arrived as students during the years of Socialism, hence, their integration commenced already as young students. Many of them are highly educated, chose Hungarian life companions and learnt the language during the course of their studies. Hence, a relative majority of the Arab respondents claimed to follow the assimilative strategy. A relative majority of the Ukrainian respondents rather claimed to follow the transnational migrant paths, with the expected economic profit guiding the next steps.\footnote{Ibidem, p. 120.} It has also been a known issue for quite some time that primarily the Chinese and Vietnamese groups only apply a seemingly assimilative approach in the case of bogus marriages, which poses a great challenge to law enforcement in deciding the true intent behind fatherhood declarations regarding Hungarian children made by the members of these groups.\footnote{Hungary’s contribution to the European Migration Network in 2012 on the subject of abusement of residence permit with family purpose, available (only in Hungarian) at: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/family-reunification/hu_20120606_familyreunification_hu_version_final_hu.pdf [accessed: 25.03.2017].}
The real intent behind the mentioned fatherhood declarations is in fact to obtain permanent residency in Hungary.

Regarding national policies of integration a national strategy of migration entered into force in 2013,\footnote{Az 1698/2013. (X. 4.) Korm. határozattal elfogadott Migrációs Stratégia és az azon alapuló, az Európai Unió által a 2014–2020 ciklusban létrehozásra került Menekültügyi és Migrációs Alaphoz kapcsolódó hétéves stratégiai tervdokumentum, available at: http://belugyalapok.hu/alanapok/sites/default/files/MMIA.pdf [accessed: 25.02.2017].} which foresaw the possibility of establishing a national strategy for integration as well. This, however, has not yet been drafted by the competent decision-makers.

2.2.4.3. The Hungarian Law on Asylum

After the brief overview of the situation of some migrant groups in Hungary, the group of refugees should also be examined accordingly. As a first step, the legal environment needs to be considered, which, in this case is the Hungarian Law on Asylum. According to the Law on Asylum in force, the same rights
and obligations apply to persons granted international protection as to Hungarian citizens – unless there are provisions expressly excluding them. Some exceptions apply to the former category: they only have the right to vote at municipal elections and local referendums, and are not entitled to work at jobs, offices or in functions for which Hungarian citizenship is required by law. In practice, labour market integration, housing and access to social security benefits to persons granted international protection is difficult, partly due to the lack of language knowledge (and limited access to language training), partly due to the lack of previous jobseeker’s allowance. Persons granted international protection (refugees, beneficiaries of subsidiary protection, and temporary protected persons) may stay in the reception centre for up to two months from the date their recognition becomes final.

The latest modifications of the Law on Asylum entered into force in June 2016 set forth the following provisions: the refugee status as well as the subsidiary protection is to be reviewed every three years, the legislature can order status review in case of extradition of refugees is sought, the period of stay at the reception centre is to be reduced from 60 to 30 days, the housing subsidies are to be abolished for those granted international protection, schooling support to children, and neither asylum seekers, nor those granted protection will receive pocket money (normally HUF 2,850 per month). In connection to the modification of the Law of Asylum NGOs had the possibility to express opinions in March 2016 through a public consultation.

Regarding children the Hungarian law on education provides instant access to the schooling system regardless of the status of the child. The number of children with migrant backgrounds in the educational institutions is quite low, however, the ones who attend public education institutions receive integrated education in accordance with European and Hungarian laws.

Regarding the recognition of qualifications, it is possible to recognise diplomas and other qualifications obtained abroad, but for this the physical documentation has to be provided, referencing it is not enough. To facilitate this process, Hungary has long provided the possibility for the recognition of educational and professional qualifications through the Equivalence and Information Center, which is a governmental agency.

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2.2.4.4. Social Integration of Refugees and Persons Entitled to International Protection in Practice

As already mentioned before, there are several practical circumstances that make social integration difficult for persons granted international protection, and the recent legislative efforts foreshadow an even darker future for them. In absence of relevant statistical summary, the exact number of persons granted international protection residing in Hungary cannot be established. However, it is a known practice, that those granted international protection often leave the country shortly after their recognition – also with the help of already saved-up sums of earlier received state benefits – in order to join their family members, compatriots in other Western or Northern European countries with better integration prospects.

2.3. Public Attitude (Sándor Gallai)

In 2015 the migration issue dominated the European political agenda. That was the first time in the European Union when a non-economic issue was put on the first place of the list of top problems at EU level. More than half of the all respondents (58%) mentioned immigration as the top problem, while the second-placed terrorism was “only” mentioned by every fourth. It was also seen by 68% of the Hungarian respondents as the primary problem of the EU. The Hungarians also ranked immigration as a top national problem (together with unemployment). The perception of immigrants was heavily influenced by their origin: while the relative majority (49%) of Hungarians felt positive about the immigration of people from other EU member states, 82% (one of the highest among all member states) had a negative feeling about the immigration of people from outside the European Union. In terms of support for a common European policy on migration Hungary was not an exception: the majority (55%) supported the idea, however, this figure was closer to the lower end and the level of opposition (39%) was among the highest ones.

A year later the Eurobarometer survey still found immigration being the top problem at EU level, but this time it was only mentioned by 45% of the respondents. Of those who saw immigration as the top problem of the EU, the

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second highest score (65%) was reached in Hungary. Concerning the top national problems, 30% of the Hungarians named immigration on the first place which was the second highest score (behind health and social security, mentioned by 33%). Compared to the previous year a much higher proportion (57%) of Hungarians reported to have a positive feeling about the immigration of people from other EU member states, while 81% (once again one of the highest) felt negatively about the immigration of people from outside the European Union.

The Project 28, an EU-wide survey conducted by Századvég Foundation in Q1 2016, revealed that 77% of the European citizens claimed that the EU performed poorly when handling the migration crisis. In Hungary 82% believe so. In the EU 83% agreed that the external borders should be protected more effectively; the corresponding figure in Hungary was 96%, the highest in the entire Union. Despite being critical of the EU, in every member states the majority of the people would be unwilling to sign a petition about leaving the EU. Altogether nearly two-thirds (64%) were against signing such a petition, while in Hungary 75% rejected signing. The rapid population growth of the Muslims were seen by 36% of Europeans as a very serious threat to their continent and an additional 34% regarded it as a somewhat serious threat. In Hungary, on the other hand, 53% saw it a very serious threat and 35% categorized it as a somewhat serious threat to Europe. Although a resettlement quota system for distributing migrants to Europe was supported by 53% of the respondents, in Hungary the rejection of the quota was the highest (85%). Support for protecting the borders by fences against immigrants was at 41% in the EU, meanwhile 51% disapproved the border barriers. The level of backing the fences was the second highest in Hungary (79%). Illegal immigration was found a very serious problem by 49% in the EU and 35% in Hungary, while the figures for the answer of “somewhat serious problem” stood at 35% and 38%, respectively. Nearly two-thirds of Europeans believed that the influx of immigrants would increase crime (65%) and the risk of terrorism (65%), and change the culture and identity of the receiving country (63%). The approval rate of the equivalent statements was even higher in Hungary (85%, 84%, and 73%, respectively).

In 2016 the Migration Research Institute – in collaboration with Századvég Foundation – also conducted a series of public opinion polls in Hungary on various aspects of migration. As opposed to the usual samples of 1,000, we generally reached out to at least 2,000 Hungarian adults for the polls. In the


87 The only exception was the last survey, when 1001 adult citizens were interviewed. Each sample was representative regarding age, sex, education, and residence. The respondents were introduced to the
first survey (May 2016), we tried to identify the main concerns of citizens, their willingness to receive immigrants, their views on the management of the migration crisis and those on sovereignty. Nearly two-thirds (63%) believed that the current wave of asylum seekers was dominated by economic migrants. Every fourth (23%) respondents claimed to have personal experience with immigrants and they mostly (75%) reported negative experience and regarded mass immigration to Europe as a serious risk to public safety (72%). Most respondents (78%) claimed to see a direct link between the immigration wave and the increasing number of terrorist actions. In their opinion (73%) the latter was also in connection with the integration difficulties of already settled immigrants. Because of the threats and the negative perceptions, nearly three-fourth of the respondents (73%) would oppose the opening of reception centers in their municipality, while one-fifth would condition it to local job creation and development. Humanitarian considerations were also important as three-fifths (61%) would accept real refugees to the extent possible, but – due to the lack of sufficient resources and to the fear of losing their job – economic migrants would be rejected (65%). The overwhelming majority regarded the decisions on the asylum (73%) and settlement of immigrants (79%) as part of the national competences, while – according to more than half of the citizens (56%) – the protection of the Schengen external borders should be dealt by EU organs and a more effective border control would be needed (60%). An assistance by the army in the protection of the borders and the installment of physical barriers (fences) to stop the immigrants were broadly supported (by 87% and 80%, respectively). The majority (75%) believed that the number of arriving migrants could be reduced by positive political and economic changes in their country of origin.

Our second survey (June 2016) partly focused on the origin of personal experience on migration, and partly on the possible solutions to irregular migration. Altogether 90% opposed the irregular arrival of migrants to Europe. In line with our first survey, nearly every fourth respondents (22%) claimed to have personal experience on irregular migrants gained either directly or from a close relative. Of those with personal experience, nearly three-fourth (74%) had a negative opinion on the migrants; 88 three-fifth only met migrants by accident and 9% by being the victim of harassment or insults by immigrants; one-third communicated with them in person, two-thirds only had indirect impressions. The EU was mostly (59%) expected to guarantee strict border
control, but its proposal on a quota-based re-allocation mechanism was rejected by most respondents (71%). According to an overwhelming majority (90%), the reestablishment of peace and stability in the sending countries would mean a real solution to the migration crisis. While the majority (56%) believed it was possibility to use financial aid to the sending and the transit countries effectively, their bulk (86%, 48% of all respondents) assumed that it would only be possible under international monitoring. 55% agreed to the statement that Hungary should also give financial aid to the sending countries, so a slight majority was in favor of Hungarian efforts to be taken to ease the migration pressure on Europe.

In the third survey (July 2016) the economic impacts of migration were assessed differently: while a slight majority (56%) generally considered foreign employees contributing positively to the economy of the receiving countries, 81% associated rather negative economic impacts to those who arrived with the recent waves of migration. The conditions of successful integration would include obedience with the laws (93%), employment (89%), engagement in social affairs, accepting the local culture (84%) and learn the local language (81%). In the case of those arriving with the current wave of migration, seven of ten (69%) respondents did not see their integration possible in the short term (within 5 years); 45% of them named the lack of cooperation by the immigrants as the primary obstacle to successful integration. All other reasons were mentioned by a considerably lower share (1–15%) of the respondents. Most people agreed that the failure of integration would increase social tensions (90%), result in parallel societies (74%), higher crime rate (89%) and stronger extremist groups (85%). A considerable majority of respondents claimed that mass immigration would lead to the spread of both radical Islamist ideas (83%) and to higher support for extremist, open-to-violence, anti-immigration groups (90%). 77% did not regard the immigrants as a solution to Europe’s demographic problems.

The fourth survey (September 2016) repeated the question about the support for a quota-base reallocation of the asylum seekers: the result was nearly identical with the previous one since 72% opposed any such proposals. Three-fourth (78%) suspected organized criminal groups behind the European terrorist attacks and only one-tenth believed in lonely terrorists. The motivations were mostly found by the respondent in poverty (46%), discrimination (28%) and the misinterpretation of Islam (65%). The spread of radical Islamist views could most effectively be stopped by the family (58%), the security services (55%), the teachers (45%), friends and acquaintances (45%), civic groups (44%), churches (43%) and social workers (30%). A slight majority
(51%) agree that in cases of serious crimes it is justifiable to revoke the citizenship of the receiving country from immigrants with dual citizenship.

In the fifth survey (September 2016), which was conducted in the run up to the quota referendum, we asked the respondents about the main potential risks of illegal border crossing. The possibility of terrorist attacks was mentioned by 28%, increasing crime rate was named by 26%, more frequent violence against women by 14%, the threat to the national culture and identity by 13% and the losses of jobs by 4%. Altogether it also meant that 7 out of 10 Hungarians reckoned on deterioration in public security. People were also asked about religious and cultural differences: 52% regarded Muslim religion and way of life incompatible with European and Hungarian ways of life. 32% answered “less compatible”, 9% chose “partly compatible”, and only 1% picked “fully compatible”. The niqab, hijab and burka were considered by 36% as natural products of Muslim religious and cultural traditions, while 59% regarded them as means of suppressing the women. Not surprisingly, 53% supported the idea of banning those garbs in Europe, but 39% would oppose such a notion. As to the possibility of the integration of immigrants into local societies and economies in Europe, 10% answered “more likely” in contrast with 81% responding “less likely”.

It is obvious from the public opinion figures that the Hungarian population has reluctant attitude towards immigrants and strong reservations against the immigration of people with markedly distinct cultural background. They tend to be more open to refugees, but regards the majority of asylum seekers as economic migrants. The overwhelming majority is skeptical about the possibility of successfully integrating the immigrants who arrived to Europe in the past few years. The Hungarian citizens would expect the immigrants to obey with our laws, work, respect the culture of the receiving society and learn its language. The influx of a large number of Muslim immigrants and their unsuccessful integration are generally regarded as security risks and hotbed for both religious and political extremism. The Hungarian public saw a direct link between mass immigration and the recent wave of terrorist attacks. Terrorist were not regarded as lonely criminals, but rather as members of organized groups, which misinterpret the Islam and commit violence in Europe. Social integration would be an important factor in stopping of radicalization, however, the family of potential terrorist could play the primary role in the prevention of extremism.

As opposed to general expectations, personal experience with immigrants does not result in higher support for migration; on the contrary, they tend to have rather negative opinion on the immigrants. While the Hungarians are critical about the operation of the European Union, they continue to support the
country’s membership in the Union, and would be glad to see more EU assistance with effective border control. On the other hand, the majority would rather keep immigration policy and asylum decisions in national competences, and rejects any quota based reallocation mechanism among the member states. At the same time, the bulk of Hungarians strongly support the deployment of physical border barriers to stop mass immigration, and consider international cooperation and aid offered to the sending countries as the best possible solution to the migration crisis. In addressing the stabilization of the crisis zones, the Hungarian citizens would like to see their own government also taking a share of financial assistance.

### 2.4. Political Implications (Sándor Gallai)

#### 2.4.1. The Evolution of the Party System

By applying a multi-level nomination process and a high implicit threshold, the Hungarian electoral system[^89] – adopted in 1989 – effectively filtered the political contesters and kept the number of parliamentary parties relatively low. Every election ended up with the formation of only 4 to 6 parliamentary groups. Both the increasing concentration of votes for the main parties and the disproportionality of the system (i.e. the overrepresentation of the winner of the majority component (the SMDs) of the electoral system and the underrepresentation of the smaller parties in legislature) facilitated the formation of governments that could rely on stable parliamentary backing. The position of the governments was strengthened further by the introduction of the constructive vote of no-confidence (1990), an institution which presents a serious obstacle to the creation of an alternative majority in parliament. Taking those factors into account, it is not surprising – albeit quite exceptional in the region – that in Hungary’s post-communist political history there has been no need for an early election. It is therefore not an exaggeration to claim that after the regime change the Hungarian proved to be the most stable party system in the East Central European region[^90]. This was already demonstrated by the second free elections, since Hungary was the only country where the very same (six) par-


ties, which had obtained seats in the first free election, re-entered parliament for a second term. In addition, the concentration of the party system led to the emergence of a quasi-bipartisan or more precisely a two-block structure characterized by a very low level of fragmentation and electoral volatility.

The post-communist successor party, the Hungarian Socialist Party (MSZP) was able to consolidate its position within a few years after the regime change and prevailed as the main actor on the left. By 1998 the leading position on the right was captured by Fidesz, a party which, between 1993 and 1995, had moved away from the liberal to the conservative camp. While in the 1990s the swings of the voters compared to previous elections suggested the existence of a very high proportion of the electorate with vague or with no party affiliation, the confrontational policies of the first Fidesz-led government (1998–2002) strongly divided the population, and strengthened the voters’ commitment to the main parties. In both the 2002 and the 2006 elections the MSZP and Fidesz were each supported by more than 40% of the voters. Obtaining together 4 out of every 5 votes meant such a high level of concentration in the party system that it was legitimate to talk about the consolidation of a quasi-bipartisan structure. Under such circumstances the small parties were either bound to run together with a senior partner or they had to struggle hard to push their result over the 5% parliamentary threshold. As the electoral behavior and the voting patterns also contributed to the stability of the party system, leading experts and academics believed in the freezing of the consolidated structure.

In contrast with the experiences of traditional two-party systems, the nature of the contest between the MSZP and Fidesz was not centripetal, but centrifugal. Therefore it was not surprising that the domestic political and moral

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93 It is important to note the using “left” and “right” is correct in terms of the image, the identification and the cultural orientation of the parties, but in respect of policies the positions have often been inconsistent or the complete opposite of what would derive from the traditional values of the political left and right, Fábián, Z., “Pártrendszer és társadalmi kohézió jelzőszámai Magyarországon”, [in:] Társadalmi Riport 2012, eds Tamás, K., György I.T., Budapest 2012, pp. 293–313.
94 Established as a generational party, the name FIDESZ was originally created as an acronym from the name of the Alliance of Young Democrats (Fiatal Demokraták Szövetsége – in Hungarian). In reflection to the elimination of the upper age limit and also to indicate the reorientation of the party, the acronym was given up and replaced by Fidesz – Hungarian Civic Party (Fidesz in short) in 1995.
96 The threshold was initially 4%; it was increased to 5% ahead of the 1994 elections.
crisis of 2006\textsuperscript{99} as well as the consequences of the severe economic situation\textsuperscript{100} – aggravated by the international financial crisis of 2008 – had both undermined government stability and cracked the rigidity of the party system. The “critical election”\textsuperscript{101} of 2010 resulted in a considerable transformation of the political landscape (Table 3.). On the one hand, the neck on neck race between the two main parties had come to an end: Fidesz won a landslide victory and enough seats to hold control of the constitutional (2/3\textsuperscript{rd}) majority, while the Socialist Party lost more than half of its former supporters and slipped into the position of a middle-size party. On the other hand, the list of parliamentary parties had also changed markedly: two of the formerly important parties of political transition, the Hungarian Democratic Forum (MDF) and the Alliance of Free Democrats (SZDSZ), failed to pass the threshold and fell out of parliament, whereas two – relatively new – anti-establishment parties succeeded to win representation. In the campaign the radical, anti-Semitic and anti-Roma Jobbik party\textsuperscript{102} talked about a derailed regime change and called for the punishment of those who took part in it.\textsuperscript{103} The Politics Can Be Different (LMP) party claimed to develop a non-ideological profile, nevertheless it had a markedly green program and an alternative leftist image.\textsuperscript{104}

Between 2010 and 2014 the second Fidesz-led government used its supermajority in parliament rather extensively. Among other, the government enacted a new constitution (“Fundamental Law”)\textsuperscript{105} and modified several cardinal laws that were subject to qualified majority.\textsuperscript{106} Some legislative actions and the subsequent changes to institutions, policies and/or personnel provoked severe criticism not only among the domestic opposition but also at international (European) level. The adoption of the Fundamental Law, the new media law, the mandatory retirement of older judges, the re-nationalization of the capital stocks of the mandatory pension funds, the curtailed competences of the Constitutional Court, the act on Churches, the changes to the electoral system, other parties, the revoking of some municipal competences, the sectoral surtaxes and the re-nationalization of the capital stocks of the mandatory pension funds, and the curtailed competences of the

\begin{table}[h]
\centering
\begin{tabular}{|l|lll|l|}
\hline
\textbf{Party} & \textbf{Share of votes} & \textbf{No. of seats} & \textbf{No. of seats won in SMDs} & \textbf{No. of seats won from national party list} \\
\hline
Fidesz-KDNP* & 52.7\% & 173 & 263 (68.1\%) & 0 0 (0.0\%) \\
Jobbik & 16.7\% & 0 & 21 (12.2\%) & 47 (15.3\%) \\
MSZP & 19.3\% & 2 & 59 (15.3\%) & 0 (0.0\%) \\
Other parties, \textit{op. cit.} & \textit{op. cit.} & \textit{op. cit.} & \textit{op. cit.} & \textit{op. cit.} \\
\hline
\end{tabular}
\caption{The Results of the 2010 Parliamentary Elections}
\end{table}

\begin{itemize}
\item \textsuperscript{100} György, L., Veress, J., “A 2010 utáni magyar gazdaságpolitikai modell”, \textit{Pénzügyi Szemle}, 2016/3, pp. 374–375.
\item \textsuperscript{101} Enyedi, Z., Benoit, K., \textit{op. cit.}, p. 20.
\item \textsuperscript{103} Https://jobbik.hu/rovatok/jobbik_aktualis/2010_evet_a_20_evert__megjelent_a_barkad_hetilap_legujabb_szama [accessed: 4.05.2010].
\item \textsuperscript{104} Sitter, N., \textit{op. cit.}, p. 49.
\item \textsuperscript{105} The communist constitution of 1949 had been modified heavily in 1989–1990, but – despite the reference in the new preamble – it was not replaced until as late as January 1, 2012 leaving Hungary to be the last among the post-communist CEE countries to adopt a new basic law.
\item \textsuperscript{106} While the modification of the constitution requires the support of 2/3\textsuperscript{rd} of all MPs, the cardinal laws can be modified by 2/3\textsuperscript{rd} of those present.
\end{itemize}
Constitutional Court, the act on Churches, the changes to the electoral system, the revoking of some municipal competences, the sectoral surtaxes and the reduction of the public utility prices received particularly strong foreign criticism and contributed to the international isolation of the Hungarian government.\textsuperscript{107}

The policies of the government also divided the Hungarian public and – together with the consequences of the economic crisis – undermined the popularity of the government. Economic hardships were indicated by the high deficit of the general government balance and the EU’s Excessive Deficit Procedure against Hungary; serious indebtedness, FX loan crisis and weakening national currency; downgrading the government bonds by the international rating companies into the “junk” category; the rapidly growing share of non-performing loans and freezing credit markets; the lack of private investments, sluggish consumption as well as economic contraction with two waves of recession.

Table 2.3

<table>
<thead>
<tr>
<th>Party</th>
<th>Share of votes cast for the territorial party lists</th>
<th>No. of seats won in SMDs</th>
<th>No. of seats obtained from the national party list</th>
<th>No. (and proportion) of parliamentary seats won by the party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fidesz-KDNP*</td>
<td>52.7%</td>
<td>173</td>
<td>3</td>
<td>263 (68.1%)</td>
</tr>
<tr>
<td>MSZP</td>
<td>19.3%</td>
<td>2</td>
<td>29</td>
<td>59 (15.3%)</td>
</tr>
<tr>
<td>Jobbik</td>
<td>16.7%</td>
<td>0</td>
<td>21</td>
<td>47 (12.2%)</td>
</tr>
<tr>
<td>LMP</td>
<td>7.5%</td>
<td>0</td>
<td>11</td>
<td>16 (4.1%)</td>
</tr>
<tr>
<td>MDF</td>
<td>2.7%</td>
<td>0</td>
<td>0</td>
<td>0 (0.0%)</td>
</tr>
<tr>
<td>Other parties, independents</td>
<td>1.2%</td>
<td>1*</td>
<td>0</td>
<td>1 (0.3%)</td>
</tr>
</tbody>
</table>

\* Fidesz set up a joint electoral list and had joint candidates with the small Christian Democratic People’s Party (KDNP).

\*\* The seat was obtained by an independent candidate.


Despite all those conflicts and difficulties, by 2014, the next parliamentary elections, the governing Fidesz was able to regain its earlier popularity. The party certainly benefited from the heterogeneity and the fragmentation of the left. However, according to polling agencies, it was the considerable reduction of the public utility prices – introduced in three different phases ahead of the elections – which proved to be vital in driving many of the previously disappo-

\textsuperscript{107} Non-legislative issues, like Hungary’s relations with Russia or PM Orbán’s speech on – among other things – illiberal democracy, also led to harsh criticism.
ated Fidesz voters back to the party’s camp. This was enough for the incumbent governing forces to repeat their electoral success of 2010, and they win a constitutional majority again (Table 2.4). The elections were held under a new electoral system, which had been adopted in 2011 with the support of the government MPs. Given the central position and the single largest support for Fidesz, the party could have won the elections under the previous electoral system as well. Nevertheless, some elements of the new electoral law definitely favored Fidesz and added to its victory.

Table 2.4

The Results of the 2014 Parliamentary Elections

<table>
<thead>
<tr>
<th>Party</th>
<th>Share of votes cast for the national party list</th>
<th>No. of seats obtained from the national party list</th>
<th>No. of seats won in SMDs</th>
<th>No. (and proportion) of parliamentary seats won by the party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fidesz-KDNP*</td>
<td>44.9%</td>
<td>37</td>
<td>96</td>
<td>133 (66.8%)</td>
</tr>
<tr>
<td>MSZP-Együt-DK-PM-MLP**</td>
<td>25.7%</td>
<td>28</td>
<td>10</td>
<td>38 (19.1%)</td>
</tr>
<tr>
<td>Jobbik</td>
<td>20.2%</td>
<td>23</td>
<td>0</td>
<td>23 (11.6%)</td>
</tr>
<tr>
<td>LMP</td>
<td>5.3%</td>
<td>5</td>
<td>0</td>
<td>5 (2.5%)</td>
</tr>
<tr>
<td>Other parties, minorities</td>
<td>3.9%</td>
<td>0</td>
<td>0</td>
<td>0 (0%)</td>
</tr>
</tbody>
</table>

* Fidesz again set up a joint electoral list and had jointly supported candidates with the Christian Democrats.
** The Socialists (MSZP) presented a joint electoral list together with “Together” (Együt, the party of the outgoing prime minister of 2009–2010), Democratic Coalition (DK, a splinter party of the MSZP), Dialogue for Hungary (PM, a splinter of the LMP) and the Hungarian Liberal Party (MLP).


109 It did not last long though as it was lost in a by-election 10 months later (https://veol.hu/hirek/veszpremi-idokozi-valasztas-1680827 [accessed: 10.03.2017]).
111 The easier nomination requirements (i.e. the more contesters), the relative majority (plurality) in the SMDs, the higher proportion of SMD seats, the more limited compensation after the losing candidates and the winner’s bonus (also called compensation) generally help the most supported party, while redistricting and the suffrage of Hungarian citizens living in the neighboring countries favored Fidesz rather directly. The single round put pressure on the opposition parties to agree on cooperation before the elections (and not between the two rounds) also played into Fidesz’s hands because the opposition was heterogeneous and their joint list included the least popular politician, a former Socialist PM and the current head of Democratic Coalition (DK) party.
The 2014 elections confirmed that the key features of the new party system could be best captured by the dominant position of Fidesz (supported by 45–50% of the active electorate), the apparently better electoral embeddedness of the political right (as Jobbik, Fidesz’s opposition on the right, was able to catch up with the Socialists, the largest party on the left), and the fragmentation and the permanent crisis of the left (characterized by an increasing number of splinter groups and new parties, while losing nearly 2/3rd of its former voters). And whereas in other European party systems of free elections the dominant parties often monopolize their political side, in the post-2009 Hungarian structure Fidesz occupies a “central” position in the sense that it faces opposition from both the left and the right.

After the parliamentary election of 2014 the popularity of the governing Fidesz started to decrease. However, in contrast with earlier parliamentary terms, this time the popularity losses of the governing side were not accompanied by the increase of the support for the opposition parties. Moreover, a year later, Fidesz was able to stop the trend of decreasing popularity and the stabilization of public support for the party was – to a great extent – the result of its firm stance on immigration and its response to the migration crisis.

2.4.2. Party Positions on Immigration

Until mid-2015 the issue of mass migration was not high on the political agenda. Although the first waves of migration reached Hungary half a year earlier, that earlier flow mostly consisted of economic migrants from Kosovo. Despite some sporadic warning voices, neither the government, nor the main opposition parties seemed to worry about the rising number of immigrants or the growing share of Asian and African migrants. The first marked exception was the coverage of an interview by the prime minister, in which he criticized economic migration and expressed Hungary’s preference for halting the influx of culturally strikingly different immigrants to Europe. While this interview
was not followed by actual governmental steps, one month later, in February 2015, parliament held a special session debating immigration and in May and June the government run an awareness campaign in forms of a national consultation survey and giant billboard posters. Both the survey and the giant posters suggested that the immigrants pose a threat to the jobs, culture and security of the Hungarian citizens. The opposition criticized the government for conducting a xenophobic campaign, spending public money on such advertisements and generating ungrounded fear in the Hungarian citizens.

In the summer of 2015, when the government made the first decisions on tackling the rapidly increasing number of irregular migrants and minimizing illegal border-crossings, the political discourse shifted more to the appropriateness of the governmental responses to the crisis, the need for national policies, the treatment of migrants, the acceptability of EU decisions and the government’s willingness to take part in the formulation of joint EU policies. The political parties on the right consistently used the terms “migrants” and “immigrants”. They emphasized the security risks that mass migration presented and also stressed the right of the national governments to turn back economic migrants. In their opinion mass migration was a severe threat to European cultures and civilization. They were rather negative on the EU responses to the crisis and advocated the adoption of effective measures at national level. The parties on the left, on the other hand, persistently called the arriving migrants “refugees” or “asylum-seekers”. They tended to underline that governmental responses should be given in line with Hungary’s legal and humanitarian obligations, but they also emphasized the need for joint European migration policy.

2.4.2.1. Fidesz

From the beginning of the migration crisis Fidesz persistently opposed mass immigration. The MPs of the party were critical of the influx of “culturally different” people, whose integration proved to be a failure in most Western societies. Their mass immigration was seen as a threat to both European security and civilization. In their view demographic problems and the shortage of la-

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117 The government’s national survey on migration ended up with 1.1 million questionnaires filled in and returned. For each question 90–95% of the answers were in line with the position of the government.
118 We reconstructed the party positions on migration from the parliamentary debates of the respective laws. The records were taken from the website of the Assembly (http://www.parlament.hu/orszaggylesi-naplo and http://www.parlament.hu/ulesnap-felszolalasai [accessed: 5.01.2017]).
119 The government is formally backed by a coalition of two parties. Here we write about Fidesz, the senior governing party, since its junior partner, the Christian Democratic People’s Party (KDNP) has no measurable public support on its own. It was also evident from the parliamentary records that in the area of migration the MPs of KDNP did not express any considerably different views from that of Fidesz.
bor should not and cannot be solved by mass immigration as – in contrast with earlier waves – the current influx was dominated by under- and uneducated people. The Fidesz deputies insisted on the need to differentiate between refugees, who are forced to flee their country by humanitarian necessity, and economic migrants. Fidesz blamed the aggressive export of democracy, the abuse of asylum, the failure of EU policies and the irresponsible promises taken by some national (most notably German) and European leaders for the massive migration crisis of 2015–2016.

The party repeatedly warned about the serious public health and security risks that irregular mass migration presented. The terrorist attacks in Paris and Brussels were interpreted by Fidesz representatives as sheer evidence of connections among mass immigration, illegal border crossing and terrorism. While they demanded a proper response to the crisis from the European Union, they also expressed their opposition to the transfer of further competences to Brussels. Fidesz deputies emphasized that migration policy was in the competences of member states. The standing European and international regulations on asylum were seen inadequate to tackle the migration crisis. The Geneva Convention was the product of the cold war and did not reckon with large-scale migration. Nor did the Dublin Regulation, which was properly fit for normal times, but put extreme burdens on the border countries from the moment when the number of immigrants started rocketing. Despite the acknowledgement of the serious challenges irregular migration presented for the Schengen border countries, the Fidesz MPs regularly blamed Greece for failing to meet its European legal obligations and – by doing so – catalyzing the systemic abuse of asylum regulations by immigrants. Some deputies even suggested that the country deliberately stopped to comply with the Schengen rules to avoid the return of trespassing migrants. Indeed, the European Court of Human Rights declared that – by not fulfilling its international duties and allocating not enough resources for asylum assessment procedures – Greece should not be regarded as a safe country, consequently no asylum-seeker shall be transported to Greece for Dublin take back. According to the MPs of the governing party, migrants in great numbers abuse this situation and they are assisted by human smugglers in their attempts to get to the territory of the European Union.

The deputies of Fidesz stressed that – under the Geneva Convention – asylum seekers would be obliged to cooperate with the authorities. Subsequently, they should have submitted their claim for protection upon their arrival at an official border crossing point, accepted their place in a reception center and waited there till the decision on their case would have been made. As opposed
to that, most of the immigrants did not arrive to the crossing points, but rather tried to sneak in at the green border; they had no legal documents; they submitted their asylum claim only when caught by the authorities; and they did not wait for the assessment, but left the country within days and headed to the West – although requesting international protection do not entitle the claimants to cross the internal borders of the European Union.

The representatives of Fidesz reminded that Hungary had altogether spent HUF 1.1 bn in 2012, 1.8 bn in 2013 and 2.6 bn in 2014 on immigrants. In 2014 – when out of 42,700 asylum claims only 280 requests were approved and the average stay of an immigrant in Hungary before leaving for the Western member states was not longer than 3 days – the direct costs of immigration benefits reached HUF 1.5 bn since each illegal immigrant was entitled for a daily allowance of HUF 4 300. While expressing their sympathy and solidarity, the Fidesz MPs stated that such expenditures could not be increased beyond a certain level and illegal migrants should not undermine the financial security of the country. In light of such concerns it is not surprising that the governing deputies later supported the curtailing of refugee benefits. They argued that the immigrants arriving to Hungary and those under international protection should not receive more subsidies than a Hungarian citizen could get. They agreed to the termination of the integration contracts and to the elimination of subsidies unavailable to Hungarian citizens (per diem, accommodation and schooling subsidies). At the same time they also voted for the reduction of the time – from 2 to 1 month – a refugee might spend in a reception center, while – due to the early departure of most claimants to the West – they did not undertake any proposals to expand the capacities of the reception centers. On the other hand, they supported legal changes that aimed at speeding up the investigating procedure of the rightfulness of international protection claims.

The Fidesz MPs emphasized that immigrants should only cross the borders at official entry points. They stressed that it was an obligation of the Hungarian authorities to prevent illegal border crossing and take actions against those who violated the respective regulations. They talked about the conflicting expectations of the European Union, which wanted Hungary to prevent the free flow of migrants to Western member states, while also refrain from the detention of immigrants even though the bulk of them wish to go further to richer countries. The Fidesz deputies referred to a “dual pressure”. On the one hand, the Southern (Schengen) borders were under a strong pressure from masses of immigrants who demanded free entry to Hungary and unrestricted transit to their most favored destination. On the other hand, the temporary reintroduction

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120 I.e. policing, registration and other bureaucratic expenditures excluded.
of (internal) border control by Germany and Austria also presented a serious risk to Hungary with the possibility of the Schengen return of all those immigrants, who had been registered at the Hungarian borders.

The Fidesz MPs claimed that under such pressure the country had no other option but to establish physical and legal border barriers. They argued that the fence was erected to meet a legal obligation since effective border control was stipulated by the Schengen agreement as well. They added that – by guarding the external Schengen borders effectively – Hungary also defended one of the fundamental rights of EU citizens. The lack of control at the internal borders was essential for the free movement of people. Therefore that Fidesz deputies stated that failing to guard the boards properly would entail the re-introduction of internal border control and would thus go against the interests of all member states. They reminded the opponents of physical border barriers that building a fence was not without precedent in the EU since similar solutions had been in place in Spain and Bulgaria, where the erected barriers reduced the number of illegal border-crossings to 1/7th of the original. The MP’s of the governing side also agreed to the deployment of more personnel to the borders, to the imposition of stricter punishments against human smugglers as well as to the criminalization of illegal border crossing, the hindering of the construction of border barriers and their damaging. They stressed even more the need to differentiate the refugees from economic migrants and to seal the borders from the latter.

For legally arriving asylum-seekers the government created transit zones, which was a decision yet again welcomed by the Fidesz MPs. In their view the fences were not meant to hinder legally arriving people to cross the borders, but to divert them towards the transit zones. They argued that the fences were also meant to be erected to demonstrate what was allowed and what was not. Cutting and crossing the fences was possible, but illegal. For the sake of enforcing that legislation, the governing deputies approved to expand both the budget and the personnel of the Border Guard. However, they turned down all proposals aiming at the separation of the Border Guard from the police.

The terrorist attacks carried out in Western Europe during the migration crisis made the security dimension of immigration ever more relevant. With the securitization of the migration issue the physical barriers at the border were portrayed as tools both to protect European families, life and culture, and to avoid the “import of terrorism”. The border barriers were generally assessed by the Fidesz MPs as part of a successful (albeit national-level) solution which had effectively reduced the number of illegal border-crossings. At the same time, the deputies also demanded to increase the capabilities of the security agencies since the true identity and residence of hundreds of thousand immigrants...
staying in the EU remained unknown to the authorities. Referring to the lack of an effective European filtering of potential terrorist from among the immigrants, the representatives of the governing party advocated national responses. As part of the national answers to the challenges they voted for the codification of a special legal order (“state of emergency”) for crisis situations caused by mass immigration. It was pictured as the only solution for situations when peacetime measures would no longer be sufficient, and whereas the limitations of human rights applied under already existing special legal orders would be unreasonably harsh. The MPs presented this solution as the only way to enable the government to respond to direct and immanent terror threats adequately, while also holding it back from the possibility of abusing powers available in special legal orders. They did not fail to mention that Salah Abdeslam, the organizer of the terrorist attacks in Paris, had picked up immigrant panders at the Eastern Railway Station of Budapest. In the light of such an obvious connection between illegal immigration and terror threat, the Fidesz deputies expressed their conviction that in some situations human rights had to give priority to security. Nevertheless, they claimed that the newly introduced measures, including the limits on human rights, had all existed in the West European legal systems and were neither exceptional, nor disproportionate.

The MPs of the ruling side also agreed to allow the government to issue a decree on the list of safe third countries. The Fidesz representatives supported the categorization of Bulgaria, Greece and Serbia as safe countries since each of the respective government had signed up to participate in all important international regimes and treaties protecting and assisting asylum seekers. The governing politicians argued that those who arrived from safe countries should be denied of the right to seek international protection in Hungary as upon their return international they would not be threatened by direct or indirect refoulement. The MPs warned that with such a government decree in effect, illegal border crossing from a safe country – even under provision 33 of the Geneva Convention – would be penalized.

In defense of national sovereignty, the MPs of the ruling Fidesz decided to back a law that aimed at demonstrating the support of parliament for the government to take legal action against the Council Decision on relocation

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121 This happened when the news of closing the borders pushed a large wave of immigrants to enter Hungary, but – on their way to Austria and Germany – they got stuck in Budapest and waited for days at the Eastern Railway Station (which got nicknamed as Middle-Eastern Railway Station, e.g. [http://spartacuska.blogspot.hu/2015/08/a-kozeli-palyaudvar-es-magyar.html](http://spartacuska.blogspot.hu/2015/08/a-kozeli-palyaudvar-es-magyar.html) [accessed: 25.08.2015] or [http://alfahir.hu/kozeli_palyaudvar_letto_keltebol](http://alfahir.hu/kozeli_palyaudvar_letto_keltebol) [accessed: 25.08.2015]). The situation deteriorated further when German Chancellor Merkel announced to welcome all Syrian asylum-seekers without imposing an upper cap on their number ([http://www.express.co.uk/news/world/710247/Angela-Merkel-refuses-cap-migrants-number-demand-coalition-partners](http://www.express.co.uk/news/world/710247/Angela-Merkel-refuses-cap-migrants-number-demand-coalition-partners) [accessed: 13.09.2015]).
refuses-cap-migrants-number-demand-coalition-partners (accessed: 13.09.2015)). Angela Merkel imposed an upper cap on their number (http://www.express.co.uk/news/world/710247/Angela-Merkel-further when German Chancellor Merkel announced to welcome all Syrian asylum-seekers without hir.hu/kozel_keleti_palyaudvar_lett_a_keletibol [accessed: 25.08.2015]). The situation deteriorated in the light of such an obvious connection between illegal immigration and terror threat, the Fidesz deputies expressed their conviction that in some situations human rights had to give priority to security. Nevertheless, they claimed that the newly introduced measures, including the categorization of Bulgaria, Greece and Serbia as safe countries since each of the countries as the starting point for the establishment of a similar mechanism for future allocation of immigrants among the EU member states. The Fidesz MPs strongly rejected the imposition of mandatory quotas on member state governments, they were only willing to support quota regimes based on the voluntary participation of receiving countries. Nevertheless, a quota scheme without a cap was also against their opinion since it would generate flows of migrants leaving for Europe. In their opinion reception camps should be established outside the territory of the European Union, where the migrants shall wait till the end of the assessment of their claim. Then those eligible for asylum should be allowed to enter the EU along the lines and numbers of voluntary quotas, while the fate of economic migrants should be decided by individual member states who shall enjoy full freedom in their decision on openness.

The Council Decision on relocation was also viewed by the governing deputies as the starting point for the establishment of a similar mechanism for future allocation of immigrants among the EU member states. The Fidesz MPs strongly rejected the imposition of mandatory quotas on member state governments, they were only willing to support quota regimes based on the voluntary participation of receiving countries. Nevertheless, a quota scheme without a cap was also against their opinion since it would generate flows of migrants leaving for Europe. In their opinion reception camps should be established outside the territory of the European Union, where the migrants shall wait till the end of the assessment of their claim. Then those eligible for asylum should be allowed to enter the EU along the lines and numbers of voluntary quotas, while the fate of economic migrants should be decided by individual member states who shall enjoy full freedom in their decision on openness.

The Fidesz deputies rejected all criticism of being xenophobic, and reminded their opposition to the refugees from the Balkans – Serbs, Croats and Bosniaks who escaped to and were assisted by Hungary at the time. The MPs also underlined the fundamental differences between the two situations: while at
that time the refugees were known to come for a temporary shelter and they fully cooperated with the local authorities, the migrants of the recent crisis were usually determined to stay in Europe, often refused to cooperate, and violated national and/or European regulations. The very same arguments were used by the Fidesz MPs when they dismissed any comparison between the current refugees and the emigrants of the Hungarian revolution of 1956. They underlined that the Hungarian refugees had not faked their identity, accepted and followed the rules of their host country, and cooperated with the authorities. They also added that while the EU expects half a billion European citizens to respect the standing laws, the very same Union proved to be unable to get hundreds of thousand immigrants registered.

In response to opposition criticism of residence bonds, the MPs of the governing Fidesz repeatedly stressed that such bonds were sold to foreign investors and businessmen who would not live on social subsidies and who should not be viewed as potential terrorists, since more than 90% of the buyers were Chinese and they were all subject to a screening process by the respective security services which could also rely on advice from their European counterparts.

2.4.2.2. Jobbik

The deputies of Jobbik named the USA and the EU as the main causes of the migration crisis as the formerly colonizing practices, the collection of colonial taxes, the recent US-led military actions in Asia and Africa as well as the European mismanagement of the challenges had all contributed to the eruption and the aggravation of the crisis. Due to the extremely high number of migrants, Jobbik talked about the “occupation of Europe”. While acknowledging the moral obligation to assist refugees, the party emphasized that assistance to them should only be temporary and that it should mean neither settlement, nor integration. At the same time, Jobbik also stressed the country’s right to decide on economic migrants independent of EU expectations. The party did not reckon with an effective European migration policy due to the diverging interests of the member states. The representatives of the party recalled Hungary’s historical fight against the former Ottoman empire, and blamed the West – defended by “Hungarian blood” and “taxpayers’ money” – for not giving anything in return but the Trianon treaty, the “betrayal of the 1956 revolution”, “the default interests” on the government debt, and the stigma of “being racist and anti-Semitic”.

Although Jobbik saw the Hungarian demographic trends troublesome, but it rejected migration as a possible solution since it could end up with a situation in which Hungary would be “unable to preserve its identity” and one would
have “to fight for keeping Hungary in the hands of Hungarians”. The party repeatedly warned about the number of migrants arriving to Hungary surpassing the number of children born in the country.

Jobbik persistently demanded the adoption and the implementation of three measures to tackle the migration crisis at national level. Firstly, the party wanted to transform all existing reception centers into closed and guarded facilities to prevent the free movement of “people of unknown origin and identity”. It often referred to the reservations of local inhabitants and their protests against the behavior of refugees and the opening of further capacities. Therefore, the party also called on the government to relocate the operating reception centers to outside the territory of towns and villages. Secondly, Jobbik also insisted on the re-establishment of the Border Guard as an organization independent of the police. The party brought up the example of the other member states with Schengen external borders, where the Border Guard existed as separate organization. Thirdly, Jobbik argued for returning all illegally arriving economic migrants and expressed no willingness to subsidize those, “who arrived to Hungary without an invitation” as Hungary spent HUF 4,300 per day on each migrant, when the daily cost of supporting a Hungarian unemployed was HUF 2,000, and a migrant was fed for HUF 1,300 per day, when daily meals in inpatient care had to be covered from hardly more than HUF 500 per person per day. The party concluded that despite humanitarian considerations, the Hungarian state could not afford to give assistance to migrants, therefore it came to no surprise that Jobbik supported the curtailing of subsidies to refugees. Jobbik also warned about the risk of an epidemic catastrophe because migrants arriving from crisis zones should undergo very serious health screening, but that would be impossible due to the extremely expensive processes. In their view the same stands for security screening, which – in the lack of enough resources – cannot be carried out for each single immigrant.

As to border control, the party reminded that the USA, “the cradle of human rights”, had erected a 310 km long fence at the Mexican border and authorized the guards to use guns when necessary. In line with that Jobbik welcomed both the building of physical border barriers and the expansion of the human capacities. It also agreed to the use of military assistance for the protection of the borders, but proposed the modification of the Fundamental Law to clarify the division of competences between the police and the army. The party opposed that Hungarian soldiers served in Afghanistan, Iraq and elsewhere abroad. Instead, the Jobbik MPs wanted to see them back to detain illegal immigrants at the Hungarian borders bearing in mind not only the difficulty to stop masses of unarmed migrants, but also the risks that the ongoing war in the
neighborhood might present. The deputies also worried about the composition of the arriving migrants as 80% of them were “young male of fighting age”. The MPs wanted to see a policy of zero tolerance based on the enabling of the police and the army to protect the borders “by all means” and resulting in no person allowed to cross the Hungarian borders illegally. In the lack of enough personnel, Jobbik would also accept the idea of a voluntary guard operating under state control at the borders. As the party proposed to expel all those migrants from the country who were danger to public safety, it agreed to a corresponding legislation submitted by the government.

The EU responses to the migration crisis were all rejected by the party. Jobbik opposed the idea of mandatory quotas. Their interpretation of the proposal was a critique addressed to the German government and the institutions: in their view, Berlin and Brussels pursued a mistaken immigration policy, which did not work, and the mandatory quotas were meant to spread the damages among the other EU states. The Jobbik MPs regarded the quota regime as equal to sending a letter of invitation to Asia and Africa with the promise of granting a new home to every immigrant who arrive to the EU. They believed that a quota system could not work because – due to the principle of the free movement of people – it would be impossible to detain the allocated migrants who would wish to leave their designated place for their country of choice. Moreover, the quota would also mean a major security risk: they argued that – although not all immigrants were terrorists, but – the terrorists were all migrants, therefore if a country wanted to protect itself from terrorism, it also had to protect itself from the quotas as well.

While Jobbik agreed to back the government to take legal actions against the mandatory relocation of migrants from Greece and Italy, it also advocated the formulation of a plan B for the situation where the court case would not stand. The party proposed to modify the Fundamental Law and hold a binding referendum on the quotas. Although its respective motion was turned down, a few month later, when the governing parties returned with a corresponding initiative, Jobbik welcomed the proposal.

The party was also very critical of the Schengen return and labelled the Dublin Regulation inadequate for such crisis situations and particularly harmful for entry countries like Hungary. Under the current regulations the destination countries, such as Germany, will be in the position to do cherry picking: they can select the best qualified and most valuable immigrants and send back all those migrants whom they do not need. This leaves Hungary vulnerable against the Schengen return of potentially 170 thousand migrants who arrived to the Western member states in 2015 via Hungary. As the Dublin Regulation may
not be suspended and its modification is either impossible or rather time con-
suming, Jobbik called on the government to either stop the registration of mi-
grants heading to Germany and other more attractive EU member states or seal
the borders and keep all immigrants out of the Hungarian territories. The par-
ty saw no other solution in a situation where Greece and Bulgaria violated EU
laws by allowing refugees and other migrants to pass their territory, and Serbia,
a country on the road to join the EU, provided the migrants with government
assistance to reach the Hungarian border. As there were no sanctions against
those who did not apply the Schengen rules, Italy and Greece refrained from
the registration of immigrants. Jobbik argued for the same: as they expected the
German policy of welcome to end up in the return of masses to the country
of entry, they believed that registration was “a synonym for treason”. In their
words: breaching regulations is bad, but registering the immigrants would be
even worse; it will be a catastrophe when Germany starts to send back migrants
in large numbers. The party insisted that the return of illegal migrants arriving
to Hungary should be institutionalized and properly regulated. Instead of re-
istering them, they should be returned to the country they had come from.
Since the agreement between Hungary and Serbia only allowed the take-back
of a limited number of migrants (maximum 30 people per day), Jobbik wanted
to modify it and increase the cap to secure Hungary from the possible return of
many registered asylum-seekers from Germany and Austria.

Jobbik deputies also wanted to close the other channel of migration to Hun-
gary, hence they demanded the government to stop “the residence bond busi-
ness” immediately. One the one hand, due to contracting out the sale of bonds
to private companies, the scheme was not regarded as financially beneficial for
Hungary. On the other hand, Jobbik expressed its doubts concerning the back-
ground and the credibility of the purchasers of residence bonds, and it conclu-
ded that neither the poor, nor the rich migrants should be allowed to come to
Hungary. Jobbik also criticized the leftist and the liberal parties for supporting
migration; refreshing the memory of a referendum held in December 2004,
Jobbik labelled them as hypocrites for pressing the government for the inte-
gration of immigrants, while in 2004 they had campaigned “against their own
brothers” when calling on the Hungarian electorate to vote against the citizen-
ship of Hungarians living in the neighboring countries.

2.4.2.3. Hungarian Socialist Party (MSZP)

The Socialists were strong supporters of finding EU-level solutions to the
migration crisis and they wanted to see a joint asylum policy. The refugee crisis
was not caused by Hungary, hence the government could not solve it at na-
tional level. The Socialist deputies blamed the government for its pretended re-
spect for and actual violation of EU laws and values. In their opinion the term economic migrant was invented by Fidesz for the purpose of rabble-rousing. They viewed the government not so eager to solve the problems of migration, but rather acting deliberately for the escalation of the European crisis. According to the Socialists, the chaos at the Hungarian borders and at the Eastern Railway Station of Budapest was caused by neither Germany, nor the EU; it was the responsibility of Fidesz and Viktor Orbán personally. They called on the prime minister to give up his militant style and engage into negotiations seeking possible European and international solutions to the crisis. While acknowledging large-scale immigration as a challenge for policy-makers, they regarded the emigration of hundreds of thousands Hungarians to Western countries as an equally serious problem.

The Socialists criticized the government for not responding the danger of mass migration in time. Although aware of the expected wave of migration, for half a year the government did not pass any laws, did not take any actions to prevent or tackle the crisis; it neither guaranteed the fundamental rights of immigrants, nor protected the security of Hungarian citizens. Instead, the government carried out an intensive negative campaign against migrants. The Socialist MPs stressed that as the expensive giant billboards were in Hungarian, the messages obviously did not address the immigrants; they were rather meant to stir racist and xenophobic sentiments in the Hungarian electorate. The Socialists also rejected the national survey on migration and condemned the government for spending HUF 1.3 bn of the taxpayers’ money on “a hatred campaign against the immigrants”.

The MSZP criticized the governing parties for rejecting all proposals coming from the opposition. The Socialists proposed to increase the budget of the Immigration Office considerably to make it better prepared for tackle a rapidly growing number of asylum claims. They also proposed to punish the human smugglers more severely. On the other hand, the Socialists opposed the introduction of a new special legal order as they considered the standing regulations adequate and effective enough. Their deputies reminded the government that the illegal immigrants who arrived to Hungary without valid documents could be detained up until the end of their asylum procedure; moreover, those who leave the open reception centers without permission could be taken into custody. Therefore, the MSZP saw no need for an additional special legal order, but rather invited the police to do its duty. For that they supported the police get more funds for both the purchase of new technical equipment and the hiring of more personnel.
The Socialist party did not support the deployment of physical border barriers. It criticized the government for creating “a new iron curtain”. According to the Socialists, such national solutions could only result in further fences within Europe and a fence at the Austrian-Hungarian border would be particularly devastating given the daily border crossing by tens of thousands of Hungarians who work in Austria. The MSZP emphasized the benefits of the principle of the free movement of people within the European Union and insisted on the implementation of policies that would not undermine this achievement of the integration. The Socialists saw the decision on the border barrier not only as a sign of the government’s preference for national responses, but also as an evidence for its incompetence. They reminded that in the summer of 2015 the government announced its decision to erect a fence and close the border by fall, but the sluggish implementation offered quite a lot of time for masses of migrants to reach the Hungarian border and cross it before the actual deployment of the physical barrier. The MSZP, in principle, agreed to the creation of transit zones and to the idea of conducting assessment procedures at the border, but it did not support the government initiative as it saw no guarantees for fair procedures and humanitarian treatment.

The Socialists also opposed the introduction of a new special legal order. In their view a special legal order for crisis situations caused by mass immigration would not solve the migration crisis, but rather allow the government to use the military against civilian refugees or the Hungarian population and to curtail human rights.

The Socialist Party also expressed its doubts concerning the proposal that aimed at enabling the government to issue a list of safe third countries. The MSZP deputies believed that such a general list would not necessarily make the return of asylum seekers possible. The Socialist MPs pointed out that if a refugee could prove that he had come from a war zone or that he had not received the required protection in his way to Hungary, then the authorities would not have the right to send him back.

The MSZP had no reservation to the application of a quota in EU migration policy. Just like at the distribution of EU funds, applying a quota for sharing the burdens of mass migration would be generally acceptable for the party. However, it did not agree with the actual quota regime proposed by the Juncker-led European Commission, since the proposal did not include a cap on the number of asylum-seekers to be reallocated along those principles. Nevertheless, the party accepted – in the name of solidarity – the Council’s decision on the one-time relocation of asylum-seekers from Italy and Greece. The representative of the party expressed their preference for a complex solution for-
mulated at EU level, which should also include the revision of the Dublin Reg-
ulation for it could not be implemented if countries were allowed to ignore
without facing any sanctions. The Socialist deputies supported the one-time
relocation, but did not find that mechanism suitable for long-term solutions.
They argued that it was better to accept the already adopted Council decision
on relocation and carry out the 1,294 asylum procedures than to take back
more than 170 thousand migrants who had been first registered by Hungary.

For the very same reasons the Socialists were not willing to back the go-
vment’s intention to take legal actions against the already agreed compul-
sory relocation decision. They also criticized the government for challenging
a decision on the relocation of fewer than 1,300 people to Hungary, while tre-
at ing the 2,700 (of whom 2,500 were Chinese) purchasers of residence bonds
from the previous three years and their 4,700 (4,000 Chinese) family members
much more generously by offering them a bureaucratic fast track of shorter de-
adlines and less administration. The Socialist MPs were critical of the privileged
status of those immigrants who had enough money to pay for their admission.
They blamed the government for operating “the cheapest way to come to Eu-
rope” since there was “no need to bring investments, hire Hungarian employ-
ees, produce added value, nor to stay in Hungary” – it was enough to lend mo-
ney to the Hungarian government for a few years which would then be paid
back with interest on it. The Socialists claimed that it only benefited the rich
foreigners and the private enterprises that were licensed to sell the government-
issued residence bonds. The real refugees, on the other hand, were not suppor-
ted properly; according to the Socialists, those who were in need and heavily
dependent on assistance, could not rely on the Hungarian government, which
curtailed their subsidies and eliminated the institutions of social inclusion ori-
ginally available for those under international protection.

The Socialist Party wanted to see parliament compel the government to seek
EU-level solutions to the migration crisis. The Socialists criticized the prime mi-
nister and his cabinet for “doing everything to destroy the European Union” and
saying no to everything at European level. In the vision of the Socialists, the EU
will not fall apart, on the contrary, it will be stronger, and the government will
only get Hungary become excluded from the cooperation of the core countries.

2.4.2.4. Other Parliamentary Parties

In the area of migration policy, the Democratic Coalition (DK), a splinter
of the Hungarian Socialist Party, opposed every move of the government. It did
not accept to put any blame on the Western powers or the European Union for
the eruption of the migration crisis. Instead of giving national responses, the
DK only supported European policies for crisis management and called on the
government to fulfil its international obligations. The party advised the MPs
of the governing side to act like true Christians and follow the words of Pope
Francis and accept the refugees. The DK found no legitimate reason for the ad-
option of a new special legal order. The deputies of the party did not agree with
the physical border barriers and they also pointed out that the army was not
trained for the task the government intended to use it at the borders.

The Politics Can Be Different (LMP), a party with a characteristic green
and human rights advocacy profile, had initially taken a pro-European, huma-
nitarian policy line on migration. The representatives of the party emphasized
Hungary’s peripheral location in the Schengen area and regarded the adoption
of a joint European policy platform on migration as Hungary’s vital interest.
They blamed the Hungarian foreign policy makers for the rushed recognition
of Kosovo, the inviable country of the first wave of migrants reaching Hunga-
ry, and for not reckoning with the foreseeable consequences of the state collapse
in Syria and Libya. The LMP also criticized the government for not respond-
ing the migration crisis in time: the initially given responses were rhetorical
and propaganda-type; the giant poster campaign and the national consultation
survey were wasting of time. While regarding the Commission’s quota propo-
sal inadequate and insane, the party condemned the Hungarian governmental
reactions for not seeking a joint European response and for adding nothing to
the solution of the crisis. The green deputies did not agree with the govern-
ment to reject the one-time relocation since it could be interpreted as if Hun-
gary would not be willing to support and participate in joint policies. In the
lack of jointly formulated European policies Hungary, a transit country, would be in serious trouble if Germany wanted to send back those masses of migrants
who had been registered at the Hungarian borders. The LMP representatives
found the recognition rate of international protection claims in Hungary very
low compared to the EU average. They supported the faster proceeding of asy-
lum claims, but insisted that the simplification of procedures should not result
in inhuman or unfair treatment. They could accept the establishment of transit
depositories well, but only on condition that the facilities for the refugees and their
were in line with Hungary’s international obligations. The party
agreed the more severe punishment of human smugglers, but did not see any
legitimate reason for the introduction of a new special legal order. Public work
for refugees was in principle also acceptable for the party, though it regarded
the actual situation as a considerable risk to immigrants because of the possi-
bility of abusing their vulnerability. The LMP rejected any proposals depriving
the refugees of their rights or subsidies. Their allowances should not be com-
pared to the subsidies of Hungarians, because the refugees were forced to leave their homeland. Moreover, seeing the government to argue against economic migrants, the greens called the government hypocritical for the facilitation of the settlement of residence bond buyers. Due to the involvement of offshore companies, the LMP calculated the total losses accounting for HUF 100 bn. In that light, the party was very critical of the steady cuts in the expenditures on integration policies and the decimation of funds allocated for international aid.

The green party expected the great powers to take responsibility for the consequences of the wars they had started, but - in its view – both the EU and the USA needed to change the way they approached the crisis and the chaos at the borders. According to the LMP, the EU should strengthen its foreign policy institutions and contribute to the stabilization and consolidation of the crisis regions. More EU funds should be allocated to Europol, Frontex and Eurosur, while the Dublin regulation should be reassessed, the joint European foreign and security policy reconsidered. Immigration policy should be formulated at European level in cooperation with associated members like Serbia, Macedonia and Turkey, which are also needed for the successful implementation of joint policies. The LMP deputies wanted to see peacemaking and prevention measures in the focus of European migration policy since the Euro-Atlantic powers were only successful in the elimination of dictatorships in the Middle-East and in North Africa, and they failed to lay down the foundation of new and stable state organizations. The USA should provide more resources for the acceptance of refugees, but priority should be given to the addressing of the reasons of migration. The latter also demands the involvement of NATO as neither the internal power relations of the failed states, nor global economic interests facilitated peacemaking. Global economic imbalances and Western corporations’ interest in hiring cheap labor from African and Asian countries go against the successful management of migration. According to the LMP, first the political power should be restored in the failed states, then more international aid should be given to those countries. The party also warned that climate change would generate new waves of migration; the increasingly hostile weather conditions would force nearly 200 million people to leave their homeland in the not so distant future.

Interestingly, the LMP was the only party to make a U-turn in its approach to migration. Not long after the Paris attacks the green party revised its earlier position: it admitted that this modern wave of migration was different from the earlier ones, therefore it required new policies since the classical response

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\(^{122}\) [http://mandiner.hu/cikk/20160222_felreertettuk_a_helyzetet_schiffer_andras_lmp_mandiner_interju [accessed: 22.02.2016]].
– with the protection of human rights in its focus – was not applicable for such large-scale immigration. The Geneva Convention proved to be inappropriate for large crowds of immigrants, who were not all refugees, but also included a considerable share of economic migrants (as pursuers of better life) and an unknown number of fanatic members of terrorist organizations. In order to differentiate among them, the LMP wanted to see a new European mechanism that would filter effectively those entitled to international protection.

The Dialogue for Hungary (PM), a splinter from the LMP, expressed its support for the refugees and called on the government to meet the respective international obligations. In their MP’s view it was a mistake to label the immigrants as economic migrants as 90% of the asylum-seekers arrived from war zones. The party did not support the deployment of physical border barriers: it was skeptical about its usefulness and wanted to avoid spending HUF millions on the barriers. The representatives of the PM also opposed the idea of offering the refugees the possibility of public work as they were convinced that such a proposal would be followed by making this option mandatory. They demanded the opening of new reception centers (to be created by the conversion of already existing barracks) and the hiring of more officers for the processing of asylum claims. Although the party agreed to the need of modifying the Dublin Regulation, it also warned the government not to blame the EU as the integration was not only about benefits but also about jointly shared burdens. According to the PM, the management of the migration crisis requires the formulation of European level policies in which Hungary should participate actively.

The Hungarian Liberal Party (MLP) adopted a consistent, classic liberal position on migration. The MLP found the root of the crisis in radical Islamist fundamentalism and the ISIS. The party played down the responsibility of both the EU and the USA, nevertheless it insisted that the tackling of the refugees crisis was a joint responsibility of the international community and that Hungary should seek and support international solutions instead of introducing policies unilaterally. The deputies of the MLP found the government unprepared for accepting a large number of asylum seekers and advocated to increase the capacities of the reception centers. In their view, since Hungary is a transit country, the government should only need to provide temporary care and shelters as well as increase the administrative capacities for asylum procedures. Moreover, the government should also better inform and communicate with the refugees; that responsibility and job should not be left to volunteering NGOs. The liberals confronted the government with its own Migration Strategy of 2013, which had advocated controlled economic migration to offset the decreasing population and the shortages of labor in certain sectors as well as
to contribute to both economic growth and the sustainability of the pension system, and criticized the governing Fidesz for talking and doing the complete opposite. They condemned the government for the anti-immigrant campaign which threatened the Hungarians by losing their jobs for the migrants. According to the MLP that was an unrealistic vision as the number of accepted refugees was only a few hundreds. The party acknowledged the failure of EU migration policy, but warned the government about the deterioration of Hungary’s image by ignoring fundamental European values and not meeting international obligations. The liberals were not willing to give their consent to the allocation of further power to the government, since it had already abused its position and violated the principle of rule of law.

The MLP supported the introduction of a European quote system and reminded the government that of the HUF 4.1 bn spent on immigrants in 2015 3.5 bn was covered from the EU budget. The representatives of the party demanded the lifting of rigid regulations (e.g. on family reunion) and wanted to see them more in line with “general humanitarian values”. The party rejected the building of physical border barriers and paraphrased the Pope by calling those who built fences to ask God for forgiveness.\(^{123}\) The MLP was also critical of the government’s decision on the list of the safe third countries. The liberal MPs emphasized that in the lack of institutionalized protection the refugees were in danger in Serbia. They quoted both the UNHCR and the Helsinki Committee on their negative conclusion on Serbia and claimed that the country would not become safe by merely a declaration of the Hungarian government. The liberals worried about the security risks the residence bond scheme presented; given the low effectiveness of the Hungarian security services, they expressed their doubts concerning the reliability of the screening of every single foreign citizen who had purchased such residence bonds. They demanded that the Hungarian government should support and contribute to the establishment of a European security union. However, they also warned about the Hungarian foreign policy being too friendly towards Russia as it could hinder the smooth cooperation with Western security agencies.

**2.4.3. The Quota Referendum**

In 2015 Jobbik initiated a referendum on the rejection of the resettling and the return of foreign citizens to Hungary. However, the governing Fidesz regarded the proposed question as in conflict with standing international treaties,\(^{124}\) and did not support the initiative. Jobbik wanted to push for the modification of the constitution, but it failed to gain parliamentary backing for its intention. Moreover, their plan was soon overshadowed by the prime minister’s announcement of the Hungarian government’s decision on the list of the safe third countries. The representatives of the party demanded the lifting of rigid regulations (e.g. on family reunion) and wanted to see them more in line with “general humanitarian values”. The party rejected the building of physical border barriers and paraphrased the Pope by calling those who built fences to ask God for forgiveness.\(^{123}\) The MLP was also critical of the government’s decision on the list of the safe third countries. The liberal MPs emphasized that in the lack of institutionalized protection the refugees were in danger in Serbia. They quoted both the UNHCR and the Helsinki Committee on their negative conclusion on Serbia and claimed that the country would not become safe by merely a declaration of the Hungarian government. The liberals worried about the security risks the residence bond scheme presented; given the low effectiveness of the Hungarian security services, they expressed their doubts concerning the reliability of the screening of every single foreign citizen who had purchased such residence bonds. They demanded that the Hungarian government should support and contribute to the establishment of a European security union. However, they also warned about the Hungarian foreign policy being too friendly towards Russia as it could hinder the smooth cooperation with Western security agencies.

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system, and criticized the governing Fidesz for talking and doing the complete 

cultural risks of accepting illegal migrants.

Jobbik also took a position on the ‘no’ side. It rejected the mandatory qu-

ota, but did not see the need for a referendum any longer. Instead it wanted to modify the Fundamental Law and condition the resettlement of immigrants in Hungary to the consent of parliament. The representatives of the party claimed that it would be easier and faster to modify the constitution than the hold a referendum. Taking this view on the referendum was followed by a rather re-

strained campaign of the party. As a few days before the end of the campaign the party leader, Gábor Vona had called on the prime minister to resign in case of an invalid referendum, circles within and close to the government suggested that Jobbik remained deliberately passive126 to reduce voter participation and thus decrease the probability of reaching a turnout that would fell short of the threshold for validity.

The parties on the left were divided in their responses and campaign strate-

gy. While the Hungarian Liberal Party called on its sympathizers to turn against the Fidesz, be pro-European and vote yes to reject the anti-EU attitude and po-

124 Altough the compliance of the referendum question with international treaties was challenged at the Constitution Court, the judges upheld the corresponding position of the National Election Committee and gave green light to the referendum.

125 The European Commission proposed to impose a solidarity contribution to be paid by each government that was unwilling to receive the migrants allocated by the quota to the corresponding country. The contribution was meant to be set at EUR 250,000 per untaken migrant.

licies of the government, the Democratic Coalition urged its supporters to boycott the referendum and thus reduce the turnout and the chance of valid vote. The Socialists were ready to take actions against a mandatory resettlement scheme, but they did not see a ground for the referendum as they did not expect such a quota mechanism to be put on the agenda of the European Union. The Socialist Party also criticized the referendum for being anti-European and xenophobic. The party did not have an explicit position on voting yes or no; instead it told its sympathizers to “stay at home that we could stay in Europe. The Dialogue for Hungary – along with two small liberal parties – stressed that the subjects of the proposed resettlement scheme were not immigrants, but refugees. They campaigned with the message that those who did not vote, voted for the EU. The Politics Can Be Different party, on the other hand, refused to engage into the referendum campaign and announced that it would not take side in the referendum. The leaders of the party declared their intention not to vote, but they also encouraged the LMP supporters to shape their own position freely.

The referendum was held on October 2, 2016. The proportion of the “no” answers in percentage of the valid votes was 1.64%, thus the share of the valid “yes” votes was 98.36%, while 6.17% of the participants cast an invalid vote. However, since the turnout (44.08%) was not high enough to exceed the 50% validity threshold, the referendum was declared to be invalid. Nevertheless, the governing parties not only underlined the overwhelmingly proportion of the “no” votes, but also pointed out that more people (3.362 million) voted for the government-sponsored position this time than they did in the EU accession referendum (3.056 m). Jobbik, on the other hand, considered the referendum a failure and pressed all those responsible for drawing the consequences. Blaming the prime minister on the first place, the party demanded his resignation. At the same time Jobbik repeated its proposal to modify the constitution. The Socialist Party condemned the government for its “misleading” and “hateful” campaign. The party leadership denied the “political validity” of the referendum, which they only regarded as an extremely expensive public opinion poll. In their view the abstention of the majority was not about apathy, it was a protest against the government: its hunger for power and its referendum which was full of “anger and lies”. Given the invalidity of the referendum,

127 The relatively high proportion of invalid votes can – at least to some extent – be explained by the campaign message of the Hungarian joke party (the “Two-tailed Dog Party”), which called its sympathizers to give the silly question a silly answer and vote invalidly. Having seen the high number of invalid votes, the leader of the party announced that they would run for seats in the 2018 parliamentary election.


129 http://www.valasztas.hu/nepszav03/outroot/hu/10_0.html [accessed: 20.11.2016].
the Socialists announced that they would not support any government moves built around the “no” votes as they were unconstitutional. The Democratic Coalition viewed the low turnout its own success and called the invalidity of the referendum a long-awaited victory of the left and a major blow to the government and the prime minister. The party leader emphasized that in a normal democratic environment the prime minister would step down after such a political failure. The LMP expected the government’s position in EU-level bargaining to weaken after the invalidity of the referendum. To use the referendum as a campaign tool, to overhear the debate and to turn the referendum question into an emotional issue was a major mistake of the government, which was harmful to the whole country. The Dialogue for Hungary and its small liberal partners assessed the low turnout as the outcome of a success boycott strategy and the defeat of the “politics of hatred” forecasting the electoral failure of the “inhuman and heartless government” in the next elections. In their understanding the referendum was also a vote of no-confidence against the government, therefore the prime minister would better resign. They protested against the “most expensive and deceitful propaganda campaign” of post-communist Hungary and expressed their satisfaction with the government unable to turn the country into the land of fear and hatred.

After the referendum, the prime minister announced that – in order to meet the political expectations of those who voted “no” in the referendum – the government would initiate the modification of the Fundamental Law. The corresponding bill intended to add to the preamble that was a fundamental duty of the state to protect our national self-identity. The body text was meant to be modified to underline that the EU might not curtail the discretionary rights of the Hungarian government for making decisions on such fundamental elements of national sovereignty as its territory, population and the structure of government; in other words: these competences should be reserved from EU influence. The government also wanted to codify that the protection of Hungary’s constitutional identity is mandatory for every single state organs. Finally, the proposal included a ban on the compulsory settlement of aliens to Hungary as well as the requirement of a case-to-case approval of the residence permit of all foreign citizen from outside the European Economic Area.

Passing the modification of the constitution would have required the support of 2/3rd of all MPs. As the governing parties were short of the constitutional majority, they sought the support of the other parliamentary groups. The

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129 Http://www.valasztas.hu/nepszav03/outroot/hu/10_0.html [accessed: 20.11.2016].


131 In the election of 2014 Fidesz-KDNP obtained 133 seats, which is the threshold for the constitutional majority. However, after losing a by-election in February 2015 (https://veol.hu/hirek/vesz
parties of the left did not agree with the modification and decided not to provide the governing coalition the missing votes. Jobbik, on the other hand, declared its support for the proposal but only on condition that the government would put an end to the residence bond scheme. Since this demand remained unmet, the modification to the Fundamental Law did not obtain enough votes in parliament (November 8, 2016).

After the invalid referendum the failure to push the changes to the constitution through parliament was interpreted by the opposition as a second major defeat of the government. However, voting alone for the proposal on the modification of the Fundamental Law offered Fidesz the opportunity to portray itself as the only party committed to the protection of Hungary from mass migration, which could generate additional support for Fidesz from those anti-immigration voters, who originally voted for different parties.132

2.4.4. The Dynamics of Party Contest in the Area of Migration

The evolution of party responses to the migration crisis showed various patterns and dynamics. On the government side, one could first witness a wait-and-see period followed by an intensive rhetoric campaign, later by actual actions and a referendum. Fidesz was loyal to the government and its position on migration evolved accordingly from threat perception and simple rejection to the support of stricter and stricter anti-immigration measures and the promise of national solutions to the crisis. What the party originally described as an economic challenge and danger to Hungarians was later discussed as a complex issue that had cultural, epidemic and security dimensions as well, and mass migration was soon presented as a major threat to the entire European civilization. Benefitting from its governing position, Fidesz MPs and cabinet members could dominate the political discourse and formulate policies free from domestic constraints. In line with the values of the bulk of the society, Fidesz adopted a fiercely anti-immigration profile and was not afraid to absorb proposals from other parties if they fitted into its policy line. The governing party took over, but presented and implemented as its own policies some of the proposals that had originally been put forward by Jobbik. Those included the deployment of more human forces to the borders, the use of the military to assist with border control, the detention of asylum-seekers, the expulsion of those dangerous

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132 The “no” in the referendum was actually supported by 1.1 million more people than the Fidesz-KDNP party list in the 2014 parliamentary elections (http://www.valasztas.hu/hu/ogv2014/861/861_0_index.html [accessed 20.11.2016]).
us to public safety, the referendum on mandatory resettlement, and initiating a corresponding modification to the Fundamental Law. The view of “not all migrants are terrorists, but all terrorists are migrants” was also first expressed by Jobbik and then paraphrased by Fidesz. Once the governing party also borrowed from the left: the modification of the penal code to impose more severe penalties on human smugglers had originally been initiated by the Socialists, but at that time it had been rejected by Fidesz; later the governing majority passed a reformulated and expanded bill that – among other provisions – also included the stricter punishment of human smugglers.

In West European countries the anti-immigration position has usually been occupied by right-wing radical parties, which tend to be xenophobic and anti-Muslim in their platform. Although Jobbik also emerged as a radical right-wing party, in lack of any significant immigration from non-European countries to Hungary, its racist views targeted not the immigrants, but the local Roma and the Jewish communities. Jobbik was also atypical in the camp of radical right-wing parties for the openly pro-Arab and pro-Islamist statements of its president. Therefore, turning against migration and rejecting immigrants arriving in great numbers from Arabic countries required a change in the course of the party’s rhetoric. While this reorientation went relatively smoothly, the implementation of some Jobbik proposals by the government was not taken so easily and the party could not respond it consistently: once it took with criticism (e.g. strict border control), to support it later; at another occasion it was just the other way around (e.g. quota referendum and constitutional changes); yet another time it welcomed (e.g. the military involvement in border control), while demanding more (competences for the army). Jobbik was initially more radical with its proposal than the governing Fidesz, but when the government started to make its own actions, Fidesz was able to overtake the radicals, and seized not only the momentum, but also the long-term political control over the agenda of migration.

The parties on the left mostly responded to the migration crisis by the conventional humanitarian arguments, and they all awaited for EU-level responses and solutions to the crisis. However, as the European institutions were too sluggish in the formulation of joint responses and the crisis management by the EU proved to be ineffective, the parties on the left could not increase their popular support during the migration crisis; in fact, their popularity either de-

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creased or did not change. The only party which decided to modify its purely humanitarian platform was the Politics Can Be Different. The LMP adjusted its course in response to the terrorist attacks in Paris, and acknowledged the securitization of the migration issue, while also insisting on the rights of asylum-seekers to humanitarian treatment and fair assessment procedures. However, the change of course made no considerably impact on the level of public support for the party (Figure 2.5).

Of all polling agencies Ipsos (from 2016: Závecz Research Institute) and Nézőpont Institute were the ones that carried out most regularly their surveys during the period of 2014–2016. The party preferences recorded by both pollsters showed similar trends. The popularity of Fidesz, the winner of the 2014 parliamentary election, decreased slowly until the middle/end of the summer of 2015. At the same time, Jobbik, the right wing opposition of the government, was able to capitalize from the realignment of the electorate and stabilized it popularity at a higher level. However, with the number of irregular immigrants peaking, the closing gap between Fidesz and Jobbik started to grow again. Fidesz was able to regain some of its previously lost support, while Jobbik fell back in popularity. Public support for Fidesz reached a local maximum at the time of the quota referendum, but the subsequent decrease was not coupled by a considerable change in the popularity of its main challenger, Jobbik. The parties on the left witnessed smaller changes in their public support, therefore the overall characteristics of the party system remained the same as they were in 2014.
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Figure 2.5

Changes in Party Preferences between 2014–2016 (Nézőpont Institute)


2.5. Conclusions (Sándor Gallai)

The large influx of irregular immigrants to the European Union via the Western Balkan route put a very severe burden on the Hungarian authorities. The country was generally regarded as a transit country for immigrants – typically seeking a better life in Austria, Germany, the Nordic or the Benelux countries. Very few arrived at the official border crossing points; the bulk of the migrants chose the green border instead. When caught at border crossing, the irregular migrants submitted their request for international protection, but usually did not wait for a decision to be made on their claim, but left for Western Europe instead. Partly in fear of a potentially high number of Schengen returns and also in recognition of the security risks presented by irregular migration, the government diverted the flow of migration and restricted the number of those who could enter the territory of Hungary. The primary means for that was the installation of physical border barriers, the criminalization of both illegal border crossing and the damaging of the barriers, and the establishment of transit zones in which a daily cap on the number newcomers was introduced. The capacities in the reception centers were reduced, while human resources at the borders were expanded. The policy of artificial bottlenecks was accompanied by the curtailing of the entitlements of those under international protection.

The main policies of the government provoked fierce criticism from EU and the Council of Europe institutions, Western governments and international or-
ganizations. Nevertheless, they contributed to a more effective border control and a major drop in the number of arriving immigrants. As those measures also enjoy broad public support in Hungary, they helped the governing Fidesz party increase its popularity. The leftist parties tended to stick into the conventional humanist position and proved to be unable to change their platform and rhetoric after the terrorist attacks in Western Europe. The strongest challenge could have been presented by Jobbik, the party of extreme right. However, benefiting from both the governmental position and the wider media reach out, Fidesz could keep the agenda under control, absorbed some of the policy ideas of Jobbik and presented them as own proposals fitting well into its consistently rigid anti-immigration and pro-sovereignty policy line.

In addition, the migration crisis brought the Visegrad countries closer to each other and made them capable to formulate joint platforms and re-establish a closer cooperation than in the previous years. Nevertheless, the government will continue to face legal and political disputes both at international and EU level, but it is important to stress that those conflicts seem to make Fidesz supporters more committed and determined, which can serve the party as a valuable political asset ahead of next year’s elections.

Compared to the other Visegrad countries, Hungary was definitely the most affected by mass migration, which resulted in a relatively significant proportion of people gaining personal experience of immigrants. As opposed to general expectations, this did no translate into higher support for immigrants and refugees; on the contrary, the overwhelming majority of those with personal experience had rather negative views on the migrants. Therefore, the government-driven anti-migration campaigns only reinforced already existing reservations and hostility towards immigrants of markedly distinct cultural background. While both the government and the general public assess EU responses to the migration crisis rather negatively, they would like to see a more active role of the EU in finding an effective solution to the crisis. The majority view of Hungarians is in line with the policies of the government: they would prefer to take actions outside the territory of the European Union and invest heavily into international cooperation and aid targeting the crisis zones in hope of giving them peace and stability.
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Anna Kobierecka
Michał Kobierecki
Robert Łoś
Michał Rulski

Chapter 3

Migration as a Political and Public Phenomenon: The Case of Poland
3.1. Introduction

There was hardly any migration policy in Poland at the time of its political transition. The EU accession process seemed to be a natural incentive to develop a legal and institutional framework which, in the case of Poland, was more inspired by the public administration than it was a grass-roots process deriving from actual needs connected with intensive migration patterns. In 1991 Poland began to sign and respect most significant instruments of international law dedicated to the protection of refugees. In 1991, Poland became a member of the Council of Europe, in 1992 joined the International Organization for Migration and in 1993 ratified the Convention for the Protection of Human Rights and Fundamental Freedoms.1 Poland is generally perceived as an emigration country, which is a result of the increasing number of Polish emigrants since the country joined the EU.2 Until the recent migration crisis, immigration to Poland constituted only an insignificant percentage, while emigration after 2004 intensified even further.3 However, for the past couple of years, it has been taking increasing numbers of foreigners, especially from Eastern Europe.4

Poland, in spite of the migration crisis, still has a homogenous population with only 1.6% of the population being foreign-born in 2015.4 What is more, the current migration crisis is not affecting Poland to the same extent, as the most numerous migrant nationalities are culturally similar to Poles. These nationalities are Russians (4,000 in 2014), Ukrainians (2,275 in 2014) and Georgians (720 in 2014).5 What is more, the number of asylum applications in 2014 decreased compared to 2013 from 13,758 to 6,810.6 The percentage of positive first instance asylum decisions is also lower in Poland than the EU average. Of the 2,700 applications in 2014, only 720 (or 26%) were agreed (in comparison to the EU average of 45%).7 Generally speaking, Polish migration policy and especially admission law, in spite of the fact that adjustments have already been made to meet European standards, is less favourable to migrants. However, Ukrainians, who now constitute one of the most numerous groups migrating to Poland, admit that legal barriers do not restrain the influx of migrants, but rather differentiate strategies of entering Poland.8 This seems proof of an insufficient and ineffective migration policy so far, and of the need to implement it further.

Table 3.1

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The inadequacies of Polish migration policy must lead to a variety of actions and force further adjustments to be made in this area.9 Due to its location, economic condition and internal policies, Poland should actually be regarded as a transit rather than an immigration country. The reasons for such a situation derive from Polish economic conditions as well as the general attitude of Poles toward foreigners. At the same time, the Polish government has already acknowledged foreigners as human resources necessary for economic development in a medium- and long-term perspective. The age structure of the Polish population is drastically changing, as is the proportion of active and passive citizens in the labour market. During the Economic Forum in Krynica in September 2016, the Minister of Development, Mateusz Morawiecki, announced the need to supplement the deficiencies of the Polish labour market with workers from Ukraine. This strategy was already voiced in 2015, when the government

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1 Dz.U. z 1993 r., Nr 61, poz. 284.
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1 Dz.U. z 1993 r., Nr 61, poz. 284.
9 Kancelaria Prezydenta RP, 2015, p. 50.
highlighted the need to use an external labour force within the Polish market.\footnote{Ibidem, pp. 52–53.} This attitude demonstrates Poland’s focus on the popular assumption that migration and integration policy should serve socio-economic development. A balance is required here between the implementation of labour market rules and respect for citizens’ rights to mobility and free choice of employment and residence. Another challenge is to ensure that the rights of foreign-born workers are equal to the standards enjoyed by Polish citizens.\footnote{Ibidem, p. 51.}

Many plans and recommendations have been prepared by the PO-PSL coalition government, which were treated as a first step in the preparation for and response to the migration crisis. Thanks to consultations with the Chancellery of the President Bronisław Komorowski, the main pillars of Polish migration policy have been outlined. The first pillar comprises strategies oriented around Polish citizens and aspects of repatriation. The second pillar is based on actions directed at foreigners already on Polish territory. These actions are focused both on labour migrants and those in need of protection. However, the current migration crisis means that once again new circumstances have arisen creating the necessity of reshaping and further adjusting migration and integration policy.

### 3.2. Migration Policy in Poland (Anna Kobierecka, Michał Rulski)

The main goal of this part of the chapter is to comprehensively describe the shape of the legal and institutional framework of Polish migration and integration policy, as well as to identify at least its basic needs and directions. The Polish case is a specific one, as the country has the EU’s largest overland external border. In the face of both the European migration crisis and increased migration flows caused by the Ukrainian crisis, it is necessary to carry out an in-depth analysis of the Polish migration policy system.

#### 3.2.1. Legal Framework

The history of Polish migration policy has been comparatively short, as it was created in response to the political transition of 1989 and remains an ongoing process. The first stage was completed in 1997 with the enactment of the Aliens Act. This new dimension of Polish migration policy with in a democratic system was based on both human rights and the respect of freedom of move-
ment, with special regard to the repatriation of Polish citizens (especially from the former USSR). Regulations concerning migrants were included in the new Constitution, adopted in 1997. According to art. 56, migrants are permitted to exercise their right to asylum in Poland on the legal basis of an adequate act. Additionally, any migrant seeking protection in Poland can be granted refugee status according to international regulations. The next stage encompassed the necessary adjustments required by accession to the European Union and the first attempts to create a common visa and asylum system. During that period, and for the first time in Poland, those legal aspects pertaining to general provisions concerning migrants and those relating to the provision of protection to migrants were separated.

Important changes to the Polish legal and institutional framework have been ongoing since Poland’s accession to the EU. The first breakthrough for Poland took place in 2007, when Poland joined the Schengen Area, which entailed the abolition of border controls within the EU, combined with increased security regulations at the EU’s external borders. A new Aliens Act was also introduced in 2012. The main aim of the proposed adjustments was the harmonization of the Polish legal system with two new European directives on returns procedures for illegal migrants and conditions for receiving migrants from third countries willing to work in highly qualified professions. The next amendment to the Act entered into force in 2014, simplifying procedures for obtaining a residence permit and introducing benefits for migrants working and studying in Poland. This amendment served to limit illegal migration – in the period 2014–2015, there was a 76% increase in the number of applications legalizing residence, when compared with the 2013–2014 period. In 2015, another amendment to the Act was made concerning the provision of protection to foreigners as a result of the migration crisis. The adjustment aimed to enable the relocation of foreigners granted refugee status in another European country.

New challenges deriving from intensified migration from Syria and other Middle Eastern countries resulted in the necessity of making further improvements to Polish migration policy and its legal framework.

In 2003, an Act on granting protection was introduced. In this Act, a definition of mandatory refugees was proposed. The Act states that a refugee in Po-
land is a foreign-born person acknowledged as a refugee by the United Nations High Commissioner for Refugees. It also provides migrants with the following forms of protection:

- granting of refugee status
- provision of additional protection
- permission for a tolerated stay
- provision of temporary protection.

Both the Aliens Act and the Act on granting protection are the two most significant legal documents concerning aspects related to the acceptance of migrants and refugees in Poland. They are additionally supplemented by other legal acts concerning, among other factors, social care provision for migrants in Poland, the conditions of providing citizenship, etc.

One of the most significant aspects of constantly adjusting and developing Polish migration policy is providing for stable economic development and promoting employment among Poles and migrants. Poland has become one of the few European countries to provide an open market for temporary and seasonal workers from Eastern European countries, such as Armenia, Belarus, Georgia, Moldavia, Russia and Ukraine. In recent years, Ukrainians have been one of the most numerous national groups coming to Poland for economic reasons.

Currently, one of the most significant documents on migration policy in Poland is a document entitled “Polish migration policy – current state of play and further actions”, developed by a special Working Group on Migration, which has been working since 2007 and was accepted by the government in 2012. The document appears to tackle the basic areas of migration policy: legal and illegal migration, the protection, integration, naturalization and repatriation of migrants, labour migration as well as legal, institutional and international determinants. The document assumes that Poland will not become an immigration country in the near future; nevertheless, it outlines the need to focus predominantly on aspects deriving from labour market needs and labour migration. It is also worth noting that the implementation plan was adopted by the Polish government on 2 December 2014. According to internal documents, Poland has been progressively improving in such areas as responding to international conditions, emigration and return from emigration and adju-

17 Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej, Dz.U. z 2003 r., poz. 680, p. 5.
18 Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 1 kwietnia 2015 r. w sprawie wydawania zezwoleń na pracę cudzoziemca, Dz.U. z 2015 r., poz., p. 543.
sting the institutional and legal systems. Unfortunately, the guidelines created by national institutions show that Poland has had significant difficulties with monitoring migration processes, as well as with the integration of migrants. This aspect was underlined a report prepared by the Ministry of the Interior in the third quarter of 2015.20

Also in 2013, the President’s Administrative Office developed a working paper concerning the shaping of migration policy doctrine, its terms and its most significant elements. It focuses on a wide variety aspects relating to labour migration.21 It is worth mentioning the fact that decisions made by the Polish authorities go much further than the law introduced by Directive 2014/36/EU of The European Parliament and of the Council of 26 February 2014 on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers, as multi-seasonal permits were introduced.22 This legal solution preserved the legal opportunity for migrant workers to work for six months of the year without having a work permit. In practice, this procedure is used especially in the agricultural sector.23 Controlling the legality of migrant employment should be the joint responsibility of the National Labour Inspectorate and the border guards. The current cooperation of both entities primarily concerns the exchange of experience and a common interpretation of obligatory law.24

When analysing the legal framework of Polish migration policy, it must be noted that basic migration laws have been gradually developing since 1989. The first stage encompassed the creation of at least basic provisions on migration, mostly regarding the repatriation of former Polish citizens. Since Polish society was ethnically homogenous, and owing to its noticeably worse economic situation in comparison with Western European countries, it did not attract many migrants, Poland hardly had any provisions concerning migration policy. The next stage was outlined by the EU accession process. This resulted in the need to adjust Polish laws on migration, asylum seeking and the provision of protection for migrants to EU standards, at least to some extent. The construction of Polish migration policy is an ongoing process, influenced by many determinants; among others, it is influenced by changing EU law and other external determinants such as the current migration crisis.

22 Sprawozdanie, p. 6.
23 Uzasadnienie, 2016.
24 Sprawozdanie, 2016, p. 6.
3.2.2. Institutional Framework

Similar to the gradual construction of a legal framework for migration policy, an institutional framework has been evolving. In 1989, responsibility for migration and integration policy was taken over by already existing administrative institutions; however, the range of their responsibilities changed.25 At the same time, new structures were also created. In 1990, the Border Guard was established. In 1993, the Migration Office was created and then transformed into the Migration and Refugee Department within the Ministry of the Interior, which was the most significant administrative nexus responsible for migration policy. Later on, in 2007, the Migration Policy Department was created within the Ministry.26 Additionally, in 2001, the Office for Repatriation and Foreigners was introduced, the main aim of which was to elaborate the main aims of Polish migration policy.27 The role of the Office is now providing migrants – both labour migrants and refugees – with complex and professional assistance to help legalize their stay and granting them protection.28

Together with administrative institutions such as ministries and departments, other state agencies are also involved in migration policy, albeit indirectly. For example, the larger contribution that could be made by the Internal Security Agency by being able to properly access data from the Wiza-Consul system, should be taken into consideration. If it had access to the system, the Agency would be more effective in facing the challenges of the globalized world. Nonetheless, such a transfer of competences could mean a feud between the Foreign Office and the Agency.29 Also, the Ministry of Foreign Affairs is partially responsible for migration policy in terms of security. According to the new Act of 12 December 2013 on foreigners, the Ministry of Foreign Affairs is responsible for the creation a central visa system,30 which consists of data on people allowed to enter Poland, as well as on individuals who have been intercepted at the borders.31

3.2.2.1. The Ministry of the Interior and Administration

The Ministry of the Interior and Administration is responsible for all aspects connected with Polish citizenship, the legal aspects of obtaining citizenship for migrants and repatriation procedures. Currently, the legal basis for gran-

26 Zarządzenie nr 26 Prezesa Rady Ministrów z dnia 14 marca 2007 r. w sprawie nadania statutu Ministerstwu Spraw Wewnętrznych i Administracji, M. P. Nr 18, poz. 216.
29 Sprawozdanie, p. 1, 3.
30 Art. 449 Ustawy z dnia 12 grudnia 2013 r. o cudzoziemcach.
31 Art. 428, ust 1 Ustawy z dnia 12 grudnia 2013 r. o cudzoziemcach.
tiiing Polish citizenship to migrants is the Act of 2 April 2009 on Polish Cit-izenship.32 According to the Act, a migrant can obtain citizenship after submit-
tting his/her respective application, and only in the case of meeting a number
of conditions. The Ministry is also responsible, among other things, for na-
tional and ethnic minorities. Within the Ministry, the Department of National
and Ethnic Minorities has been working since 2000. Its main focus is the ma-
agement of state policy on national and ethnic minorities, as well as coun-
tracting discrimination.

3.2.2.2. The Ministry of Family, Labour and Social Policy

The Ministry of Family, Labour and Social Policy has been responsible
for implementing and managing integration policy and regulating migrants’
access to the Polish labour market since 2004. Integration policy, which has been
developed and subsequently implemented by the Ministry, is based on four main
pillars: political, legal, institutional and meritocratic.33 The Ministry carries out
its integration policy on the basis of the Social Assistance Act, signed in March
2004. Chapter 5 of the Act is completely dedicated to the social integration
of migrants.34 Additional information concerning conditions for granting
support to migrants are included in the ordinance by the Ministry of Family,
Labour and Social Policy of 2015.35

3.2.3. Other Polish Policies Addressing Migration

The migration crisis that has struck Europe in recent years is causing signi-
ificant confusion for migration policy, both in the EU as a whole and in certain
European states. Current legal and institutional solutions to the migration crisis
have proved inefficient. Therefore, a wide and far-reaching debate on necessary
adjustments has become a significant part of political discussions in Europe.

Assessing Poland’s attitude towards migration crisis management has been
difficult due to the change of government in October 2016. In spite of a de-
claration by the new government formulated by Beata Szydło that it would
sustain the commitments made by the previous coalition, its formal standpoint
changed in the first half of 2016 after further unrest caused by the migration
crisis. Konrad Szymański, Minister for European Affairs within the Ministry
of Foreign Affairs, pointed out that: “In view of the tragic events in Paris,

33 These aspects are analysed in the latter part of the chapter, as they are dedicated to the social
integration of migrants in Poland.
34 Ustawa z dnia 12 marca 2004 r. o pomocy społecznej, Dz.U. z 2015 r., poz. 163.
35 Rozporządzenie Ministra Pracy i Polityki Społecznej z dnia 7 kwietnia 2015 r., Dz.U. z 2015 r., poz. 515.
Poland is left with no other political option but to withhold its approval for the relocation of refugees.\(^{36}\)

Polish activity in the migration crisis and its potential solutions has undertaken mostly in the arena of the Visegrad Group. All four member states present a rather sceptic view of receiving migrants from the Middle East and the introduction of an EU obligatory refugee quota. For example, in November 2016, the V4 states announced their plans to introduce a migration crisis management centre to coordinate aid for refugees outside of the EU. The main proposals suggested by the V4 mostly focused on providing help for refugees outside of the EU while simultaneously tightening the EU’s external borders.\(^{37}\)

### 3.2.4. Social Integration

Poland, according to MIPEX 2015 research, ranked 32 out of 38 examined states across the world for its migrant integration policies which seems proof of its ineffective integration mechanisms. The areas in which Poland was evaluated least favourably were political participation and education\(^{38}\) – both spheres that can provide effective tools for integrating migrants and instilling a feeling of belonging. However, some progress can be observed in the development of new integration policy solutions. Since 2010, Poland has gained an additional five points in the ranking and no longer falls into the category of slightly unfavourable for integration. This improvement has been possible owing to several legal adjustments made in Poland in recent years, the *inter alia* passing of the 2010 Equal Treatment Act, the implementation of the 2012 Polish Citizenship Act and the 2013 introduction of amendments to the Aliens Act.\(^{39}\)

In spite of these improvements, Poland still lacks a comprehensive integration policy, especially when compared to other Western countries. All the shortcomings of its integration policy are becoming more visible at a time of migration crisis when European states, including Poland, are facing new threats to their security and internal stabilization. Without effective mechanisms for the integration of migrants, these threats can become even graver.

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\(^{38}\) “Migrant Integration Policy Index 2015”, CIDOB and Migration Policy Group (MIPEX).

\(^{39}\) Ibidem.
3.2.4.1. The Legal Framework of the Polish Integration System

The protection of migrants in Poland is based primarily on the grounds of international commitments: the Geneva Convention and the New York Protocol, as well as EU guidelines. The Ministry of Family, Labour and Social Policy (MPiPS) is currently responsible for formulating and conducting integration policy in Poland. According to MPiPS guidelines from 2013, the main aims of Polish integration policy were already developed in a 2005 document entitled “Propozycje działań w kierunku stworzenia kompleksowej polityki integracji cudzoziemców w Polsce [Proposals of actions aimed at establishing a comprehensive immigrant integration policy in Poland]”, which was associated with Poland’s accession to the EU and the need to meet European integration standards. The document detailed four main levels of integration policy development, which were:

1) Political – creating an integration policy compatible with other political areas, e.g., migration, asylum, antidiscrimination, social welfare, labour, education policies, etc.;
2) Legal – developing legal solutions and regulations entitling migrants to the same civic rights and obligations as Polish citizens;
3) Institutional – choosing institutions responsible for facilitating the integration of migrants as well as establishing cooperation with NGOs engaged in assisting migrants;
4) Meritocratic – spreading knowledge of the integration process and all spheres related to integration.40

One of the basic documents on the integration of migrations is the Act on Social Assistance from 2004. Part II of Chapter 5 is strictly devoted to integration issues. The Act establishes the rules and mechanisms of integration provided by the Polish government. The district head is responsible for providing support for migrants legally residing in Poland. According to the law, financial aid can only be provided for 12 months in amounts ranging from 446 to 1,175 PLN per person per month, which is intended to cover living costs and language lessons.41 In 2015, the Act was amended and the terms of financial aid were changed. Currently, the peak of the allowance is 1,260 PLN per month during the first six months and 90% of that amount for the following six months.42 Addi-

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41 Dz.U. z 2004 r. Nr 64, poz. 593, Ustawa z dn. 12 marca 2004 r. o pomocy społecznej, p. 64.
tionally, the support provided also encompasses health insurance, social work, professional counselling and the provision of contacts with labour market institutions, local institutions and NGOs. The Act established the mechanism of Individual Integration Programme\textsuperscript{43} – an integration tool that is still in use, albeit undergoing some adjustments (discussed below).

Taking into consideration new demographic trends and showing a willingness to provide social cohesion, another document was prepared by MPiPS in 2013. It analyses Polish integration policy and indicates the form it should take. The main areas of integration policy examined are pre-integration, Individual Integration Programmes, access to accommodation, access to the labour market and access to the education system. Pre-integration is already being conducted in refugee centres is perceived as transitional phase preparing migrants for further integration in the receiving country. Its aim is to inform them about the reality of daily life, the labour market situation, social services and accommodation possibilities. As a result, migrants have broader knowledge of their rights and responsibilities, while the negative effects of waiting for asylum decisions are minimized. Such goals are achieved by:

1) Providing migrant children with access to education (outside of refugee centres);
2) Providing language courses while procedures are conducted;
3) Preparing migrants to enter the labour market by offering vocational training and examining professional competences;
4) Providing access to the labour market no later than six months after the initiation of the asylum procedure;
5) Providing sporting, cultural and other extra-curricular activities;
6) Providing the assistance of mentors, social workers and legal aid in refugee centres.\textsuperscript{44}

Currently in Poland, there are two reception centres, in which the refugee procedure starts, and eight residential centres.

The already mentioned Individual Integration Programmes [Indywidualne Programy Integracji – IPI] play an important role in the integration system and are locally managed. The district head is responsible for signing individual agreements with migrants, encompassing the conditions of the support provided by the district authorities. Their role is to enable more effective integration into Poland by providing assistance with language education and finding accommodation and employment. The general idea is to provide migrants

\textsuperscript{43} Ustawa z dn. 12 marca 2004 r. o pomocy społecznej, p. 18.
\textsuperscript{44} MPiPS, \textit{Polska polityka integracji cudzoziemców – założenia i wytyczne}, Warszawa 2013, p. 5–7.
with social security and financial support. The IPI are important because they are tailor-made and adjusted to each family receiving this assistance. Improvements are planned for the future, including ensuring a wider range of support and simultaneously guaranteeing more incentives for the migrant to engage.\footnote{Ibidem, pp. 9–11.} The agreements signed between migrants and local authorities anticipate the engagement of both sides and impose certain responsibilities upon them. The district centres that help families as representatives of the local authorities are obliged to provide migrants with all the necessary information on the IPI, assisting with accommodation arrangements, conducting social work with the migrant and appointing an employee responsible for arranging the specific form of the IPI (programme supervisor) with the migrant. Migrants who are willing to benefit from the IPI are obliged to register themselves in their respective district or province, register with their local employment agency and actively search for employment, attend language courses, make regular contact with their programme supervisor and follow all instructions deriving from individual arrangements (Ustawa z dn. 12 marca 2004 r. o pomocy społecznej).\footnote{Ustawa z dn. 12 marca 2004 r. o pomocy społecznej, p. 66.}

Refugee Centres in Poland

In 2015, 247 individual programmes were provided for refugees, some of which had already started in 2014. The appointment of IPIs (considering the number of families) was as follows:

Table 3.2
Number of Families (with Refugee Status) Receiving Support through IPIs in 2015

<table>
<thead>
<tr>
<th>Nationality</th>
<th>Number of families with IPIs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Syria</td>
<td>93</td>
</tr>
<tr>
<td>Afghanistan</td>
<td>24</td>
</tr>
<tr>
<td>Iraq</td>
<td>20</td>
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<tr>
<td>Belarus</td>
<td>18</td>
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<tr>
<td>Egypt</td>
<td>16</td>
</tr>
<tr>
<td>Russia</td>
<td>14</td>
</tr>
<tr>
<td>Stateless</td>
<td>12</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>9</td>
</tr>
<tr>
<td>Cuba</td>
<td>6</td>
</tr>
<tr>
<td>Iran</td>
<td>5</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>4</td>
</tr>
<tr>
<td>Kirgizstan</td>
<td>4</td>
</tr>
<tr>
<td>Somalia</td>
<td>4</td>
</tr>
<tr>
<td>Bangladesh</td>
<td>3</td>
</tr>
<tr>
<td>Libya</td>
<td>2</td>
</tr>
<tr>
<td>Pakistan</td>
<td>2</td>
</tr>
<tr>
<td>Ukraine</td>
<td>2</td>
</tr>
<tr>
<td>Algeria</td>
<td>1</td>
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<tr>
<td>China</td>
<td>1</td>
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<tr>
<td>Jordan</td>
<td>1</td>
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<tr>
<td>Lebanon</td>
<td>1</td>
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<tr>
<td>Morocco</td>
<td>1</td>
</tr>
<tr>
<td>Palestine</td>
<td>1</td>
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<tr>
<td>Rwanda</td>
<td>1</td>
</tr>
<tr>
<td>Sri Lanka</td>
<td>1</td>
</tr>
<tr>
<td>Tajikistan</td>
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</tr>
</tbody>
</table>


These programmes were being carried out in almost all of Poland’s provinces:

Table 3.3
Number of IPIs for Refugees Carried Out in Each Province in 2015

<table>
<thead>
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<th>Province</th>
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<tr>
<td>mazowieckie</td>
<td>173</td>
</tr>
<tr>
<td>dolnośląskie</td>
<td>16</td>
</tr>
<tr>
<td>łódzkie</td>
<td>14</td>
</tr>
<tr>
<td>lubelskie</td>
<td>7</td>
</tr>
<tr>
<td>podlaskie</td>
<td>7</td>
</tr>
<tr>
<td>wielkopolskie</td>
<td>7</td>
</tr>
<tr>
<td>małopolskie</td>
<td>5</td>
</tr>
<tr>
<td>śląskie</td>
<td>5</td>
</tr>
<tr>
<td>pomorskie</td>
<td>4</td>
</tr>
<tr>
<td>kujawsko-pomorskie</td>
<td>3</td>
</tr>
<tr>
<td>zachodniopomorskie</td>
<td>3</td>
</tr>
<tr>
<td>opolskie</td>
<td>1</td>
</tr>
<tr>
<td>świętokrzyskie</td>
<td>1</td>
</tr>
<tr>
<td>warmińsko-mazurskie</td>
<td>1</td>
</tr>
</tbody>
</table>

Source: Own research based on MPiPS, ibidem.

Taking into consideration that in 2015 in Poland, 695 asylum applications were positively granted, the number of IPIs carried out in that year seems rather low.

Currently, a new integration programme is being implemented called “oprowadzanie po domu [Showing around the house]”. It is a specific course of 30–40 hours’ duration aimed at reducing tensions between migrants and the society receiving them, as well as improving the accommodation process. They are organized locally by local authorities or NGOs. After completing the course, the attendees receive a certificate, which should then entitle them to certain benefits. During the course, migrants become acquainted with the following information:

1) Information on the Polish legal system;
2) Information on Polish culture and customs;
3) Information on local institutions, local authorities, NGOs and what they offer in terms of integration possibilities;
4) Information on housing, education, and employment opportunities.

In 2015, 247 individual programmes were provided for refugees, some of which had already started in 2014. The appointment of IPIs (considering the number of families) was as follows:

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Source: Own research based on MPiPS, *ibidem*.

Taking into consideration that in 2015 in Poland, 695 asylum applications were positively granted, the number of IPIs carried out in that year seems rather low.47

Currently, a new integration programme is being implemented called “oprowadzanie po domu [Showing around the house]”. It is a specific course of 30–40 hours’ duration aimed at reducing tensions between migrants and the society receiving them, as well as improving the accommodation process. They are organized locally by local authorities or NGOs. After completing the course, the attendees receive a certificate, which should then entitle them to certain benefits. During the course, migrants become acquainted with the following information:

1) Information on the Polish legal system;
2) Information on Polish culture and customs;
3) Information on local institutions, local authorities, NGOs and what they offer in terms of integration possibilities;

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4) Practical information on everyday life (e.g., the procedure of renting an apartment);
5) Information on migrants’ laws and obligations.\textsuperscript{48}

The programme was supposed to be fully implemented in 2015. By 2014 it had already been assessed as partially implemented.

### 3.2.4.2. Shortcomings of Polish Integration Policy

The need to develop Polish integration policy has been noted, especially following its accession to the EU; however the integration mechanisms that have been proposed seem inefficient and still lack consistency. The already cited MIPEX 2015 report and Poland’s rank indicate that the Polish must still be redefined and improved. In 2012, a catalogue of recommendations for both Polish migration and integration policy was introduced. The recommendations recognized the need for developing integration mechanisms for migrants who are not under international protection, especially in terms of their difficulties in finding employment, mostly due to low qualifications. Other aspects and recommendations concerned:

1) Further developing pre-integration programmes;
2) Instituting a more harmonious process of passing from pre-integration to integration;
3) Introducing mentors as additional assistance to migrants;
4) Strengthening the role of NGOs in the integration process.\textsuperscript{49}

These areas mentioned in the Council of Ministers document are consensus with the major flaws of the Polish integration system listed in the MIPEX report. These are labour market mobility, education, health and political participation. The main accusation is concerned with the fact that general support in Poland for non-EU newcomers is the third weakest of all the examined countries. Another problem is poor access to vocational training or education for migrants – only 12% of working age migrants took any courses.\textsuperscript{50}

The major gap in the Polish integration system seems to be the lack of support for migrants trying to access accommodation. A lot still needs to be done in this area. Most refugees decide to remain in cities where reception centres are located after the process is completed. These locations have often limited possibilities for accommodation provision in terms of community resources.

\textsuperscript{48} MPiPS, \textit{Polska polityka integracji}. …, p. 21.
\textsuperscript{49} “Polityka migracyjna Polski – stan obecny i postulowane działanie, Dokument przyjęty przez Radę Ministrów w dniu 31 lipca 2012 r.”, \textit{Ministerstwo Spraw Wewnętrznych}, Warszawa 2012.
\textsuperscript{50} “Migrant Integration Policy Index 2015”...
A good practice has been introduced in Warsaw, where five premises per year are dedicated to persons under international protection.\footnote{51 MP\textit{i}PS, \textit{Polska polityka integracji}…, p. 11.} Taking into consideration the fact that there are still not high numbers of refugees coming Poland, this solution seems to be a good practice worth copying in other communities.

Another significant problem of the integration system is the availability of an educational system for migrants. The key regulation is the Ordinance of the Minister for National Education enacted in 2010. It concerns the rules of accepting migrants without Polish citizenship into kindergartens, schools, additional language education, etc.\footnote{52 Drz. U. z 2010 r., Nr. 57, poz. 361, Rozporządzenie Ministra Edukacji Narodowej z dnia 1 kwietnia 2010, Warszawa 2010.} The proposed facilities concern the possibility of accepting migrant children into schools without any certificates or other documents confirming their obtained education. It also clarifies that the system of Polish language teaching should complement the education system. This additional teaching lasts no longer than 12 months. Additionally, the Ordinance enables the provision of classes in refugees’ native languages, as well as culture education. Since 2010, it has become possible to employ teaching assistants who speak the refugees’ languages. However, this practice is still rather rare – of all of the country’s assistants, only several are employed for this purpose and mostly by NGOs.\footnote{53 MP\textit{i}PS, \textit{Polska polityka integracji}…, p. 15.}

### 3.3. Public Attitude (Robert Łoś)

Migration means the permanent or temporary abandonment of a person, group or even a whole society of their permanent residence and their moving to another place.\footnote{54 Kraszewski, P., “Typologia migracji”, [in:] \textit{Migracja – Europa – Polska}, eds Burszta, W.J., Serwański, J., Poznań 2003, p. 11.} It is often common for this new place of residence to be characterized by the significant cultural diversity of the local society. Culture can be defined in various ways\footnote{55 Burszta, W.J., Januszkiewicz, M., “Słowo wstępne: kłopot zwany kulturoznawstwem”, [in:] \textit{Kulturoznawstwo: dyscyplina bez dyscypliny?}, eds Burszta, W.J., Januszkiewicz, M., Warszawa 2010, p. 8; Zende-

Migrants import at least certain elements of their native culture, which results in intensive social interactions. Such interactions then result the creation
of opinions of migrants, according to which cultural aspects, as well as economic ones, are key in assessing foreigners.\(^5\)

For migrants, adjusting to living in new conditions is not easy, especially in terms of accepting social behavioural models and culture in its broadest sense. Foreigners, when in contact with a new society, can adopt different attitudes leading to assimilation, integration, marginalization or separation.\(^5\) The first two scenarios of behaviour are the most beneficial for both migrants and the receiving country. When the adjustment process progresses too slowly, the migrant risks marginalization and separation from the local community. Migrants are not part of social life as a result, and the mutual reluctance of migrants and the receiving society to interact is deepening.\(^5\) In migrant groups, all of the above-mentioned models of behaviour can be observed in most of countries around the world.\(^5\)

Taking into consideration the broad possibilities of free movement, migrants can freely travel between their home country and the receiving country. In sustaining contact with their home country, they create a specific cultural and economic bridges. It enables them to feel at home in the receiving country without losing their own national identity and distinctiveness.

Not without meaning are the strategies adopted by certain states, determining the type of behaviour adopted by these states and their policies concerning migrants. They are often described as melting pot, multiculturalism, exclusion or segregation.\(^5\) The first two strategies treat migrants as future members of the community, actively participating in the cultural and social life of the receiving society.

Since Poland has a homogenous population – according to Eurostat data from 2015 in Poland, the country has the lowest percentage of non-nationals in its resident population\(^6\) – the state has not been concerned with migration or integration policy to a great extent. However, the recent migration crisis evo-


new discussions concerning on the possibility of migrants coming to Poland. At this time, the rather negative attitudes of Poles towards migrants and foreigners in general became visible.

The reasons for this are manifold – beginning with the period of Communist rule, which imposed restricted border controls on Poland. The possibility of free movement was significantly restricted; therefore, migrants coming to Poland mostly came from other states in the Soviet Bloc. After World War II, Poland did not accept refugees and it was not a signatory of the Geneva Convention of 1951 nor the New York Protocol of 1967. While other Western European societies became ethnically diverse (also due to their colonial past) and more familiar with both multicultural societies and possible methods of dealing with this new phenomenon, Poland and other V4 states remained rather hermetic. Immigration was mostly limited to migrants from other friendly countries also under Soviet influence. This was a significant reason for the visible differences not only within the legal framework for migration policy in Western and Eastern Europe, but also in emotional attitudes towards and perceptions of migrants. Poland, after 1989 had to rapidly change its legal system in terms of migration and asylum. What is more, day by day, Poland has changed from a hermetic and closed state to an open one. Nevertheless, mass migration has never seemed to be a problem for Poland, as it is not perceived as a settlement country or even a longstanding destination.

Concerning the various above-mentioned determinants, Polish society can be defined as less tolerant of migrants, especially those from distant countries, where racial and cultural differences are particularly evident. As the migrant population is not numerous in Poland, racial identity is a significant issue. States with large diasporas, like the USA for example, seem to have a more favourable attitude towards and a wider acceptance of foreigners. What is more, from Africa in particular face difficulties with integrating into Polish society, as their racial distinctiveness is visible. According to Maciej Ząbek they “(...) are generally perceived as foreign even if they have been living in Poland for over thirty years or were born here. Particularly when there are so few Africans

living in Poland today, the ones who do live here are all the more noticeable, and constantly feel as though they are on public display, attracting the notice of passers-by and being pointed at, even in big cities. The Polish intolerance of and negative attitudes towards migrants were not of such importance until the recent migrant crisis. Xenophobic attitudes were bolstered as a result and nationalist groups came into being.

In June 2015 and September 2016, a survey was conducted aiming to examine the attitudes of Poles towards migrants. The respondents were asked questions concerning certain nationalities: Ukrainians, Vietnamese, citizens of Western European countries, North Americans, Canadians, citizens of African countries and Arabs.

In the survey, several questions were asked, concerning the cultural proximity of the examined nationalities, among others.

Figure 3.2
Assessment of the Cultural Proximity of Certain Ethnic Groups from the Polish Perspective in 2015


In 2015 citizens of Western European countries were perceived as being the most culturally similar to Poles (61% of positive responses), with Americans and Canadians in second place (48%) and Ukrainians in third (47%). The ethnic groups considered to be the most culturally distant from Poles were Arabs (12%), Africans (14%) and Vietnamese (also 14%).

67 Ibidem, p. 74.
The study was repeated a year later and the results turned out slightly differently. The general positive perception of Western European countries, the USA and Canadians remained stable; however the percentage of respondents perceiving Arabs as culturally similar decreased. It was especially visible in the group that had direct contact with migrants – only 3% of them thought that their culture was close to Polish culture, compared with 10% in the previous year.

Figure 3.3
Assessment of Cultural Proximity in 2016

Source: own research, based on: ibidem.

Figure 3.4
Positive Assessment of Foreigners in Terms of Trust in 2015

Source: own research, based on: ibidem.
As well as an examination of cultural proximity, questions concerning trust also came up in the survey. The results of these questions seemed to correspond with general perceptions of cultural similarity – both Arabs and Africans seem to be the least trusted ethnic groups in Poland. Comparing the results from 2015 and 2016, it is visible that cultural distance goes hand in hand with a lack of trust – in 2015, 23% of respondents declared their trust in Arabs, while in 2016 only 9% of them did. However, it is interesting to note that the Vietnamese population, which is perceived as culturally distant to Polish culture, actually evokes rather positive connotations. This decline directly results from the migration crisis, and both Europeans and Poles are mostly afraid of the rapidly growing Muslim diasporas in Europe.

Source: own research, based on: *ibidem*.

One of the most significant questions asked by the survey concerned possible threats posed by migrants to state security, as migrants are often accused of terrorism, delinquency, smuggling, drugs dealing, participating in the illegal arms trade, human trafficking and causing social and religious conflict.69 Opinions from the 2015 and 2016 surveys show that these concerns are connected mostly with Arabs; negative perceptions in this regard grew by 15% age points from 2015 to 2016 and reached 73%. Also, when considering the African population we can also observe a growth in anxiety, however not to such a great extent.

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Figure 3.5
Positive Assessment of Foreigners in Terms of Trust in 2016

Source: own research, based on: ibidem.

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Accepting foreigners means the introduction of new cultural elements into the receiving society, which can have both advantages and disadvantages. Immigrants contribute both material and spiritual values to the receiving society. The former value contains, among others, architecture, clothing and cuisine. The latter comprises beliefs, religious rituals, customs, lifestyles and family patterns.70

As long as these values do not collide significantly with the dominant society, the coexistence of different cultures can have a positive and enriching effect. However, when these values are too contradictory, the migrant society is the one that loses more. When talking about advantages and disadvantages, it can be said that the country accepting migrant cultures can profit from such diversity. Nowadays, it can frequently be observed that foreign cultures can endure even far from their place of origin, even if the receiving country does not provide any kind of legal assistance allowing the recognition of ethnical and cultural differences.

The migration crisis has inspired a change of attitudes towards migrants and foreigners in general, which is evident from the change in the percentage of negative opinions, especially concerning migrants from African and Arab countries. Migrants are assessed rather negatively in terms of their influence on Polish culture. This also derives from globalization, with European regionalism voicing the fear that excessive universalism will lead to the dusk of Western culture. The indicator of the negative influence of migrants on Polish culture increased by seven percentage points between 2015 and 2016. An even more radical change can be observed in the positive perception of the influence of migrants on Polish culture – the indicator decreased from 26% in 2015 to only 10% in 2016.

Figure 3.8

Opinions on the Influence of Foreigners on Domestic Culture

![Bar chart showing opinions on the influence of foreigners on domestic culture]

Source: own research, based on: *ibidem.*

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When talking about migrants, we can observe different anxieties surrounding their potential destructive influence on the receiving society. Among them, we can name social pathologies, begging, being in conflict with social values and norms, generating conflicts and social unrest and difficulties in adapting to changing social and civilizational reality.\textsuperscript{73}

Therefore, taking into consideration the above facts, both concerning the influence of history and past experiences of Soviet rule in Poland and the current migration crisis, we can issue the following conclusions:

1) Civilization and cultural differences are not decisive in the positive or negative assessment and perception of foreigners, since the Vietnamese, in spite of being perceived as culturally different to Poles, were assessed rather positively

2) However, the current international situation and general circumstances have had a significant impact on the way foreign-born populations are being seen. This is a valid conclusion when considering the period of Communist rule in Poland, which led to the creation of a closed and hermetic country with almost no foreign-born population. Furthermore, when considering the migration crisis, opinions have also been formed by repetitive terrorist attacks and incidents involving migrants.

3.4. Political Implikacions (\textit{Anna Kobierecka, Michał Kobierecki})

The aim of this chapter is to investigate the issue of the Polish political party system in the light of the European migration crisis. Issues related to the migration crisis and migration policy in the programmes of political parties seemed to have a significant impact on the 2015 Polish parliamentary elections. Together with the intensification of refugee inflows into Europe, more frequent incidents motivated by ethnic differences and the growing frustration of receiving societies, political discourse on migration and its threats gained much attention. The fact that the Polish parliamentary elections took place in October 2015 had a natural impact on the relevance of the migration crisis for the shape of the Polish political party system.

Poland, as an EU member state, faced the threat of the imposition of certain regulations for the resolution of the migration crisis, such as refugee qu-
otas for all EU member states. Poland, together with the other V4 countries, opposed this idea; however, the Polskie Stronnictwo Ludowe [Civic Platform-Polish People’s Party, PSL] government, afraid of isolation and its lack of influence on the decision-making process in tackling the crisis, decided in the end to back the plan.\textsuperscript{74} However, two months later the government was overtaken by the conservative and Eurosceptic Law and Justice Party, which had already loudly voiced its standpoint regarding the migration crisis during the election campaign; this prominently influenced Poland’s response to new potential threats deriving from intensified migration. What is more, no left-wing parties exceeded the threshold needed to be elected to the Polish Sejm, whereas two newly-established political formations succeeded in winning mandates. It is therefore indisputable that the Polish party system has been transformed.

The aim of this chapter is to investigate the reasons why the Polish party system changed so significantly after the 2015 parliamentary elections. Not only did new formations enter the Parliament at the expense of left-wing parties, but also the Platforma Obywatelska [Civic Platform, PO] lost to Law and Justice for the first time in eight years, meaning that the latter was able to form a government independently. This research will make an attempt to verify a hypothesis stating that attitude of Polish political parties to the migration crisis has affected the party system in Poland. It will also attempt to answer a research question concerning the reasons for Civic Platform’s standpoint on the refugee crisis.

In order to conduct this research, it was essential to determine the attitude of the analysed parties (present in the Sejm of the seventh and eighth terms) towards accepting migrants in Poland. These attitudes were not present in the official political programmes of the respective parties, so the statements of key politicians affiliated to the respective parties had to be considered. The only exception refers to the PO and PSL before the 2015 elections, as their standpoint could be assessed based on the decisions of their government, although of course this has been additionally verified by statements from key politicians. The results were then examined in conjunction with the number of seats that the analysed parties occupied in the Sejm before and after the elections – the pre-election figures have been based on the number of members of the respective parliamentary groups, while the post-election figures are based on its results.

3.4.1. Polish Political Parties before the 2015 Elections

At first sight, the Polish party system could be perceived as stable, as two dominant parties can be named – Civic Platform and Law and Justice. However, the Polish electorate seems to be floating and uncertain as, since 1989, one party has ruled twice in a row only once. The current internal and external situation is affecting the electorate and its voting decisions. Since Central-Eastern European societies exhibit a stronger intolerance of and a greater hesitance towards foreigners, it is not surprising that the whole V4 area reacted strongly to the ongoing migration crisis. In a survey conducted in Poland in 2015 by IPSOS for the International Organization for Migration, 22% of respondents claimed that they perceive Arabs as friendly, while 65% claimed that their attitude towards Arabs was negative. What is more, 56% of respondents perceived Arabs as a threat to Polish security.75 These survey outcomes are evidence of the significance and meaning of a political party’s view of migration in the eyes of the potential electorate.

The issue of migration was indirectly discussed on the occasion of the Polish accession to the European Union. While some older member states concentrated on safeguarding their labour markets, the Polish government voiced its concern regarding the possibilities of the unlimited right to purchase land. Therefore, the Polish delegation negotiated adequate restrictions limiting these rights for foreigners. This also highlights Poland’s natural, primal and rather negative attitude towards foreigners, and the fear of their potential growing influence in Poland.

Polish society, until now, could be considered as homogenous – the percentage of immigrants and the native-born offspring of immigrants is less than 5%.76 According to Eurostat, only 1% of the Polish population was born abroad.77 What is more, Poland is classified as country with an immigrant population shaped by border changes or national minorities. This means that, until the recent migration crisis, it has not faced any critical or grave threats from ethnic diversity.78 Nevertheless, during most recent campaign, owing to specific circumstances and the rapidly growing numbers of refugees seeking protection in Europe, the issue of migration became an important part of the struggle for political power between the most significant political parties. The migra-

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76 “Indicators of Immigrant Integration 2015. Settling in”, OECD.
78 “Indicators of Immigrant Integration 2015. Settling in”, OECD.
tion crisis also resulted in visible divisions and the weakening of the European Union as an organization, which additionally exacerbated the discussion of these issues in the Polish parliamentary elections.

The European migrant crisis has been on the agenda since April 2015, when five boats with almost 2,000 migrants on board sank on their way to Europe. More than 1,200 people died. The crisis itself is associated with a rapid rise in the number of immigrants arriving in the European Union, who are a combination of economic migrants and refugees. Their great number is a result of certain ongoing conflicts in countries in North Africa and the Middle East.79 The growing number of migrants in certain EU countries such as Italy and Greece, which lie along migrant routes, forced the European Union to act in order to stabilize the situation.

The relocation of refugees and migrants appeared to be the answer to the issue. The European Council decided in September 2015 to transfer migrants from the most affected states as part of the emergency relocation scheme based on the percentage of member states per quota.80 However, the much-debated compulsory quota system revealed differences between member states.81 The decision to relocate 120,000 refugees was made by voting. Most EU member states supported the solution, including Poland. Only the Czech Republic, Slovakia, Hungary and Romania were against the relocation, while Finland abstained from voting. It was widely discussed that the Polish government had abandoned its V4 allies.82 According to Polish ministers, voting against the decision was senseless because of the vote distribution. According to the Deputy Minister of Internal Affairs, Rafał Trzaskowski, opposing the decision would only have led to Poland’s having less influence on the final outcome.83

The decision of the Polish government to support the European Union’s position on the relocation of migrants in the light of the refugee crisis symbolized a clear division between Polish political parties on this issue, which was reflected by the party system in Poland. The political landscape in Poland since 2005 has been dominated by two major parties, namely Civic Platform and Law and Justice. The PiS government ruled Poland between 2005 and 2007, but as a result of the breakup of a coalition with the populist Liga Polskich Rodzin [League

of Polish Families, LPR] and Samoobrona [Self Defence] and its inability to govern independently, it decided to hold early elections, which were eventually won by PO, which formed a coalition with the agricultural Polish People’s Party. This coalition was the first in post-Communist Poland’s history to continue in power for two consecutive four-year terms. In 2015, however, PiS won by a significant margin and was able to rule the country without a coalition partner. It is a similar story for Polish presidents. Since 2005 only PiS and PO members have been elected: consecutively, Lech Kaczyński (PiS), Bronisław Komorowski (PO) and Andrzej Duda (PiS). Therefore, it appears legitimate to claim that the Polish party system is a competition between PO and PiS, with other parties playing a rather modest role, or at least it has been so far.

PiS and PO have contrasting opinions on a number of relevant issues. In this context, the fact that they were supposed to build a coalition together after the 2005 parliamentary elections appears surprising. Law and Justice is usually regarded as a conservative party. In its programme, there are statements about rejecting political correctness and the erosion of independence of EU member states; supporting the diversity of Europe is thus against unification. Law and Justice believes that Polish decision-makers have led the country to lose the tools to independently realize its national interests. Economically, PiS supports the idea of the state playing an active role. In its programme, it also criticizes the post-Communist development of Poland, both pre-2005 and post-2007 – the latter period is described as “Tusk’s system” in reference to former Prime Minister and PO leader Donald Tusk.

The attitude of Law and Justice to accepting migrants in Poland was not revealed in its political programme. Still, it could be derived from speeches and declarations made by politicians in this party. Generally, the party has been much more reserved on the issue of welcoming refugees. As PiS spokesperson Elżbieta Witek said in July 2015, the government should take care of Poles living in Eastern, post-Soviet countries rather than accept migrants from other countries. The party also expressed the view that Poland should engage in countering the reasons for the migrant crisis, such as the operations of ISIS in the Middle East, rather than reacting to its results.

86 Ibidem, p. 43.
czyński pointed out during a debate in the Polish Parliament that accepting even a small number of migrants could initiate the process of more migrants coming to Poland who do not abide by Polish law and practices. Although this has not been said directly, generally PiS has embodied a sceptical view of accepting migrants.

In the Polish political landscape, Civic Platform appears to have more liberal views of certain issues. PO was a ruling party between 2007 and 2015, alongside PSL. During this period, the Polish government pursued a pro-European policy, which resulted in the appointment of the party’s members and former Polish prime ministers to important European positions: Jerzy Buzek became President of the European Parliament between 2009 and 2012, while Donald Tusk has been President of the European Council since 2014. Under PO leadership, Poland was praised in the West for maintaining economic development despite the financial crisis and for its skilful diplomacy as part of the EU. This allowed the Polish government to achieve important goals in its European policy, namely expanding the Union’s budget and being exempted from climate rules.

This pro-European attitude from PO could also be seen when the Polish government was facing the challenge of the European migration crisis. In contrast to many other EU member states, Poland, under the leadership of PO and PSL, was more reluctant to accept migrants, but retained the position that decisions should be taken voluntarily by member states, even if it was willing to help at the same time. Generally, PO found itself in a difficult situation. On the one hand, it was asked by the Eurocrats to engage more, as Poland had benefited so excessively from the Eurofund, but on the other hand it was aware of the Polish population’s attitudes towards accepting migrants. According to one of the surveys, two-thirds of Poles share a negative attitude towards immigrants. This was a great problem in the 2015 parliamentary elections.

Differences in the attitudes of the major political parties on the issue of relocating migrants was clearly visible during the debate in the Polish Sejm on 16 September 2015. Prime Minister Ewa Kopacz said during her speech that “turning our backs on those who need help in the European family morally and legally is an affront to the nation’s acceptance, which may very probably have a negative effect on our citizens’ mental and physical wellbeing.”

mentally leaving this community”. She also stressed that EU membership obliges Poland to undertake certain activities. The Prime Minister added that the Parliament had to decide between the credibility of Poland and the actual fears of Poles, and that responsibility and common sense must reign. PiS leader Jarosław Kaczyński responded by asking the question of whether the government “has the right to make decisions under external pressure and without the nation’s acceptance, which may very probably have a negative effect on our lives, everyday reality, public life, public space, the actual sphere of freedom and finally, our safety.” 93 Both of these speeches directly expressed the attitudes of both parties attitude towards the issue of accepting migrants and refugees, with PO being for, and PiS being against. The upcoming parliamentary elections made the situation even harder for the ruling party, thus giving Law and Justice extra opportunities to gain new voters.

The government’s decisions on the migration crisis appear to reflect this discrepancy. As was noted earlier, the Polish government supported the idea of relocating immigrants in the European Union, siding with the majority despite generally being against it, although it opposed the mandatory quotas imposed by the European Commission. As Minister of the Interior Teresa Piotrowska said, “we are prepared to accept migrants but not quotas”. 94 Already in August 2015, Prime Minister Kopacz declared that the country would consider accepting more migrants than the 2,000 previously declared within the next two years, but realistically it could not offer a very high level of refugee welfare services. 95 As Kopacz said, “Poland will accept refugees, not immigrants. As many as we can afford: not one more, nor less.” 96 Therefore, even though support for the EU’s decisions on relocating migrants might have been unpopular in Poland, the PO-PSL government was apparently trying to manoeuvre between its responsibilities to other EU member states and Polish public opinion, which was, as has been stated, rather lukewarm on the topic of hosting migrants.

During the seventh term of the Polish Sejm, apart from Civic Platform and Law and Justice, three other political parties were present in Parliament:

Ruch Palikota [the Palikot Movement], later renamed Twój Ruch [Your Movement], the Polish People’s Party (PSL) and Sojusz Lewicy Demokratycznej [the Democratic Left Alliance, SLD]. PSL was a member of the government coalition, so its position may have been at least to some extent associated with the government’s stand. PSL politicians discussed the issue of accepting migrants in a balanced way. For example, the PSL leader and Polish Vice-Prime Minister, Janusz Piechociński, declared that he believed that a nationwide debate was needed concerning the immigrant issue, while MP Piotr Zgorzelski declared that PSL’s position was that Poland could accept those in need, but that they could only stay on Polish terms.

SLD and Twój Ruch (the new name of Ruch Palikota) were rather to the left of the Polish political landscape, and formed an electoral coalition before the 2015 elections. Both parties generally expressed a rather pro-European attitude. Similarly, their representatives did not express that they were against accepting migrants. The leader of Twój Ruch, Janusz Palikot, said in an interview that the Polish government should try to limit the number of immigrants arriving in Poland “because we are a poor country”, although did not directly say that he was against accepting migrants. The coalition’s candidate Barbara Nowacka, who became Prime Minister, declared unambiguously in an interview that refugees should be accepted.

A review of the standpoint on the migration crisis of the parties that were members of the seventh term of the Sejm revealed three general positions. PO and its coalition partner, PSL, appeared to be balancing between pressure from the European Union and Polish society’s sceptical attitude towards accepting migrants. The more conservative PiS, although it never claimed unequivocally that it was against letting refugees to Poland, consequently remained reserved, raising fears and pointing to the government’s subservience to the European Union. Left-wing parties (SLD, the Palikot Movement), which generally have the most liberal world view of all Polish parties, appeared much more open to accepting migrants, raising economic reasons (if any) limiting the number of people to be relocated to Poland.

The 2015 parliamentary elections in Poland led to a vast change of the Polish political landscape. Civic Platform lost its leading position to Law and Justice, which gained a majority allowing it to create a government without the need to find a coalition partner. Left-wing parties that went into the elections as a coalition failed to exceed the 8% threshold and were not elected into Parliament. The distribution of the mandates in the Sejm after the 2015 elections are shown in Figure 3.


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3.4.2. Polish Political Parties after the 2015 Elections

The 2015 parliamentary elections in Poland led to a vast change of the Polish political landscape. Civic Platform lost its leading position to Law and Justice, which gained a majority allowing it to create a government without the need to find a coalition partner. Left-wing parties that went into the elections as a coalition failed to exceed the 8% threshold and were not elected into Parliament, while two new parties were – Nowoczesna [Modern] led by economist Ryszard Petru and a political movement called Kukiz’15, formed by former musician Pawel Kukiz. The distribution of the mandates in the Sejm after the 2015 elections are shown in Figure 3.9.

It is important to determine what the attitude of the new parties in parliament was towards the migration crisis. Nowoczesna’s standpoint was rather positive towards accepting migrants, but is hard to be assessed this explicitly. First of all, it is a new political party formed before the previous elections. Secondly, the assessment of its attitude towards migration crisis is complicated as its stand on the issue is floating. Nowoczesna does not directly refer to migration issues in its programme, only containing the statement that: “the European Union should effectively counteract terrorism, secure its borders and develop common migration and asylum policies.” The only way to understand the opinion of Nowoczesna’s members regarding migration is to analyse their official statements to the media. The leader of Nowoczesna, Ryszard Petru, kept his tone on the migration crisis rather moderate before the parliamentary elections, saying in an interview in September 2015 that refugees “need to be accepted (…) but wisely, which will eliminate the risk of terrorists coming to Poland”. In the same interview he also highlighted that “the doubts of Poles concerning migrants should be understood, but at the same time it should be observed that Poland is obliged to respect international conventions”. More than a year later, in November 2016, his attitude towards migration crisis had changed significantly, as in his appearance on Polsat News, he admitted that too many refugees had been accepted in Europe and that the problem should be solved at its root by sealing borders and accepting only refugees, not all migrants.

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Another new party that managed to enter the Polish Parliament is Kukiz’15. In this case, similarly to Nowoczesna, the issue of the migration crisis was not officially discussed in its programme, therefore it can only be investigated on the basis of official statements made by its members. In the proposed programme, it can be read that: “(…) we refuse to renounce sovereignty and to pass our government’s competences to Europe. Our government will guarantee the realization of Polish national interests in foreign policy. Our government will only take care of Polish interests, instead of German, Russian, Ukrainian or European interests”. This statement suggests that the standpoint of this political party on the migration crisis (only willing to take Polish interests into consideration without any recognition of international commitments, especially those to Europe) can be perceived as equal to negating any forms of European cooperation on developing joint solutions to the migration crisis. Official statements to the media are proof of this assumption. From very moment of forming it, Paweł Kukiz, the movement’s leader, did not hide his negative attitude towards

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migrants, either refugees from Africa or those from Ukraine. After the terrorist attacks in Brussels in March 2016, Paweł Kukiz called on the government to reject the quota agreement and suggested conducting a referendum on not accepting migrants.105

3.4.3. Polish Political Parties and Their Attitude towards Migrants after the 2015 Elections

The parliamentary elections in October 2015 changed the political scene significantly. Law and Justice received 235 mandates,106 constituting 51.09% of all the mandates in the Polish Parliament. It was tantamount to an independent government and had no need to form a coalition. This was a novelty in the Polish parliament, which is characterized by its high level of fragmentation and high number of political parties able to exceed the electoral threshold. It gave almost full freedom to legislate and decide on most significant political issues. Differences between the former governing party and Law and Justice are, among others, a visible change in migration policy and the general opinion on receiving migrants in EU member states. From the beginning, the Polish government voiced its deep concern about the EU’s compromise, highlighting its legal flaws and growing security threats after the Paris attacks in November 2015.

The change of government took place in November 2015 and the new government, with Beata Szydło as Prime Minister, assured that commitments made by previous decision-makers and leaders would be sustained. This appeared to be a surprise, as previous statements and comments, especially those made by PiS leader Jarosław Kaczyński, unequivocally indicated the party’s negative attitude towards the migration crisis and decisions made by the Civic Platform government. During a debate in the Sejm in September 2015, Jarosław Kaczyński criticized Ewa Kopacz for making decisions under foreign pressure and against society’s will. These decisions were justified by legal and formal restrictions which made changing the decisions impossible.107 In spite of the formal acceptance of the developed quota system, Law and Justice insisted on passing a new migration law that took effect at the beginning of 2016. In February, the first debates in the Sejm took place. The idea of the new law


was to condemn attempts to create permanent mechanisms of receiving refugees on the EU level, to criticize the decision to relocate 120,000 people and finally to encourage only obeying national migration and asylum laws.\footnote{“PiS chce, by Sejm przyjął uchwałę ws. uchodźców”, 9 February 2016, http://www.tvn24.pl/wiadomosci-z-kraju,3/uchodzcy-w-polsce-pis-chce-uchwaly,617745.html [accessed: 20.09.2016].} The act was passed by Sejm on 1 April 2016.

After the terrorist attacks in Brussels in March 2016, Prime Minister Beata Szydło voiced her concern about growing security threats in Europe stemming from the migration crisis. The need to provide a more united front in the search for effective crisis solutions. These attacks also gave the government the opportunity to make their standpoint more determined. Beata Szydło almost immediately used it as an argument to withdraw from previous commitments by saying that: “I see no possibility for migrants to come to Poland at this moment”.\footnote{“Polska nie przyjmie imigrantów. Szydło: Nie widzę takiej możliwości”, 23 March 2016, http://www.tvn24.pl/wiadomosci-z-kraju,3/uchodzcy-w-polsce-pis-chce-uchwaly,617745.html [accessed: 20.09.2016].} Her words were then confirmed in April 2016 by Konrad Szymański, Secretary of State for European Issues at the Foreign Ministry, who stated that the refugee quota previously accepted by Civic Platform and later by Law and Justice would not be implemented.\footnote{“Poland thinks EU refugee quota plan is ‘dead’, minister says”, 14 April 2016, Reuters UK, http://uk.reuters.com/article/uk-europe-migrants-poland-idUKKCN0XB0K3 [accessed: 20.09.2016].} Later, in May 2016, an act was passed on the defence of Polish sovereignty and its citizens’ laws. According to the new law, the EU’s decisions on migrants were forced on Poland, undermining Polish sovereignty and threatening Polish security, national identity and society itself.\footnote{“Zbigniew Czachór, Adam Jaskulski, Polska wobec kryzysu migracyjnego w Europie”, 8 June 2016, http://www.institutowyatelski.pl/25576/publikacje/analizy/spoleczenstwo-analizy/polska-wobec-kryzysu-migracyjnego-w-europie [accessed: 21.09.2016].} By so doing, the Law and Justice government withdrew from upholding the PO-PSL government’s commitments, thus responding to pre-electoral suggestions that it would not let migrants to come to Poland.

Law and Justice’s takeover of power made its rapprochement with the V4 countries possible again. In September, the Polish government together with the other states of the V4 proposed a compromise on EU migration policy, as the previous proposal to introduce refugee quotas on the number of refugees to be accepted in each member state turned out to be ineffective. The new proposal would suggest a more voluntary system of accepting refugees and would enable independent decisions to be made on the extent of engagement in the European Union’s migration policy and migration crisis management. Decisions, according to the V4 countries, should be made on the basis of each state-


...’s experience and potential.\footnote{112} What is more, in October, the Polish Sejm once again discussed in a debate another act recognizing the European Parliament’s and the Council of the European Union’s decision on the mandatory refugee relocation mechanisms as inconsistent with the European rule of subsidiarity. It is important to note that all parliamentary groups supported the resolution project proposed by Law and Justice, even Civic Platform.\footnote{113} This is evidence not only that Law and Justice had changed its standpoint on the migration crisis, but that Civic Platform, which had at first supported Juncker’s quota plan in spite of its concerns, had also changed its standpoint on the issue.

PO’s shift could be the result of several reasons. First of all, as has previously been indicated, Polish society is rather intolerant, especially towards migrants from Africa and the Middle East; general support for accepting refugees is also lower than it is in Western countries. Public opinion also influences the standpoint of political parties – losing in the elections resulted in Civic Platform reshaping its position at least to some extent. Secondly, after many incidents with refugees, for example, sexual harassment in Cologne and later in Stockholm, as well as terrorist attacks in Paris, Nice and Brussels, the openness of European societies and political leaders, and not only Polish, has been in constant decline. The political scenes of many European states are changing in a similar manner to Poland’s – in France, anti-immigrant parties are gaining more support. The same process is already happening in Sweden, which until now has been considered as one of the most open and tolerant states. Here, the radical and anti-immigrant Sverigedemokraterna party is already a third power in the Riksdag, and its support is continuing to strengthen – in March, 18% of the electorate declared their willingness to vote for the Swedish Democrats.\footnote{114}

3.4.4. Final Remarks

The main objective of this research was to analyse how the European migration crisis has affected the Polish political party system. The Table 3.4 shows how the distribution of mandates in the Polish Sejm changed after the 2015 elections. This change was confronted with the attitude towards accepting immigrants in Poland by the respective parties. It must be borne in mind, howe-
ver, that even those parties that were more positive about the issue remained reserved, and none of them claimed that Poland should keep its doors open to everyone in need. In the Table 3.4, parties that were somehow combined before or after the elections have been presented together.

The table shows that political parties which were in favour of accepting refugees lost out significantly in the 2015 elections in comparison to the previous term. The only exception was the new political party Nowoczesna; however, this case is rather ambiguous for several reasons, and thus does not contradict the overall observation implying that attitudes towards accepting migrants strongly affected the distribution of the votes and mandates. Those who were open to accepting refugees lost out and those who expressed the view that immigrants should not be let into Poland gained. Of course, it would be an over interpretation to claim that this aspect was critical to the election results. Obviously there were many other factors, such as the quality of the electoral campaign, mistakes made by the former government, promises made by the respective parties, etc. Still, the correlation between attitudes towards accepting immigrants and the results of the 2015 elections explicitly verify the hypothesis that the attitude of Polish political parties towards the migration crisis affected the party system in Poland.

This research has also shown that Civic Platform – a big loser in the 2015 parliamentary elections – has partially reoriented its attitude towards accepting migrants. This, on the other hand, confirms that as the ruling party it became, in a way, a prisoner of its own pro-European policy. The attitude of Poles towards migrants was clear when the migration crisis began and the PO leaders must have been aware that, by supporting their European allies, it risked losing public support. Still, its government managed to win a great deal in terms of European policy. Therefore, it was hard for Civic Platform to turn its back on from the European Union, so the party took a moderate stand and declared its acceptance of a certain number of migrants in Poland. Unfortunately for PO, this proved to be one of the reasons why it lost its dominant position in Parliament.

It might also be observed that all of the Polish political parties, no matter whether they were more eager to accept refugees in Poland, to some extent remained cautious of these issues. None of them openly declared that Poland should let in any number of migrants. These limitations were justified by economic or security reasons. This might stem from the general attitude of Poles towards migrants. By being open to accepting migrants, parties would simply risk losing potential voters.
187

Table 3.4
Polish Political Parties Pre- and Post-2015 Elections and Their Attitude towards Accepting Migrants

<table>
<thead>
<tr>
<th>Party</th>
<th>Number of MPs (Sejm 2011–2015)</th>
<th>Number of MPs (Sejm 2015–)</th>
<th>Difference</th>
<th>Attitude towards accepting migrants (+ for acceptance, - for non-acceptance)</th>
</tr>
</thead>
<tbody>
<tr>
<td>PO</td>
<td>197</td>
<td>138</td>
<td>-59</td>
<td>+</td>
</tr>
<tr>
<td>PiS</td>
<td>140</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Zjednoczona Prawica</td>
<td>134</td>
<td>235</td>
<td>+101</td>
<td>-</td>
</tr>
<tr>
<td>PSL</td>
<td>38</td>
<td>16</td>
<td>-22</td>
<td>+</td>
</tr>
<tr>
<td>Zjednoczona Lewica</td>
<td>46</td>
<td>0 (did not exceed electoral threshold)</td>
<td>-46</td>
<td>+</td>
</tr>
<tr>
<td>SLD</td>
<td>35</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Twój Ruch</td>
<td>11</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kukiz’15</td>
<td>0</td>
<td>42</td>
<td>+42</td>
<td>-</td>
</tr>
<tr>
<td>Nowoczesna</td>
<td>0</td>
<td>28</td>
<td>+28</td>
<td>+</td>
</tr>
<tr>
<td>Others and non-affiliated</td>
<td>29</td>
<td>1</td>
<td>-28</td>
<td>Not applicable</td>
</tr>
</tbody>
</table>


3.5. Conclusions

Polish migration and integration policies are still not fully developed, as their construction was significantly delayed compared with those of Western European countries. Poland’s process of EU accession process naturally boosted the development of migration policy in Poland. The need to regulate cases of migrants had an administrative, rather than a grass-roots, character – Polish society was not concerned with migration and integration problems as the percentage of migrants in the population was very low.
When analysing Polish migration policy, it is necessary to understand the many determinants influencing its current shape and condition. First of all, there were historical determinants. Under Communist rule, Poland did not respect freedom of movement and therefore, migration policy in its legal and institutional framework was only fragmented in nature. After 1989, all laws concerning migration had to be adjusted to new, democratic realities. Institutions dedicated to aspects of migration also had to be adjusted. Therefore, in the 19th and at the beginning of the 20th century, Polish law and institutions were undergoing significant changes. The recent migration crisis seems to be the most current incentive for reforming the legal and institutional systems, especially taking into consideration the general perception of already existing mechanisms. All V4 states perceive them to be inadequate and inefficient in the face of growing refugee inflows into Europe. Another important historical determinant of Polish migration policy is the aspect of repatriation, treated as one of the core challenges for policy makers. The case of refugees and the provision of protection for foreigners only seem to be an additional case on the agenda. The role of Polish migration policy is therefore first and foremost about safeguarding the interests of Polish citizens, as well as being economically driven.

Since Poland did not face the challenges of multicultural societies for almost the entire 20th century, such problems did not constitute a significant issue matter in the political agenda until recent years, and was not the focus of much social attention. Polish society, ethnically and nationally homogenous, is not familiar with coexisting with culturally different groups. It may be one of the reasons for which Poles demonstrate rather negative and cautious attitudes towards foreigners. Together with the increasing cultural distance of migrants, negative attitudes towards them grow in proportion. Polish society is strongly embedded in traditional and Christian values, which can at least partially explain these social attitudes. The second reason for the Polish hesitancy towards foreigners is the fear of them being a financial burden. These fears concern both increasing unemployment for Poles and the financial cost of integration programmes (providing free medical care, legal assistance, education, financial benefits, etc.). Another reason for fearing foreigners is negating the far-reaching influence of supranational bodies on national sovereignty. The migration crisis and the attempt to introduce refugee quotas have been seen as the forced erosion of each state’s independence. The change of Polish government after the last elections in October 2015 and the takeover of power by Law and Justice (being a rather Eurosceptic political party) could be seen as

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115 See Chapter 2, Public attitude.
116 Bachman, B., Diminishing Solidarity: Polish Attitudes toward the European Migration and Refugee Crisis, Migration Policy Institute, June 2016.
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Martina Bolečekova
Barbora Olejarova

Chapter 4

Migration as a Political and Public Phenomenon:
The Case of Slovak Republic
4.1. Introduction

Its EU membership beginning on 1 May 2004 and its joining of the Schengen Area on 21 December 2007 are the most significant moments in the modern history of the Slovak Republic. With these achievements, a milestone was reached towards an unprecedented experience for Slovak citizens: the free movement of persons within the European Union’s territory. Yet, the accession of the Slovak Republic to the European Union also implied new responsibilities, including more efficient control of the Slovak segment of the EU’s eastern border. The protection of the external Schengen border has become a central focus for Slovakia in the context of migration, along with the fight against illegal migration and cross-border crime.

Since Slovakia gained its independence, the migration profile of the state has changed significantly. Slovakia has been transforming gradually from a country of emigration to a country of transit, and it is slowly becoming a country of destination. The numbers of all types of migrants have increased and emigration from Slovakia has changed from politically motivated (before 1989) to mostly labour emigration. At the beginning of 2014, the number of immigrants (i.e., persons with a place of birth outside of Slovakia) on the state’s territory was approximately 174,900 (3.2% of the population), of which approximately 146,300 immigrants (2.7%) were from other EU member states and approximately 28,600 thousands (0.5%) were from third countries.

When describing developments in migratory flows, it is necessary to distinguish between different types of migrants. In the case of Slovakia, we can cur-

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1 The EU criticized Slovakia after its accession for the high permeability of its eastern border. Thus, in order to integrate into the Schengen Area, Slovakia had to fulfil various criteria. A period of evaluation – the “Schengen evaluation” – took place between 2004 and 2007. On 21 December 2007, following a positive final evaluation, Slovakia (as well as the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland and Slovenia) became a full member of the Schengen Area.


rently identify the following main immigration flows: voluntary legal migration, forced migration and illegal or irregular migration. Following the global trend, the most frequent type of migration is voluntary legal migration. A significant part of these migration flows comprises labour migration, immigration for family reasons or immigration for study. Among forced migrants, we can count asylum seekers as well as other categories of migrants entitled to seek international protection. However, the Bureau of the Border and Aliens Police of the Ministry of the Interior of the SR counts asylum seekers in the illegal migration statistics, because they usually cross the borders without legal permission. We do not distinguish between different categories of illegal migrants – it is very challenging, as is determining the exact numbers of illegal migrants. In connection to our topic, which is the current migration and refugee crisis and its impacts in Slovakia, we will not pay attention to voluntary legal migration but solely to irregular immigration and the forced migration of asylum seekers.

4.1. Forced Migration: Refugees and Asylum Seekers

The numbers and the structure of the countries of origin of forced migrants usually reflect current world political, social and economic developments. The number of asylum seekers in Slovakia started to increase gradually in 2001. Between 2001 and 2004, migration for asylum was growing much faster than other types of immigration to Slovakia. In 2004, when Slovakia became a member state of the EU, the number of asylum applications reached its peak.

This “quantitative boom” was caused by several factors. One can point to a link between the development of asylum legislation and developments in the field of illegal migration. Illegal migrants increasingly used (or abused) “the liberal spirit of the asylum law”, although their primary intention was not to apply for asylum. Foreigners who were detained, or who would have been expelled following an administrative or judicial decision, tried to avoid deportation by applying for one of the three forms of international protection existing in the Slovak Republic: asylum (reflecting the 1951 Geneva Convention), humanitarian asylum or subsidiary protection, with the hope of legalizing the-

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4 The term “forced migration” is used to describe “...a migratory movement in which an element of coercion exists, including threats to life and livelihood” (International Organization for Migration, Glossary on Migration, 2nd Edition, Geneva, IOM International Organization for Migration, 2011) Forced migration can arise from natural or man-made causes (e.g., armed conflicts, development projects, nuclear disasters). However, it is necessary to point out that according to international law, not all forced migrants are refugees, as the term “refugee” itself is defined in the Geneva Convention of 1951 less extensively in the above-mentioned document.

ir residence in Slovakia in this way. However, many of them left the territory of Slovakia over the course of the asylum procedure, even before a final decision on asylum was reached. This was the main reason for which, despite a considerable number of applications, asylum was only granted to a small number of applicants, and for which the data on refused, suspended or withdrawn applications for asylum can provide an indication of the state of illegal migration in Slovakia. In our opinion, this “historical experience” with the misuse of the asylum system could have had impact on the attitude of Slovaks concerning refugees from the current crisis.

In 2005, the asylum situation changed radically. The number of asylum seekers fell sharply, mainly because of the decrease in the number of detained illegal migrants in Slovakia. Another important factor explaining this tendency was the application of the Dublin Regulation and the Eurodac system on the Slovak territory. Since then, the situation has been relatively stable and the refugee crisis did not significantly change the status quo in Slovakia. In 2015, the number of asylum applications was nearly the same (330 applications) as it had been in 2014 (331 applications); asylum was granted to eight people and subsidiary protection to 41 people in 2015.

Table 4.1
Asylum and Subsidiary Protection in the Slovak Republic (since 2010)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of asylum applications</th>
<th>Granted</th>
<th>Refused</th>
<th>Subsidiary protection granted/refused</th>
<th>Procedure suspended</th>
<th>Citizenship granted</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>541</td>
<td>15</td>
<td>180</td>
<td>57/104</td>
<td>361</td>
<td>3</td>
</tr>
<tr>
<td>2011</td>
<td>491</td>
<td>12</td>
<td>186</td>
<td>91/48</td>
<td>270</td>
<td>7</td>
</tr>
<tr>
<td>2012</td>
<td>732</td>
<td>32</td>
<td>334</td>
<td>104/153</td>
<td>383</td>
<td>0</td>
</tr>
<tr>
<td>2013</td>
<td>441</td>
<td>15</td>
<td>123</td>
<td>34/49</td>
<td>351</td>
<td>7</td>
</tr>
<tr>
<td>2014</td>
<td>331</td>
<td>14</td>
<td>197</td>
<td>99/41</td>
<td>163</td>
<td>12</td>
</tr>
<tr>
<td>2015</td>
<td>330</td>
<td>8</td>
<td>124</td>
<td>41/24</td>
<td>148</td>
<td>5</td>
</tr>
<tr>
<td>2016</td>
<td>127</td>
<td>164</td>
<td>75</td>
<td>11/13</td>
<td>30</td>
<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>58,448</td>
<td>817</td>
<td>7,983</td>
<td>683/1,512</td>
<td>49,468</td>
<td>238</td>
</tr>
</tbody>
</table>


It is not a coincidence that we do not use the term refugee very often in the Slovak context. In fact, this is a rather unknown term in Slovak legislation. The terminology used in Slovakia is as follows. For migrants applying for asy-
lum in Slovakia in line with the Geneva Convention of 1951, the term asylum seeker is used. Yet, asylum seekers who succeed are not referred to as refugees, but “azylant”; the most proper English equivalent of the Slovak term “azylant” would be “a person who has been granted asylum” (we will also use the term “recognized asylum seekers” because this expression is used in English translations of statistics and overviews published by the Ministry of the Interior of the SR, which are quoted in this text). Subsidiary protection or humanitarian asylum, generally speaking, is granted according to the non-refoulement or family reunification principles.

4.1.2. Illegal Immigration

According to representatives of Slovak NGOs, the main causes of illegal immigration are grounded in the lack of legal opportunities, or the multitude of administrative obstacles, that migrants have to face to make it to Slovakia legally. This situation is not specific to Slovakia, but is generally true of more European countries.

As has already been mentioned above, statistics for irregular immigrants are more or less estimates, since they usually only display the volume of known illegal immigration. Data concerning the number of detained persons, the denial of entry into Slovak territory, refused or withdrawn applications for asylum, decisions on administrative or judicial expulsion and refused entry and returns, can be used to analyse trends in illegal immigration.7

Table 4.2
An Overview of Selected Data Indicating Developments in Illegal Immigration (since 2010)

<table>
<thead>
<tr>
<th>Year</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
<th>2014</th>
<th>2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of detained persons</td>
<td>1,440</td>
<td>1,219</td>
<td>1,479</td>
<td>1,091</td>
<td>1,304</td>
<td>2,535</td>
</tr>
<tr>
<td>Illegal state border crossings</td>
<td>495</td>
<td>390</td>
<td>658</td>
<td>398</td>
<td>240</td>
<td>222</td>
</tr>
<tr>
<td>Illegal stays in the territory</td>
<td>945</td>
<td>829</td>
<td>821</td>
<td>693</td>
<td>1,064</td>
<td>2,313</td>
</tr>
<tr>
<td>Refusal of entry</td>
<td>841</td>
<td>604</td>
<td>614</td>
<td>449</td>
<td>517</td>
<td>486</td>
</tr>
<tr>
<td>Issued decisions of expulsion</td>
<td>871</td>
<td>700</td>
<td>571</td>
<td>643</td>
<td>1,027</td>
<td>1,720</td>
</tr>
<tr>
<td>Effective expulsion</td>
<td>598</td>
<td>576</td>
<td>404</td>
<td>432</td>
<td>725</td>
<td>1,261</td>
</tr>
</tbody>
</table>


Based on the data shown in Table 4.2, we can conclude that the number of detected illegal immigrants was decreasing until 2014. Presumably, this is the result of measures introduced following Slovakia’s integration into the Schen-
gen Area, mainly with regard to the stricter protection of the country’s eastern border with Ukraine. However, we should also point out that the abolition of controls at the internal borders makes the detection of illegal border crossings more difficult and thus, the detection of illegal immigrants is moving inland.

In 2015, the situation changed significantly as the authorities recorded an almost 100% increase in illegal migration. We can conclude that the migration and refugee crisis also left its mark on Slovak territory, although in absolute numbers, with 2,535 detected irregular migrants, we cannot talk about a real crisis in fact.

In terms of nationality, most irregular immigrants are Ukrainians (see Table 4.3; the numbers in brackets refer to the total number of irregular migrants revealed by state border crossing or illegal stay). Usually, these are so-called “over-stayers” (people who have stayed in Slovakia after their permission to do so has expired). Most of them are also working illegally. Yet, the migration and refugee crisis is reflected in the national composition of irregular migrants in Slovakia – increased numbers of irregular migrants from Syria and Iraq are recorded in 2014 and 2015, compared to previous years.

Table 4.3

<table>
<thead>
<tr>
<th>Nationality</th>
<th>2010</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ukraine</td>
<td>(377)</td>
</tr>
<tr>
<td>Moldova</td>
<td>(244)</td>
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<tr>
<td>Afghanistan</td>
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<td>Somalia</td>
<td>(151)</td>
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<td>Georgia</td>
<td>(86)</td>
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<tr>
<td>Russian Federation</td>
<td>(64)</td>
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An Overview of Illegal Migration by Nationality 2010–2015 (Top Five Countries)

Source: *ibidem*.

The fact is, that even in times of crisis, Slovakia has not become a final destination for asylum seekers and irregular immigrants. As we have already mentioned, the total number of detained persons in 2015 was 2,535. Some 222 of them (approximately 8.76%) were caught when they crossed the border illegally, and 2,313 (approximately 91.24%) were caught while staying illegally on the territory of Slovakia (see Figure 2). Compared to the “pre-crisis” period, the number of irregular migrants revealed inside the territory of the Slovak Republic has increased. With the exception of Ukrainians, most of whom were discovered on the state border when leaving the territory of the Slovak Repu-
In 2015, the situation changed significantly as the authorities recorded an almost 100% increase in illegal migration. We can conclude that the migration and refugee crisis also left its mark on Slovak territory, although in absolute numbers, with 2,535 detected irregular migrants, we cannot talk about a real crisis in fact.

In connection with this topic, it is necessary to briefly evaluate the effectiveness of Slovak border surveillance on the eastern external border of the EU. Slovakia is responsible for a rather short segment of this strategic dividing line: the Slovak-Ukrainian border is only around 100 km long, which has allowed the country to concentrate its human, technical and financial resources on a relatively short segment of its border.

In fact, the main and most original component of the border management system on the Slovak-Ukrainian border is a “virtual fence” in the form of a camera chain: some of the cameras are placed inside the border crossing points (BCPs), but most of the cameras form a line running from the Hungarian-Ukrainian-Slovak border tripoint from the south to the north. This system has been implemented mainly in the southern plain, excluding most of the northern mountainous part. The topography of the northern region itself complicates movement for migrants, as well as for the border police.

The Operational Centre of Border Police Directorate, the headquarters of the border police, is located in Sobrance, a city near the Ukrainian border. The headquarters includes a control room where all of the camera chain cameras are monitored. Pictures from the border are also visible in the Ministry of the Interior of the SR, in Bratislava. However, this border is not the central point for migrations and human trafficking. On the other hand, smuggling (petrol, alcohol and cigarettes) is more often the cause of border police intervention in this locality.

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8 And in the Slovak case, probably also because of more intensive controls against illegal employment.  
9 The total border envelope of the Slovak Republic is 1,652.2 km in length; Slovakia borders Hungary (654.8 km), Poland (541.1 km), the Czech Republic (251.8 km), Austria (106.7 km) and Ukraine (97.8 km) (minvst, 2016e).  
10 The border police units are placed all along the Ukraine border in 10 small villages. North to south, these units are located in the villages of Zboj, Topola, Ulic, Ubfa, Podhorod, Petrovce, Vysne Nemecke, Matovsk Vojkovce (railway cargo BCP only), Velke Slemence and Cerna nad Tisou (railway BCP). The most important unit is located in Vysne Nemecke, the location of the main road BCP and the only one for lorries between the two countries.  
11 In July 2012, a tunnel was detected on the border, equipped with a small train capable of transporting various kinds of goods or people. It was dug six metres underground and was around 700 metres long.
Despite all of these technical measures, there can still be human error. According to information recently presented in the media, four policemen from the border police have been accused of helping with the smuggling of migrants – we are perhaps talking here about hundreds of migrants with false EU member state passports.\(^{12}\)

### 4.2. Migration Policy

#### 4.2.1. Legal Framework

Shortly after gaining its independence, it was necessary for the Slovak Republic to respond to international migration flows: both immigration flows heading for Slovak territory and the emigration of Slovak citizens out of the country. The need to express attitudes and clearly determine approaches towards respective types of migration became even more intensive due to Slovakia’s ambitions to join the EU. In parallel, integration initiatives determined procedures in some areas of migration management in Slovakia. Even before joining the EU, the new Act on Asylum was passed\(^{13}\) and fundamental institutional reforms were carried out.

In the context of immigration and asylum in the Slovak Republic, the Act on Asylum No. 480/2002 and the Act on Residence of Aliens No. 404/2011 are considered to be the most relevant Acts. The Act on Asylum reflects the Geneva Convention Relating to the Status of Refugees of 1951 (respectively the New York Protocol Relating to the Status of Refugees of 1967), and now it also reflects all relevant EU directives and regulations in this area. The law addresses the issue of asylum, in particular the rights and obligations of asylum seekers and persons granted asylum (refugees), as well as the conditions for granting subsidiary protection and humanitarian asylum.

The Act on Residence of Aliens No. 404/2011 has already been amended four times since its entry into force in 2011. The most important change came into force on 1 December 2012. This amendment repealed previous legislation and merged into one document all laws dealing with border crossing and border surveillance, as well as those defining the conditions of foreigners’ residence


\(^{13}\) In the Slovak Republic laws are passed by the Parliament which is called the National Council, and signed by the President of the country.
within the territory. The new regulation was necessary because of the need to harmonize Slovak laws with European legislation – policies in the area of migration management and the integration of foreigners in the Slovak Republic needed to be linked with developments and trends in the EU member states. Several laws were passed or amended to transpose the relevant EU legislation into Slovak legislation.

In the context of the integration of immigrants in the Slovak Republic (we also include recognized asylum seekers in this category) the Act on State Citizenship No 40/1993 is regarded as the most relevant. Among other things, this Act regulates the granting of Slovak citizenship to a foreigner by naturalization. In ensuring effective integration, equally important are the rules for the employment of foreigners, regulated by the Act on Employment Services No 5/2004. The issue of illegal employment (which can also include the illegal employment of foreigners or immigrants) is handled by the Act on Illegal Work and Illegal Employment No. 82/2005. This Act, on the one hand, bans illegal work and employment, and on the other, regulates activities for the control of, and sanctions for, illegal work.

There have not been many legislative changes made as a result of the migration crisis. In particular, it is important to mention an amendment to the Act on Freedom of Religion and the Status of Churches and Religious Societies, which was approved on 30 December 2016. The draft proposed to raise the number of signatures necessary to register a new religious society in the Slovak Republic from 20,000 to 50,000. The leader of the Slovak National Party and the Chairmen of the Slovak National Council, Andrej Danko, presented this bill as one of the measures to fight the Islamization of the country. The Slovak President returned the amendment to the Parliament for additional discussion, but on 31 January 2017 the Parliament definitively approved the legislation.

After a very brief overview of the most relevant laws, we would like to point out developments to and the current appearance of the conceptual documents regulating Slovak migration policy. These documents set up the goals of the Slovak Republic’s migration policy and determine the framework of the Acts mentioned above.

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14 The existing types of residence permits (temporary residence, permanent residence and tolerated stay) remain valid. Concerning the permanent residence permit, the law distinguishes between permits for unlimited and long-term stays.

15 Bachtíková, I., Organizácia azylovej a migračnej politiky v Slovenskej republike, Bratislava, Národný kontaktný bod Európskej migračnej siete v Slovenskej republike 2014.

16 It is possible to find relevant laws in many other related areas – health care, education, etc.

17 Its members should be Slovak citizens over 18 years of age, with permanent residence in Slovakia.

The enormous motivation of the Slovak Republic to become a member of the European Union also accelerated its effort to formulate an official migration policy for the country. The first Migration Policy Concept of the Slovak Republic was adopted for the period 2005–2010. This document was evidently influenced by Slovak integration ambitions, and by its following EU accession. The objectives of its migration policy are formulated in this document in order to provide for Slovak national interests on the one hand and to harmonize Slovak legal norms with EC/EU law on the other. Among its basic principles, which rule over the spirit of the conception, active cooperation with the EU was central.

The text of the introduction of the document Conceptual Plans of the Migration Policy of the SR for the Period 2011–2015 also focuses on the role of international organizations in dealing with the international migration and asylum agenda; it also notes the vital importance of the EU for the Slovak Republic. At present, the key document of the SR’s migration policy is the Migration Policy of the Slovak Republic – Perspective until the Year 2020. In its introduction, the Slovak Republic expresses its preparedness and willingness to participate in the harmonization of the migration policies of EU member states, as well as its commitment to the basic principles, operational mode and management of migration in the EU. An important part of this strategic document is the formulation of Slovak migration policy objectives, which can be summarized as follows:

1) Create conditions for legal migration, but respecting the priorities, needs and reception capacities of the SR, including the capacity to integrate immigrants into society;
2) Strengthen the effectiveness of border controls and fight against illegal migration;
3) Contribute to the adoption of a common European asylum system; participate on the creation of a global partnership with countries of origin and transit; encourage synergy between migration and development.

Currently, the issue of migration is often presented in connection with national and international security. In 2017, there is a plan to adopt a new Security Strategy, as well as a new Defence Strategy of the Slovak Republic. The existing strategic documents were adopted shortly after the accession of the SR to the EU. Since then, the security environment has changed and the basic strategic documents need to be revised. The most significant change in the security environment in Europe was caused by the conflict in Ukraine; nevertheless, the unstable situation in the southern neighbourhood of the EU, the immedia-
The threat of terrorism, mass migration and hybrid threats are also mentioned as important reasons for the adoption of the new strategies. Thus, it is expected that in the new Security Strategy of the Slovak Republic, substantial attention will be dedicated to migration issues (primarily illegal migration).

4.2.2. Institutional Framework

The Government of the Slovak Republic – the highest executive body – consists of 13 departments. All of the Slovak Ministries are at least marginally related to some aspect of migration. Nevertheless, the area of international migration falls mainly under the auspices of three departments: the Ministry of the Interior, the Ministry of Foreign and European Affairs and the Ministry of Labour, Social Affairs and Family.

The Ministry of the Interior of the SR implements its agenda in the field of migration and asylum mainly through two bodies: the Migration Office and the Bureau of the Border and Aliens Police.

The Migration Office of the Ministry of the Interior of the SR is the first instance body which decides on the granting of asylum and subsidiary protection to foreigners. The Migration Office usually supervises projects financed by European funds, provides methodological guidance and consultation in this area and cooperates with the Office of the United Nations High Commissioner for Refugees and the International Organization for Migration. Furthermore, it provides basic care for asylum seekers. For this reason, the Migration Office runs three types of facility – “reception centres” and “accommodation centres” for asylum seekers in Slovakia, and an “integration centre” in Zvolen for persons who have been already granted asylum. At present, there are three open facilities for asylum seekers: the “reception centre” in Humenné (with a capacity of 550 beds), as well as the “accommodation centres” in Opatovská Nová Ves and Rohovce (both with a capacity of 140 beds each and the possibility of expansion, if needed). In the past, there were four reception facilities (in Adamov-Gbely, Vlachy, Rohovce and Opatovská Nová Ves) and two accommodation facilities (in Gabčíkovo and Brezová pod Bradlom), but they were closed due to a decrease in asylum applications. The facility in Gabčíkovo has recently been re-opened, as we mention later in the text.

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20 Michálková, M., Organizácia azylových zariadení pre žiadateľov o asyl v Slovenskej republike, Bratislava, Národný kontaktný bod Európskej migračnej siete v Slovenskej republike 2013.
In Humenné, there is also the Emergency Transit Centre (ETC) with capacity for 150 persons, which serves refugees awaiting resettlement in the new home country. There are only two such centres in the world (the other is in Timişoara, Romania; a third one, in Manila in the Philippines, is no longer operational). The Emergency Transit Centre in Humenné was originally set up in 2009 for a group of Palestinian refugees from Iraq. In 2010, the agreement was extended and the ETC in Humenné became a permanent evacuation facility, the second emergency facility to be established in Central Europe. Emergency Transit Centres provide temporary placements for refugees in need of immediate evacuation from the first country of refuge due to concerns over their safety or the threat of being returned to the territory they fled from. Refugees can stay in the ETC for up to six months while their resettlement to a host country is finalized. The ETC can also provide migrants with language training and basic information about the culture of receiving states.\footnote{21} The Bureau of the Border and Aliens Police of the Presidium of Police Force\footnote{22} directly manages tasks within the field of border protection; fighting illegal migration and the smuggling of migrants; border control; risk analyses; cooperation with the FRONTEX Agency; analysis of travel documents; granting residence to foreigners; expulsion; visa issues and finally, to a limited extent, asylum procedures and the implementation of the Dublin Regulation.

To fight illegal migration, the National Unit of Combating Illegal Migration was set up within the Bureau of Border and Aliens Police. Illegal immigrants are placed in Útvary policajného zaistenia pre cudzincov [police detention units for foreigners] located in Medvedov, near the Hungarian border, and in Sečovce, close to the Ukrainian border. Both facilities are under the authority of the Ministry of the Interior of the SR and are operated by the Bureau of Border and Aliens Police. These units carry out activities connected to the detention, return and expulsion of third-country nationals.\footnote{23}

The Ministry of Foreign and European Affairs participates in the development of the foreign policy of the Slovak Republic and implements it. At least in the last few years, international migration has formed a substantial part of the Slovak foreign policy agenda. Within the framework of its consular agenda, the Ministry fulfils tasks related to issuing visas to foreigners via its consulates and embassies abroad. From this point of view, the granting of long-term visas that might lead to residence permits is important. Slovak consulates rece-
ive applications for citizenship or residence in the Slovak Republic and provide assistance and information to the applicants. The Ministry also assists with the voluntary return or expulsions of migrants, or with the preparation of readmission agreements.

The Ministry of Labour, Social Affairs and Family draws up legal norms and determines the legal regulations for the employment of foreigners, including the elaboration of entry criteria for different categories of foreign nationals into the Slovak labour market and the granting of work permits. The Ministry of Labour, Social Affairs and Family not only assists eligible categories of migrants in mediating employment – the Central Office of Labour, Social Affairs and Family helps to combat the illegal employment of foreigners. This ministry is responsible for establishing legal norms regarding social care for foreigners, asylum seekers, repatriated persons, Slovaks living abroad, etc. and the Centre for Coordination of the Integration of Foreigners plays an important role in the integration of foreigners.

Concerning the statistical data on migration in the Slovak Republic, information is collected for different types of migration and categories of migrants. The relevant state institutions responsible for data collection are as follows. Statistics in the field of legal migration\(^\text{24}\) – the Statistical Office of the Slovak Republic; statistics on international protection – the Migration Office of the Ministry of the Interior of the Slovak Republic; statistics on the prevention of unlawful entry and residence (illegal migration), statistics on residence permits and the residence of third country nationals, statistics on returns – the Bureau of the Border and Aliens Police of the Presidium of Police Force; statistics on foreign workers – the Central Office of Labour, Social Affairs and Family. All statistics are collected in accordance with EU legislation.\(^\text{25}\)

### 4.2.3. Social Integration

Concerning the integration of immigrants, the Slovak Republic follows, at least formally, all European Union standards. The first strategic document in the area of integration was the Concept of Foreigner Integration in the Slovak Republic, passed in 2009. This document focused on the integration of third country citizens who had been residing legally in the Slovak Republic for at least one year. Because the goal of successful integration was not fulfilled, the

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\(^{24}\) The term legal migration covers the entry of persons into the territory of the Slovak Republic, as well as their residence in and departure from the Slovak Republic in accordance with international agreements and legal regulations.

new Integration Policy of the Slovak Republic was drawn up in 2014. This document contains principles and new goals, as well as the identification of focus groups, measures and levels of integration to follow. The integration of non-citizens in the Slovak Republic takes place according to the basic principles outlined in this document.

Slovakia does not have much experience with the integration of migrants. However, there is a significant Roma population and a Hungarian minority living in the country, and therefore the integration of third country migrants can reflect experiences with the aforementioned groups. The document Integration policy 2014 places emphasis on activities of local governments in the integration process and outlines five main areas for migrant integration: housing, cultural and social integration, education, health care and employment. All of them are interconnected and it is necessary to treat them as one complex entity. Despite the fact that strategic documents do exist, their practical application is still missing.

Authorities and academics agree on one point – local authorities, i.e., municipalities, need to play a crucial role in the integration of immigrants. To promote the integration of foreigners, as well as to raise awareness of foreigners in the local community, seven Slovak towns (Michalovce, Svidník, Snina, Banská Bystrica, Prievidza, Dolný Kubín and Senec) have participated in the project Budovanie kapacit na úrovni miestnej územnej samosprávy v oblasti integračnej politiky [Capacity building at the level of local government in the area of integration policy, BUK]. This can be perceived as the first step towards a well-functioning integration policy.

Based on the experiences of countries with a longer history of immigration, the lack of integration policies in the state might cause problems connected with the possible creation of large groups of segregated migrants, who do not speak the language of the receiving country, do not have any particular education and have difficulties finding jobs and therefore become a burden on the economic and social system, therefore presenting the potential for radicalization. Successful integration might, on the contrary, solve some of Slovakia’s demographic and economic problems and serve the state as well as migrants. The Migration Office provides assistance with accommodation, language preparation, employment or education, and health and social security for recognized asylum seekers and persons granted subsidiary protection. In the process of integrating migrants into society, the Migration Office closely cooperates...

with local NGOs. Slovak civil society is very active in the area of integrating immigrants. Only basic services for asylum seekers and persons whose asylum has been granted are covered from the state budget.\(^{27}\) Non-governmental organizations provide for additional services – social and psychological assistance, legal advice, education (particularly through the teaching of the Slovak language), leisure activities, help with additional materials and health care, as well as translation services.

In order to remove the language barrier, there are courses in the Slovak language organized for foreigners. In the field of education, the law guarantees that the children of non-nationals asylum seekers in Slovakia will receive education under the same conditions as are enjoyed by Slovak citizens, according to the principle of non-discrimination. The training of teachers should qualitatively and financially be assured by the Ministry of Education, Science, Research and Sport. Yet, this is not always the case. The language courses are frequently of poor quality, which causes further problems. As well as having a poor knowledge of the Slovak language, the children of migrants are often assigned to lower classes and their parents cannot find an appropriate job without knowledge of the Slovak language. Thus, although the legislature is respected, its practical application does not have the desired outcomes.\(^{28}\)

The employment of immigrants is one of the most effective tools of integration. According to current Slovak legislation, migrants from third countries need a work permit to be employed in Slovakia. Yet, the employer cannot give a job to a foreigner unless he is unable to find an appropriate native Slovak candidate. Persons who have been granted asylum in Slovakia do not need a permit and are eligible to work under the same conditions as Slovak nationals. Asylum seekers can only work after nine months have elapsed since they applied for asylum in Slovakia.

In connection to this topic, we would like to point to another important issue – the issue of the ageing population and a low fertility rate, which is a problem for the entire EU, including the Slovak Republic. In 2014, the total fertility rate in Slovakia was 1.37 and the average life expectancy at birth was 77 years.\(^{29}\) This fact creates an enormous burden on the country’s retirement system, with a rising population of pensioners and declining numbers of people

\(^{27}\) Accommodation, food, pocket money, basic toiletries, health care and the amount of 1.5 times the subsistence minimum for a person granted asylum.

\(^{28}\) Hlinčíková, M., Mesežníkov, G., Otvorená krajina alebo nedobytná pevnosť? Slovensko, migranti a utečenci, Praha 2016.

of reproductive age. Although migration is not the solution to this problem in the long term, it might at least be a solution for the upcoming years. The Slovak economist Vladimír Baláž, from The Institute for Forecasting of the Slovak Academy of Sciences, even claims that Slovakia is “committing economic suicide” by preventing migrants from settling on our territory. According to his predictions, Slovakia would need between 10,000 to 15,000 new migrants to come to the country every year to preserve the current proportion of economically active citizens to retirees.30 Some companies are already hiring employees from Vietnam and other Asian countries to make up for the lack of workforce in Slovakia. Thus, integration into the economic market is becoming more and more necessary. It seems that, at least regarding Slovakia’s economic system, the issue with migrants and asylum seekers is not about choosing migrants who can enter the Slovak territory according to their ethnicity or religion (e.g., the Slovak government prefers Christians over Muslims), but according to their education, work experience and ability to integrate into the economic market according to the current demands of employers.31

4.2.4. Other Policies

As outlined in the following chapters, the attitude of Slovak political leaders, as well as that of the general public towards accepting third country migrants in Slovakia is highly negative. Yet, this does not mean that the government has not made any attempts to solve the crisis and help both migrants and the most burdened transit and receiving countries. A set of measures has been accepted to help deal with the migration crisis in general, which particularly reflects the priorities set up for Slovakia’s presidency of the EU Council in the second half of 2016.

Despite the quite negative image of Slovakia as a country of destination (not only) during the current crisis, the activities of the Slovak Republic aiming to help deal with this difficult situation should be mentioned: the Slovak Republic sent police units to assist at those state borders (those of EU member states as well as those of third countries)32 most seriously affected by migration

31 Hlinčíková, M., Mesežnikov, G., op. cit.
flows; the Slovak government signed an agreement with the government of Austria and re-opened the refugee facility in Gabčíkovo to accommodate asylum seekers from Austria during their asylum procedures. In cooperation with the civil society organization Pokoj a dobro [Peace and Good], the Slovak Republic also invited a group of 149 Christians from Iraq to stay permanently in Slovakia.33 One of the reactions of Slovak society to the migration and refugee crisis was a petition called Výzva k ľudskosti (Plea for Humanity), which invited the Slovak government to support activities working towards the elimination of the crisis and to help refugees. Consequently, the Slovak government agreed to provide 500,000 EUR from the national TIPOS lottery for humanitarian projects implemented by civil society organizations. At the migration summit in September 2016, the Slovak Republic promised to provide 550 government scholarships for refugees until 2021.34

4.2.5. The Slovak Presidency of the EU Council

Slovakia’s position in the migration crisis was important because of the Slovak Republic’s six-month presidency of the EU Council, beginning on 1 July 2016. The presidency was the first that Slovakia had occupied since joining the EU in 2004. Among other responsibilities, the country presiding over the Council is expected to coordinate and unify the activities of the Union as a whole. Yet, Slovakia was opposed to the generally accepted solutions agreed uponin the EU, which raised concerns among other member states as to how Slovakia would be able to fulfil this role. On the other hand, Slovakia itself was full of expectations stemming from its new position and the responsibilities connected with this position.

One of the first conceptual documents dealing with the priorities of the Slovak presidential programme, outlined in 2012, was called Preparing for the Slovak Presidency of the EU Council 2016 – Basic Data and Current Priorities. The report proposed that the priorities of the presidency should reflect Slovak strategic interests, including cooperation with EU border states, both in Eastern Europe and in the Balkans, the enlargement of the EU and the ma-

33 After one year, around two-thirds of all refugees from Iraq have stayed in Slovakia, while the others returned back home to safe areas. Mikušovič, D., “Časť z asýrských krestanov, ktorí prišli na Slovensko z Iraku, sa vrátila domov”, 17 May 2016, DenníkN, https://dennikn.sk/462831/cast-asyrskych-krestanov-ktori-pristi-slovensko-iraku-sa-vratila-domov [accessed: 20.01.2017].

nagement of EU water resources – all topics which might have emphasized the particularities of Slovakia as the presiding country. These issues such as migration or border protection were absent, although Slovakia is located on the EU’s external borders. Paradoxically, these are the two main topics that Slovakia needed to deal with in 2016, only four years after the initial priorities had been formulated.

The country’s representatives outlined four priorities for the Slovak presidency: an economically strong Europe, a modern single market, sustainable migration and asylum policies and a globally engaged Europe. Regarding the migration-related priority, the main aim of the presidency was “…to encourage the Union to develop more sustainable migration and asylum policies”, as the current crisis “…is putting enormous pressure on the EU’s external borders and on the asylum systems of the Member States.” The Slovak Republic was working on several policies on European migration and asylum issues:

1) The finalization of the legislative process for the proposals on the Smart Borders Package of April 2015. The Entry-Exit System (EES), applied to non-EU nationals, travellers requiring visas and visa-exempt travellers in the Schengen Area, will replace the obsolete system of paper passports and stamps with a more modern system of controlling third country citizens. It will do so by including biometric data, by providing information to border guards on refusals of entry of non-EU nationals and by enabling refusals of entry and information on people overstaying their authorized stay to be checked electronically on the EES. Over the course of the Slovak presidency, the main principles of the package were agreed upon, as it was necessary to discuss the conditions that must be fulfilled if EU member states wanted access to information included in the EES.

2) The associated Regulation changing the Schengen Border Code was approved in December by the COREPER in reaction to the threat of foreign combatants coming to the EU. Its main aim was to introduce the obligation for member states to systematically check every person (including EU citizens) crossing the EU’s external borders on these particular databases.

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3) The creation of the European Coast Guard and Border Agency, providing the effective management of external migration flows to the EU. A draft of the regulation had been already been prepared during the Dutch presidency of the EU, with Slovakia taking on the finalization of the whole project and the introduction of its day-to-day running.

4) The presentation of the effective solidarity concept, which aimed to point out that mandatory quotas are not the only possible manifestation of solidarity with migrants, home countries and the most burdened receiving countries. On the contrary, a complex solution demands a much more complex approach to solidarity, including not only relocations, but also financial contributions, the sending of experts to the EU borders and Middle Eastern states, or the sharing of reception capacities – all of which were applied by the Slovak government (see regional policies). However, the concept was heavily criticized, especially by Mediterranean countries, including Italy, Malta and Greece.

### 4.2.6. Slovakia’s Position on the Quota System

The Slovak Republic was strictly against the introduction of the quota system for relocating migrants from Italy and Greece, which was passed by the Council of the European Union on 22 September 2015 – Council Decision (EU) 2015/1601. According to the proposed scheme, 120,000 migrants were to be relocated across the EU’s member states, making provisions for the size of the economy and population of each member state. Slovakia would be required to take 802 refugees – 190 from Italy and 612 from Greece. Out of the 28 member states of the Union, the Czech Republic, Hungary and Romania were also against the quota system and Finland abstained in the ballot. Slovakia – under the then one-party SMER government - reacted by filing an action for annulment to the Court of Justice (case C-643/15), challenging the legality of the Asylum Seekers Relocation Decision of 22 September 2015. As the full text of the Slovak action is not accessible, it is only possible to analyse the six arguments published on the webpage of the Slovak Ministry of Justice. These can be simplified by dividing the Slovak argumentation into two groups:

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38 According to the Council’s decision, the migrants to be relocated are asylum seekers from Greece and Italy, not refugees. This means that they requested asylum in one of the three states, but that the asylum procedure has not yet concluded. This should be done in the states of relocation (Council Decision EU 2015/1601).

39 On 3 December 2015, Hungary also filed an action for annulment (case C-647/15).

1) **Legal arguments** – referring particularly to procedural arguments concerning the way the contested decision was adopted. There are several claims to be taken into consideration regarding the adoption procedure of the contested legislation. To mention just a few: the decision of the Council of the European Union (made up of national ministers) was adopted in contradiction to guidelines set by the European Council (made up of heads of state and government) – although the conclusions of the European Council are only political in nature and are not legally binding (Article 15(1) TEU). According to Article 15 TEU, the role of the European Council is to “define the general political directions and priorities” of the Union and, according to Article 68 TFEU, also to “define the strategic guidelines for legislative and operational planning within the area of freedom, security and justice”. The European Council stated several times that the relocation of migrants 1) should be made on a voluntary basis and 2) should be a decision adopted by consensus.41 Another point regarding the decision adoption process includes repeated consultations with the European Parliament. The original draft concerned Hungary as well as Italy and Greece; the former refused to be included in the group of external border states in the final version of the contested decision. This is an essential change that should have been subject to another consultation by the European Parliament. The breach of some essential principles of representative democracy and institutional balance in the EU, established in Article 78(3) TFEU and Article 293 TFEU, as well as Article 10(1 and 2) TEU and Article 13(2) TEU, can be objected to.

2) **Political arguments** – referring to the breach of the principle of proportionality when the contested decision was adopted. As stated in the official statement of the Slovak Ministry of Justice, “The contested decision is manifestly incompatible with the principle of proportionality, as it is manifestly neither suitable nor necessary to achieve the desired end.”42 In other words, the contested measure is “...not

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41 On 23 April 2015, the European Council stated that there was a need to “consider options for organizing emergency relocation between all member states on a voluntary basis” and to “set up a first voluntary pilot project on resettlement across the EU, offering places to persons qualifying for protection.” Furthermore, at its meeting of 25 and 26 June, the European Council agreed on “the temporary and exceptional relocation over two years from the frontline member states Italy and Greece to other member states of 40000 persons in clear need of protection, which has been caused by the current emergency situation, particularly in Italy and Greece, and which is not suitable to achieve the desired aim.”

suitable to reach the desired aim (i.e., to relieve the burden borne by the external border states and to show solidarity and the fair sharing of responsibility between the member states as outlined in the decision’s preamble), since relocating people is too difficult and their further movement is too unpredictable.”

4.3. Public Attitudes

According to the Migrant Integration Policy Index (MIPEX), Slovakia has only been characterized as a “very small country of net immigration (mostly non-EU) since the 2000s, driven by pre-crisis economic conditions and future demographic trends.” Slovakia scored 37 points, which means “slightly unfavourable” towards immigrants, and is placed 34th out of 38 countries. Indeed, in 2013, Slovakia’s foreign population was only at 2.9%. With this number, Slovakia was the EU member state with the lowest number of immigrants per 1,000 inhabitants.

At the same time, Slovakia is a country with more anti-immigrant sentiment than the EU average. The attitude of Slovaks towards third country immigration to the state territory is generally negative and migration is considered to be a serious threat to Slovak national security. Relevant conclusions can be derived from the Eurobarometer survey organized twice a year (in May and November) in every EU member state. The main aim of this survey is to get statistical data on the stance of EU citizens towards EU institutions, the direction of the EU as a whole and the prioritization of the current issues the EU has to face. For the purpose of the research on the attitudes of the Slovak people towards immigration, we compared the data from the Eurobarometer 83 (May 2015) and the Eurobarometer 85 (May 2016) by analysing the answers to the following questions: 1) What do you think are the two most important issues facing our country at the moment? and 2) What do you think are the two most important issues facing the EU at the moment? In May 2015, migration was the most common answer to the first question for 4% of Slovak citizens and to

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43 Vikarská, Z., op. cit.
44 16% of the foreign-born population were originally non-EU nationals, and 62% of the foreign-born population were from low or medium-developed countries, according to the Human Development Index (HDI).
45 “Foreign-born population by country of birth 1 January 2014”...
the second question for 35% of Slovak citizens. One year later, in May 2016, the figures in Slovakia had increased to 17% for the first question and to 59% for the second question.\footnote{47}

Since 2014, there have been numerous other surveys and polls organized by Slovak NGOs and news agencies investigating public opinion towards migrants and the migration crisis. Although they might not be as representative and reliable as the Eurobarometer, the results of existing research in this area confirmed the negative image of Slovakia as a country with rather restrictive, non-inclusive policies, hostile and xenophobic public attitudes towards immigrants, a generally too conservative society and an intolerance of “otherness”.\footnote{48} In the 2muse agency poll from September 2015, 40% of respondents admitted that migration is a topic that will influence their votes in the 2016 parliamentary election.\footnote{49} Another poll from the Polis agency from June 2015 showed that 70.1% of people are against the admission of third country migrants based on mandatory quotas and 63.4% of them considered migration as a security threat to the country.\footnote{50} In September 2015, the Euroatlantic Centre (EAC) prepared a survey showing that refugees are regarded as the biggest security problem for Slovakia (34.3%), followed by unemployment (17.5%) and corruption (16.0%).\footnote{51} Regarding policies for solving the migration crisis on the local and European level, most people (89%) agree with the government’s solution to the crisis according to the FOCUS 2015 poll, and did not find the EU’s attitude satisfactory (82.6%), as was noted by the EAC in September 2015.\footnote{52} Even more interestingly, the Polis survey shows that in August 2015, 63.5% of respondents saw the construction of the wall on the Hungarian-Serbian border in


a positive light. The Institute for Sociology at the Slovak Academy of Sciences noticed a certain paradox in perceptions of the migration crisis in Slovakia. Although 70% of respondents feared migrants, only 7.1% believed Slovakia to be the final destination where they want to settle. This combination of quite realistic assumptions relating to the settlement intentions of third country migrants and a high level of fear of newcomers is complemented by a relatively low level of their readiness to help. When answering the question “How should Europeans treat migrants already present on European territory?”, 49% of respondents answered “help only where necessary”, 19.4% answered “not help at all” and only 1.5% “help more intensively”.

Another important manifestation of the public’s attitude was the referendum held in August 2015 in Gabčíkovo (Western Slovakia), following a petition reacting to the Slovak-Austrian agreement on the temporary resettlement of 500 asylum seekers from Austria to the Slovak Republic. The local people were asked: “Are you against the establishment of the temporary refugee camp on the premises of the Slovak technical university in Gabčíkovo?” 58.47% of qualified voters participated in the referendum and 96.67% of them were against the establishment of the premises. However, the referendum was not legally binding and the facility was created despite the general disagreement.

Resulting from the generally negative attitude towards third country migrants, the issue of political extremism in Slovakia became more visible in the country after 2014, although extremism is hardly connected solely with the concept of migration. There are several other factors, including problems with the Roma population, the state’s economic situation or corruption scandals and the public’s general mistrust of the established political leaders, which also explain the rise in the popularity of extremist political parties in the 2016 election. However, the topic of migration has been a strong tool in the hands of extremists and radical political leaders, as has been seen in their speeches and the presentation of their ideas. Migration discourse is closely connected to national identities and the issue of self-determination. Yet, in Slovakia, migration is a relatively new phenomenon. Migrants coming to the state before 1989 were mostly people who had been officially admitted by the national govern-

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55 Proponents of the refugee facility claimed, among other things, that there had been refugees living in the town in the past during the Balkan conflict in the 1990s, and that their coexistence with locals was peaceful and unproblematic (Hlinčíková, M., Mesežníkov, G., op. cit.).
ment, usually foreign students from politically friendly Communist third countries and workers from Vietnam. Migrant numbers were generally low and controlled by the official authorities, thus they were considered invisible and unproblematic. After the fall of the socialist regime in Eastern and Central Europe, nationalist sentiments were revived on the political scene. The established “systemic vacuum” following the collapse of Communist regimes was filled by the capitalist market economy. As a consequence, national chauvinism acted as a ‘shock-absorber’ against the sudden exposure to the imbalance created by the new capitalistic regime. The other theory explains the revival of nationalist sentiments in Slovakia and the Eastern Europe as a reaction to the processes of globalization. Globalization is sometimes referred to as a process of the removal of national borders, the diffusion of cultures and the dissolution of national states. However, Slovakia gained its state sovereignty less than 25 years ago and the Slovak nationality is, for many citizens, one of the country’s most important values. “In this situation, most political subjects identify the citizens as nationally sentient and take this into account in their political programmes and activities.” Therefore, it is difficult to setup strict boundaries between constitutionally formed nationalism and its escalated form – right-wing extremism.

Bolečeková and Androvičová identify the following areas for the possible origins of the generally negative attitude of Slovak people towards migration: psychological, historical and socio-political. It needs to be stressed that all causes of the situation are interconnected and that the current situation in Slovakia is very likely “predestined” by a combination of all of the three factors mentioned above. Vašečka claims that the process of national self-determination in Central and Eastern European (CEE) countries has been more ethnic and culturally driven than civic and territorial: “The salience of the ethnic component in constructing nationhood among CEE countries is, seemingly, the critical factor in why these states are not ready to fully accept the cultural other as equal members – the other may be national minorities or new immigrant groups.” The author expresses the view that post-modern CEE nations should

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58 *Ibidem*.


re-define their ethicized identities to identities shaped by constitutional patriotism, democratic values, human rights and the rule of law. Another issue is the lack of relevant information for people to draw on. The media prefer to publish sensations – mostly, stories about terror attacks organized by Muslim fighters who came within the migration waves or the misery of temporary facilities for migrants. Politicians, on the other hand, often use migration in their campaign by fashioning all migrants as solely economic migrants who will depend on the state’s social system, taking jobs from locals and burdening the economy.

4.4. Political Implications

Although Slovakia is not a first choice destination for migrants from third countries, discussions about EU quotas raised questions over the stay of third country migrants in Slovakia. An intensification of the political debate on migrants and refugees has been identified, especially in the months preceding the Slovak parliamentary election that took place in March 2016; this raises questions over the potential misuse of the topic and its securitization based on the generally negative attitudes of the Slovak people towards accepting third country migrants on the Slovak territory.

The main aim of this chapter is to analyse the position of the current parliamentary political parties on the issue of third country migrants coming to Slovakia. The analysis is based on the parties’ pre-election programmes as its main source of information, following their similarities and complexity in comparison with the floating and unstable opinions presented by particular politicians in their public speeches and media appearances.

Slovakia has a proportional voting system, with an election being held every four years. Therefore, there are traditionally many parties running for election. The most exploited topics presented by politicians before every parliamentary election in Slovakia include social care and employment, the anti-corruption agenda, the education system and public health. However, the last parliamentary election in 2016 brought another topic to the fore over all of the others – the migration of third country nationals to the European Union. This regional problem with a global impact significantly affects the position of the Slovak Republic on the regional (V4) and European (EU) levels, while also having significant implications for new perceptions of the promotion of the national interests of the Slovak Republic in the eyes of its European allies.62 As noted

by Androvičová, in Western democracies considered as traditional immigration countries, migration has always been a topic with significant potential for electoral mobilization. Moreover, anti-immigration rhetoric is becoming a tool for attracting supporters of extreme-right oriented political parties. In Slovakia, political discourse on migration from third countries change in its context and form from May 2015, reflecting the upcoming parliamentary election on the one hand and increasingly negative public opinion on the issue on the other. Thus, political discourse changed to an electoral discourse, while migration, which was previously presented as an EU problem, has become the most burning threat to national security in the electoral campaigns of most political parties.

Generally speaking, all of the political parties in Slovakia agreed in their broadly negative attitude towards the receiving of third country migrants in Slovakia on a compulsory basis. Such unity over political issues is a rare occurrence in Slovakia. Yet, the proposed measures on how to settle the crisis and deal with asylum seekers differed according to the parties’ left-right orientation on the political spectrum and to their political agenda. In the following text, the pre-election attitudes of the current Slovak parliamentary political parties will be presented, according to their official stands towards migration as published in their official party documents.

SMER – sociálna demokracia [Direction – Social Democracy] – is currently the only markedly leftist political party in the Parliament and as such, it is expected to advocate for minority rights and to put immigration high on its agenda. SMER-SD is the biggest parliamentary party in Slovakia and the winner of the 2016 election. Yet, it has a generally negative attitude towards third country migration in the long run. Already in 2012, the party depicted migration as an unfavourable demographic development among other problems such as global economic changes or climate change. In its electoral campaign...

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65 In this text, we derive the differences between the left and right side of the political spectrum mostly from the factor of class. Whereas the Left promotes social justice and redistributive economic policies, the Right defends private property and capitalism. Other differences include attitudes to personal liberty, human rights, social freedoms, etc. The general classification of the political parties on the left-right spectrum is usually as follows: communist, socialist, green, liberal, Christian democratic, conservative, right-wing extremist.

66 The parties’ positions are presented according to their 2016 parliamentary election results in top-down order.

in 2016, the party proposed a set of long-term solutions to the crisis, including the more consistent protection of the external borders of the Schengen Area, the stabilization of the situation in countries of origin and the establishment of the so-called secure place, in which migrants would be grouped and registered in order to sort economic migrants from refugees eligible for asylum in one of the Union’s member states. The original slogan of the campaign, Robíme pre Slovensko [We work for the people] was later complemented by Chránime Slovensko [We protect Slovakia], thus indirectly implicating the migration crisis. The party strongly opposed the quota system. One has to wonder the extent to which the strict stance of the then Slovak one-party SMER government on migration and the legal action of the Court was influenced by the upcoming election and attempts to increase the party’s popularity, and whether the reaction would have been the same had the contested decision been adopted a few months earlier or later, after the election in Slovakia.

SaS – Sloboda a solidarita [Freedom and Solidarity] is the biggest opposition party in the 2016 Slovak parliament, is considered as a liberal party on the right site of the political spectrum and is a member of the Eurosceptic ACRE – the Alliance of Conservatives and Reformists in Europe. In the 2016 electoral program, SaS included the migration issue in the part of its programme dealing with Interior and Defence, where it is stated that it is right to support victims of war and their families, but that solidarity cannot be enforced. Moreover, the programme emphasized the stricter protection of Slovak borders and stated that every country has the right to decide on who can live on its territory, and under what circumstances. The party came up with a five-point plan to tackle the EU migration crisis. It is interesting to draw attention to the five-point plan’s introductory remarks, stressing that the plan was prepared to make provisions for the wishes of the citizens of the Slovak Republic. The proposed solutions include:

1) Protection of the external border of the EU and the Schengen Area. This is seen as the crucial point, as freedom of movement within the EU is based on the fact that its external borders are protected precisely.

2) Establishment of two central migration camps for asylum seekers outside of the EU – one in North Africa and another in the Balkan region or Turkey. The camps should be financed by the EU and the main aim of their existence would be the proper separatethose eligible for asy-

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63 Androvičová, J., “Sekuritizácia migrantov na Slovensku – analýza diskurzu”, Sociológia, 2015,
65 In this text, we derive the differences between the left and right side of the political spectrum mostly
66 The parties' positions are presented according to their 2016 parliamentary election results
671. For migration and the legal action of the Court was influenced by the upcoming election and attempts to increase the party’s popularity, and whether the reaction would have been the same had the contested decision been adopted a few months earlier or later, after the election in Slovakia.
68 The original slogan of the campaign, Robíme pre Slovensko [We work for the people] was later complemented by Chránime Slovensko [We protect Slovakia], thus indirectly implicating the migration crisis. The party strongly opposed the quota system. One has to wonder the extent to which the strict stance of the then Slovak one-party SMER government on migration and the legal action of the Court was influenced by the upcoming election and attempts to increase the party’s popularity, and whether the reaction would have been the same had the contested decision been adopted a few months earlier or later, after the election in Slovakia.
llum in the EU from those who are solely economic migrants. This separation should take place before the migrants enter the EU itself.

3) Stabilization of the situation in Syria, Iraq and Libya, so that the primary cause of emigration from these states is eliminated. The EU should cooperate in this endeavour alongside the USA, Russia, Turkey and other rich Gulf states, including Saudi Arabia and the United Arab Emirates.

4) Movement of all illegal migrants from EU territory to central refugee camps, where they can either apply for asylum or leave the camp and return to their home country or another state willing to accept them.

5) Rejection of a mandatory quota system for refugees.

OĽaNO-NOVA – Obyčajní ľudia a nezávislé osobnosti – Nová väčšina [Ordinary People and Independent Personalities – New Majority] is sometimes referred to as a niche party70 composed of independent personalities, and its attitude towards migration has to be considered in this context. The topics of migration and refugees were mentioned in the short blueprint paper Treaty with Slovakia from November 2015, in which the party proposed that, over the course of Slovakia’s presidency of the Council of the EU, the country should enforce the exclusion of those states from the Schengen Area that fail to protect the Area’s external borders.71 Furthermore, the party proposed eight points which would help to solve the EU migration crisis:72

1) To consistently distinguish between refugees and asylum seekers.
2) To reject mandatory quotas on asylum seekers which go against the Union’s principle of solidarity and subsidiarity.


3) To provide assistance to refugees fleeing from their home countries in fear of persecution and war. This has to be done on a voluntary basis, while still realizing our moral responsibility to help these people.
4) To offer assistance to refugees – particularly to families, women and children from the most endangered religious groups in Syria and Iraq, in cooperation with Slovakian NGOs and churches.
5) To propose an amendment of the Asylum Act no. 480/2002 Coll., allowing for the withdrawal of asylum in the case of a crime being committed.
6) To tighten up the screening of asylum seekers over the course of the asylum procedure in order to minimize potential risks for the security of the Slovak Republic and its citizens.
7) At the meeting of the European Council and the Council of Ministers of the EU:
   a) To initiate the activation of a mechanism for evaluating countries which breach the Schengen rules for the protection of the EU’s external borders on a long-term basis;
   b) To insist on the creation of a concrete and effective mechanism for the return and readmission of economic migrants to their home countries;
   c) To propose a declaration of the European Council comprising a message that all economic migrants will be returned to their home countries, to prevent another migration wave from coming to Europe.
8) To approve humanitarian aid to Turkey, Jordan and Lebanon – states hosting the highest amounts of refugees and asylum seekers.

Next, there is SNS – Slovenská národná strana [Slovak National Party]. Classifying this party within the political spectrum is quite challenging,\(^\text{73}\) as it advocates elements of both left- and right-wing policies – depending on the current political leadership. The party’s agenda has traditionally been focused on all foreign elements in society, including the Hungarian minority in Slovakia and, in particular, the Roma issue. The party mentions the topic of third country migration in its electoral programme, in the part dealing with state national sovereignty. Its main point is the protection of Slovakia’s borders from “…the uncontrollable invasion of illegal migrants…” Besides, the defence of Slovak ethnic, cultural, religious and social integrity, which is potentially being endangered by immigrants, is also outlined. The rejection of multiculturalism

and the protection of traditional Christian values is further highlighted in the party’s Popradské memorandum.\textsuperscript{74}

Kotleba – Žudová strana Naše Slovensko [Kotleba – People’s Party Our Slovakia] is a radical right-wing party and does not have any particular programme for resolving the migration crisis. According to the party’s official programme, all migrants are seen as Muslims and the party treats them as a danger to the physical security of the Slovak population, especially women. It also deems them to be a threat to Slovak cultural identity and a burden on the Slovak economy. The party rejects the obligatory quota, emphasizing that each migrant granted asylum in Slovakia costs the state about 1,500 EUR per month, without any further reference to the source of this calculation.\textsuperscript{75}

SME RODINA – Boris Kollár is a party that has presented its attitude towards the EU migration crisis in its electoral programme. This takes a question-answer format and is divided into four categories – economy, education system, public health and security. The first thing of note is that the only topic analysed in the security category is migration, as if Slovakia had no other security issues to face over the next four years. The party views migrants and asylum seekers as Slovakia’s biggest security problem. The current migration waves are compared to the Migration Period of the Barbarian nations, which led to the fall of the Roman Empire. According to the party’s program, some migrants are certainly highly educated people from whom our society can benefit. However, most of them are also members of ISIS and come to Europe with the aim of completely destroying our society. Thus, Slovakia has to reject mandatory quotas, consistently separate economic migrants from asylum seekers and only accept Christian migrants, as only these people are able to integrate successfully into Slovak society.\textsuperscript{76}

Most-Híd is one of the few parties that do not directly refer to migration as a security threat. The party avoids creating a direct connection between immigrants and terrorists, which might cause the spread of fear, racism and xenophobia in society. This attitude results from the portfolio of the party itself – Most-Híd is a party whose policies are mostly orientated around minorities living in Slovakia.\textsuperscript{77}

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\begin{footnotesize}


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campaign. The term third country migration does not appear even once in the party’s programme for the period 2016–2020.

Sieť [Network] does not include the migration crisis as a fundamental topic in its 2016 electoral campaign either, and does not mention migration in its electoral programme. The party encouraged the President of the Slovak Republic to organize a round table of the relevant Slovak political parties in order to reach an agreement on Slovakia’s stance on the current situation.

As we have seen from the above analysis of the pre-election programmes of Slovak political parties, all of them reject mandatory quotas as proposed by the European Union. Most of the parties propose a long-term solution based on the settlement of the situation in the regions from which the immigrants are coming in the Middle East and the proper separation of economic migrants from asylum seekers. Another common feature is the securitization of migration in Slovakia, which is apparent when references are made to migration as the biggest security problem of Slovakia (e.g., the SME Rodina party). Although most political parties are united in their stance towards the migration crisis regardless of whether they are members of the coalition or the opposition, there are several lines of conflict separating the state’s current political elites. The governmental program for 2016–2020 mentions migration only four times – mostly within the context of security. The government of the Slovak Republic is ready to support constructive solutions of the current migration crisis, albeit while “...respecting the specifics and possibilities of the particular member states”. Moreover, irregular migration is referred to as an asymmetric security threat, similar to terrorism and organized crime. On the other hand, the pragmatic and somehow securitization-based stance of the government is balanced by more the idealistic position of the President of the Slovak Republic, who also rejects mandatory quotas, but continues to stress the moral obligations of European governments and their people towards migrants in need.

Obviously, in Slovakia most political parties take negative a stance on migration, regardless of their left-right orientation on the political spectrum. As noted by Androvičová,79 in the former immigration countries, such as Germany, France or Sweden, the social democratic parties usually represent a more moderate approach to migration based on such values as respect for human rights, tolerance and anti-racism. On the other hand, the conservative and right side of the political spectrum is about to take a more securitization-based stance according to programmes based on the principles of nationalism and the pro-

tection of traditional cultural values that might be put at risk by newcomers from foreign cultural and socio-economic environments. However, as can be seen from the analysis of the political parties’ electoral programmes, this is not the case in Slovakia. To give only one example, the Slovak SMER-SD party’s approach to migration is more conservative and nationalistic than liberal and socially-oriented, even though the party is considered to be social-democratic. Generally, we can define three determinants influencing parties’ position on migration.

1) Ideological determinants – most notably visible in the approach of the Slovak National Party and Most-Híd. The SNS’s political profile has traditionally been based on ethnic nationalism. In the past, political clashes with parties representing the Hungarian minority have been quite common. Therefore, it is not surprising that migrants from different cultural, ethnic and religious backgrounds are also deemed as a threat to national sovereignty and Slovak ethnic, cultural, religious and social integrity. On the other hand, Most-Híd, as a party advocating for the rights of minorities in the state, adopted a much more tolerant and less radical stance.

2) Strategic determinants – understood as the exploitation of migration for political gain. As noted in the previous chapter, the general public attitude towards migration combines elements of fear and rejection, including demands for border protection and security. The parties need to reflect these requirements of their voters in order to succeed in the parliamentary election.

3) Structural determinants – especially the institutional structure of the party system. These determinants provide for the manner in which party policy is formed in Slovakia. According to Mihálik and Jankófa,80 the political orientation of Slovak parties is highly dependent on the current party leadership.81 Modern-day governance in many countries is usually structured along the lines of leadership roles, i.e., the im-

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81 The concept of leadership has been analysed by many scholars. Among the most important are Barbara Kellerman and Jean Blondel, who argues that leadership is a concept according to which leader and followers are interrelated in a specific context and which offers a typology in leadership studies: a) leadership as a social status – position; b) leadership in types of social structures; c) leadership in organizational functions and institutional positions; d) leadership as a personality type. Another important study of leadership has been conducted by Max Weber, who defines three kinds of authority and legitimacy in political leadership: legal, charismatic and traditional (Mihálik, J., Jankófa, M., op. cit.; Weber, M., Political Writings, Cambridge 1994).
importance of presidents of states, prime ministers and, finally, political party leaders. Leaders are the party members most visible in the media and, at the same time, those who most attract voters. Therefore, they also play major role in political decision-making and crisis management over the course of the electoral campaigns. Furthermore, “...the party affiliation or polarization is best interpreted through the personality of its leader. In other words, party leaders enjoy the most visibility in the public media and thus create the party’s complete political image for society as well as for other political parties and movements.”82 As suggested by McAllister,83 this feature is visible in the Slovak political environment in such a way that Slovak governments are usually named after the current Prime Minister (The Fico Government; The Radičová Government), compared to political parties formed through a government coalition (i.e., in Germany – the CDU/CSU-SPD government, etc.). Thus, the interests and personality of the party’s leader often play a more important role in conflict management than the official policy lines of the party itself. In some cases – as shown by the migration crisis – they can even be in complete opposition to one another. An example is the already mentioned party, Smer-SD. “Ideologically, its views from the left-wing socialist party family, but its leaders strongly refuse solidarity with migrants, which is mainly demonstrated through the definite rejection of the quota system and the distribution of migrants. In conflict management, the party leadership stands for typically right-wing solutions; thus, the social aspect of the party is substituted with national protection and interests.”84 Another example would be the liberal platform, Freedom and Solidarity (SAS). Despite its name, the party strongly opposes solidarity with migrants and the party leadership considers the migration influx to be an economic and social threat to the EU. Thus, in the case of several Slovak political parties, ideology plays only a limited role in the conflict management of migration flows in the European Union, and party leadership seems to be the crucial factor in party orientation and decision-making in the crisis.

82 Mihálik, J., Jankoľa, M., op. cit., p. 9.
84 Mihálik, J., Jankoľa, M., op. cit., p. 10.
4.5. Conclusions

In the Slovak Republic, the influence of the migration and refugee crisis has been markedly less intense than in its neighbouring countries of Hungary and Austria. The main reason for this is definitely the geographical location of and probably also the socio-economic situation in Slovakia. In opposition to Hungary, the Slovak Republic is not situated on the most frequent migratory routes; and unlike Austria, Slovakia is a rather unattractive country for immigrants. Despite its relatively low numbers of immigrants, the current migration crisis has become one of the central issues influencing all aspects of society in Slovakia. Despite the fact that there have only been 186 accepted asylum seekers in Slovakia since the breakout of the crisis in 2014, and that the number of international protection applicants was 10 times lower in 2016 than in it was in 2004 when Slovakia joined the EU, third country migration has still had a significant impact on the public, causing a battle of wills between the minority who support the acceptance of asylum seekers and the majority fearing these newcomers from different ethnic and religious backgrounds and asking for stronger protection of Slovakia’s internal borders.

Slovakia is a relatively young country with no experience of immigrants, except for that of legal migrants coming to the state in the times of Soviet influence in the region. This lack of experience with migrants points to the vulnerability and manipulability of Slovak public opinion and creates space for the misinterpretation and securitization of the topic. This fact was particularly evident during the 2015 parliamentary election, when certain radical political parties crossed the 5% hurdle and made it into Parliament, although this certainly cannot be solely ascribed to their stance on the migration crisis. The generally negative public attitude towards third country migrants was exploited in the electoral campaigns of the Slovak political parties, which reached an unprecedented conformity regarding solutions to the crisis. All of the parties rejected the mandatory quotas on migrants proposed by the EU and were in favour of supporting the solutions in migrants ending and transit countries. Yet, certain differences were obvious in terms of the treatment of migrants already present on European territory, based on the increasing radicalization of certain parts of the political spectrum in Slovakia.

Similarly, the crisis had a significant impact on Slovak foreign policy, not only on the V4 level, but also in relation to the EU as a whole following the Slovak presidency of the Council of the European Union from June to December 2016.
4.5.1. SR-V4 Cooperation

The attitude of the V4 countries towards solutions to the migration crisis is characterized by a high degree of unity. Common features include the rejection of the mandatory quota for the redistribution of asylum seekers in the EU; the voluntary-based solution to the situation; the increased protection of the Schengen Area’s external borders and cooperation with source and transit countries of immigrants in the Middle East and sub-Saharan Africa. Besides, similarities are also to be found in high levels of anti-migrant and anti-Muslim feeling – not only at the highest political levels, but among the public of the aforementioned states. The most significant conformity is visible in the attitudes of the Slovak Republic and Hungary regarding the issue of obligatory quotas. Following the Slovak Action for annulment to the Court of Justice C-643/15 of 2 December 2015, challenging the legality of the Asylum Seekers Relocation Decision of 22 September 2015, Hungary filed a similar action just one day later, on Thursday 3 December (pending case C-647/15). On the contrary, Poland did not follow the V4 line and voted for the adoption of the Council Decision (EU) 2015/1601, despite the fact that the current Polish government seems to reflect the attitude of the remaining V4 countries regarding new immigrants coming to the territory of the European Union. Certain differences are also visible when comparing the attitudes of the heads of states of the particular V4 countries. As noted above, the President of the Slovak Republic is considered to be the most liberal politician in Central Europe regarding the migration issue, whereas the other presidents are stricter. Despite this, generally, Central Europe is depicted as a radical opponent of the proposed measures adopted to solve the migration crisis in the European Union, while the V4 states are considered to lack solidarity with Southern Mediterranean and Western Balkan countries – the regions most burdened by migration due to their geographical proximity to migrant source regions. Nevertheless, despite its negative connotations for the EU, we can conclude that the migration crisis has repeatedly confirmed the unity of the V4 member states’ opinions, as well as the general importance of the group as it serves as a platform facilitating the enforcement of its members’ interests on the EU level.

4.5.2. SR-EU Relations

Regarding the influence of the migration crisis on the position of the Slovak Republic in the European Union, it is necessary to point out both the advantages and disadvantages the crisis has had for the country on the European

85 Council Decision (EU) 2015/1601 of 22 September 2015 establishing provisional measures in the area of international protection for the benefit of Italy and Greece.
level. Bearing in mind the consequences of the aforementioned Slovak Action for annulment to the Court of Justice (C-643/15) against the Council decision 2015/1601, it can be observed that the EU has perceived the country more negatively than ever since Slovakia joined the Union. Most reproaches attack Slovakia’s lack of solidarity with people seeking asylum as well as with Southern member states. Another issue is the alleged anti-discriminatory rhetoric of the Slovak government. In this case, the main problem was the country’s decision to accept only Christian asylum seekers out of respect to the cultural and religious demands of the Slovak people. On the one hand, Slovakia is bound by the principle of solidarity – one of the underlying standards of the European Union. Yet, the problem with solidarity is its legal non-enforceability. Therefore, it is more a generally accepted value than a legal norm. On the other hand, the decision is a manifestation of the state’s sovereignty – one of the main attributes of statehood. Slovakia is a sovereign state and therefore it has the right to decide whether to allow the entrance of foreigners onto state territory or not. Moreover, the Slovak government was established after a democratic parliamentary election. In the election, Slovak citizens chose representatives who are supposed to represent the will and opinion of the electorate – which is the basic principle of a representative democracy. If the citizens of the state do not favour the acceptance of asylum seekers, the government is – at least partially – obliged to take this opinion into account.

However, the migration crisis has also had certain positive consequences for the country. The crisis has created the opportunity for Slovakia, and the V4 as a whole, to show its strength when it comes to solving problems on the EU level. The rejection of mandatory quotas and its different approach compared to other member states meant that Slovakia and the V4 are nowadays perceived as independent and relevant actors and fully-fledged members of the EU, which must be taken into account in the formation of EU policies. As noted by Terem and Lenč, the migration crisis has become “...an indicator of whether Central Europe is able to exert influence in its position in international relations, or whether it remains only an object of the great powers’ interests.”

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Sándor Gallai

Conclusions
The Visegrad countries share some marked similarities which differentiate them from most West European states. In the Communist era these countries were closed to large-scale immigration and the possibility of emigrating to the West was also limited and mostly illegal. The freedom of movement was neither codified, nor respected. Therefore, compared to most West European societies, the countries in this region had a rather limited experience with immigration and each of them demonstrated a relatively high level of both ethnic and cultural homogeneity.

After the fall of the Iron Curtain the laws and the institutions dealing with migration were adjusted to the new, democratic environment. Travelling within, from and to the former Communist block became easier and legal migration started to intensify. The nature of emigration changed: the earlier importance of political motivations faded away, whereas economic considerations turned to be the main and often the only inspiration for leaving the homeland. The prospect of gaining more income and better living conditions was particularly attractive for the Polish citizens (who had already demonstrated a considerably higher level of mobility in the 1980s than their Hungarian and Czecho-Slovak fellows).

The low living standards as well as the cultural (mostly linguistic) difficulties did not attract a high number of immigrants to these countries. The only exceptions to be noticed here were the waves generated by the Balkan wars in the 1990s and the mostly ethnic Hungarians moving from the neighbouring countries to their mother country. The former group partly sought (and found) refuge in Western Europe, partly returned home after the war. The latter group in the late 1980s was mostly composed of politically excluded and ousted ethnic Hungarians escaping from Romania, while in the 1990s the influx was primarily driven by economic motivations. Since the overwhelming majority of economically motivated immigrants arriving to Hungary were also ethnic Hungarians, their social integration was a relatively smooth process, largely facilitated by the lack of linguistic and cultural barriers.

At the time or shortly after the regime change, all Visegrad countries signed the 1951 Geneva Convention and its 1967 Protocol. New legal terms and more precise definitions were introduced and institutions dealing with repatriation, immigration and asylum-seeking were established and designated. In 2004 the Visegrad countries joined the European Union and in 2007 they
became members of the Schengen area with the implication of giving up internal border control and – in case of three out of four countries – imposing tighter control over the external Schengen borders. The membership in the EU required the transposition of the corresponding EU directives; at the same time, it has also improved the attractiveness of the Visegrad region and the originally insignificant percentage of voluntary legal immigrants increased. Nevertheless, as the living standards and the social benefits in the V4 countries were among the lowest in the EU, it is not surprising that the number of immigrants fell far behind the figure of those who left the region. Driven mostly by economic motivations, migration from the Visegrad countries increased considerably after EU accession since it facilitated job taking in the old member states. The increasing number of legal immigrants, on the other hand, offered the opportunity for the V4 countries to gain direct experience about what it means to be a transit and a destination country. The overwhelming majority of foreign-born inhabitants were of European origin and their integration proved to be generally unproblematic. The number of third country communities (Muslims population included) remained very small in the V4 countries; therefore the integration of such immigrants was not among the main issues to be dealt with regards to migration. Although the V4 governments adopted respective strategic documents and formulated key policies, some shortcomings – despite the definite progress in this area – continued to provide reasons for critical assessments.

After the turn of the century, the number of asylum seekers increased in the Visegrad countries as well, but the dramatic increase started only with the escalation of the Iraqi and Syrian crises. Mass immigration to the region reached its climax in 2015. Of the V4 countries, however, only Hungary was hit directly and severely. Lying on the Western Balkan route, Hungary experienced a large-scale influx of irregular migration with more than 400 thousand immigrants arriving at its southern border. Many of them had no valid documents and crossed the borders illegally. Due to the relatively lower living standards as well as to the limited subsidies available for asylum seekers, they perceived Hungary, and the other Visegrad countries, as a transit area. They mostly applied for international protection only when detained by the authorities. Most of them claimed to arrive from the war zones of Syria, Iraq and Afghanistan, nevertheless, the bulk of the claims could not be justified; the cases were usually terminated without being processed as the applicants had left for West European countries (most typically for Austria, Germany, Denmark and Sweden). In 2015 in Poland, the Czech Republic and Slovakia the number of asylum-seekers did not change significantly; whenever the number of illegal immigrants increased, it was either the result of overstaying foreigners from the East (most typical-
ly from Ukraine) or a faction of migrants aiming to reach Northern Europe. It became apparent that most foreigners who would have otherwise been expelled for overstaying or who were detained for illegal border crossing (ab)used the legal opportunities and applied for international protection in an attempt to avoid their return. In the light of those circumstances and due to the changing nature of migration the international legal framework of asylum proved to be obsolete.

At the time of the crisis the V4 governments became the most outspoken opponents of the EU policies on migration. The dispute between Brussels and the V4 countries was partly provoked by the different assessment of the nature of immigration. While the EU institutions and most Western governments persistently talked about refugees and those in need of international protection, the Hungarian government – later also backed by its Visegrad counterparts – described the wave of immigrants as a product of economic migration. The divergent interpretations also led to a dispute regarding the competences as asylum is mostly regulated by international and EU laws, while migration policy continues to fall into national competences. As the Schengen mechanisms could not withstand the pressure of mass immigration and both international and European asylum regulations proved to be an easy prey for abuses, the Visegrad states introduced their national responses. In their national legal systems the Visegrad countries amended the corresponding acts and usually made them stricter from the asylum seekers’ point of view. The ultimate objectives were to reduce the pull factors and to prevent the abuse of asylum rules.

The Hungarian government, partly in recognition of security risks presented by irregular migration and partly in fear of the potentially high number of Schengen returns, decided to impose obstacles to stop (or at least to divert) the flow of uncontrolled mass migration and restrict the number of those who could enter the territory of Hungary. The primary means applied by the government to achieve these goals were the installation of physical border barriers, the criminalization of the damaging of the fence and illegal border crossing as well as the establishment of transit zones in which a daily cap on the number of newcomers was introduced. The capacities in the reception centres were at first reduced, then eliminated altogether, while the numbers of personnel deployed at the borders were expanded. The policy of artificial bottlenecks was accompanied by the curtailing of the entitlements of those under international protection. The motion towards sealing the green borders and strengthening the control over border crossing enjoyed the support of the other Visegrad governments, which also enhanced the protection of their external Schengen borders. The concentration of more control capacities at the external
borders was also accompanied by more intensive internal checks. With respect to accommodating the asylum seekers and those under international protection the patterns were somewhat more divided as the Visegrad governments did not share unanimously the restrictive Hungarian policy line.

Although the V4 countries tend to experience increasing labour shortages in some sectors and foreign labour might be needed for their long-term economic development, the governments demonstrated different levels of openness to economic immigration. While they generally accept – in some cases even explicitly encourage – the introduction of foreign-born employees to the labour market, the overall number of immigrant workers in this part of Europe has remained limited. The V4 governments jointly rejected the motion towards presenting the most recent wave of immigration as a possible solution to employment problems. Their position was based on the main sociological characteristics of recent immigrants: compared to earlier flows driven primarily by economic motivation, the educational level of and the knowledge of the language of the host countries possessed by recent immigrants were much lower than in the previous decades.

Another common characteristic of the V4 countries was the markedly lower recognition rate compared to the receiving states of Western Europe. This was partly because of the numerous claims which were not assessed, but the application of the first safe country principle and the rejection of citizenship-based eligibility were also accountable for the differences. The sharp contrast in the recognition rates was similarly influenced by the different attitudes of the respective governments: while the immigration issue was initially approached from the humanitarian perspective in all European states and this has remained the dominant principle in most receiving countries, the governments in the Visegrad region were the frontrunners in changing the discourse and stressing the security dimension of the migration crisis as well as its political implications.

At European level the V4 countries demonstrated a very high level of unity and pushed for more effective border protection and more restrictive immigration policies. The V4 governments wished to see a more proactive EU policy and wanted to send less attractive messages to irregular/illegal migrants. They became the advocates of renewing the Schengen cooperation, establishing hotspots outside the European Union, implementing the repatriation decisions, giving financial, personnel, material assistance to the countries of origin as well as a better targeting of international humanitarian and development aid to those regions where the roots and the causes of the refugee crisis could be addressed. The Visegrad governments repeatedly warned about
the security threats that uncontrolled mass immigration to Europe might present. They argued in favour of preventing the import of ethnic and religious conflicts to the European Union. They cried for an effective border control and refugee registration to ensure the proper filtering of those eligible for international protection and thus fulfil the humanitarian obligations in cases of immigrants fleeing from war-torn areas.

The V4 countries – in line with the preferences of their population – were united in criticizing both multiculturalism and the policy of hosting irregular immigrants. They unanimously rejected the mandatory quotas for the resettling of refugees. The V4 governments expressed their intention to support voluntary schemes only. On the other hand, they showed less unity regarding the EU decision on the compulsory relocation of asylum seekers: while both the Slovak and the Hungarian governments decided to submit a motion to the Court of Justice to challenge the legality of the relocation decision of and get it annulled, the Czech and Polish governments did not join this motion. Despite the change in government, the new Polish administration had initially also committed itself to the obligations of its predecessor, but after the terrorist attack in Paris (and later in Brussels) the Śydło cabinet decided to turn against the relocation decision and refused to implement it. The lack of implementation of this particular decision provoked harsh criticism from both the European Commission and the Western governments and it resulted in a rather negative perception of the Visegrad governments. The stance of the V4 countries on mandatory relocation and resettlement, along with some national policies and the high proportion of rejected asylum claims, were interpreted by the EU institutions and host country governments as a lack of solidarity with those countries which had come under extreme pressure generated by the massive flows of irregular migration. The Visegrad governments rejected such accusations by pointing out the impropriety of the EU policies, and by recalling the assistance they provided to countries located in the conflict zones and on the migration routes. In case of alleged anti-discrimination (deriving from the preference for Christian asylum seekers), the Slovak government referred to national sovereignty claiming that any state should have the right to decide freely on the conditions of allowing foreigners to enter its territory. This argument was also picked up by the Hungarian and Polish governments, when they defended their position on compulsory relocation and resettlement. In their stance against EU policies, the V4 government could also refer to the preferences of their electorate as the societies in these countries tend to embrace culturally more traditionalist views on immigration.
The recent migration crisis became one of the central issues in Hungary, the most affected Visegrad country, but it was also highly placed on the political agenda of the other V4 countries, where the number of immigrants remained rather low. The overwhelming majority of the V4 population was afraid of newcomers with their very distinct ethnic and religious background. Generally speaking, the more the cultural distance of the immigrants was, the more negative the attitudes became. Such feelings were reinforced by terrorist attacks and crimes committed by migrants and foreign-born citizens in Western Europe which also contributed to the perception of a link between migration and dangers to security. Those assumptions explain why most citizens have opposed immigration from the Middle East and Africa, even though they had not encountered with asylum-seekers. In case of Hungary, the country with by far the largest number of immigrants among the V4 countries, similar reservations could be detected even among those who did have direct experience with immigrants. Another source of fears was of a financial nature: some worried about the possibility of increasing unemployment, many others disagreed with the budgetary implications of free medical services, legal and financial assistance, education and other integration programmes offered to immigrants.

The general assessment of EU responses to the migration crisis was rather negative in all V4 countries. Nevertheless, most citizens preferred to see a more active role of the EU in protecting the external borders, although the influence of supranational bodies over national issues was not necessarily welcome. The mandatory quotas, for example, were regarded as the limitation of national sovereignty.

In Hungary the government policies on migration enjoyed broad public support as they resonated well with the citizens’ preferences. Moreover, the government actions contributed to a more effective border control: they stopped and diverted the flow of migration and resulted in a major drop in the number of arriving immigrants. These factors offered the governing Fidesz party a good opportunity to stabilize and increase its popularity. The left-wing parties, on the other hand, mostly stuck to the humanist position and could not adjust their platform and rhetoric to the new discourse that had emerged after the terrorist attacks in Paris and Brussels. Jobbik, the party of the extreme right, attempting recently to soften its tone, viewed migration very much in line with the policies of the government, but it could not capture the momentum from the Fidesz party. Enjoying the advantages of its governing position and the benefits of strong influence over the political agenda, Fidesz was not merely able to neutralize the opposition, but also attracted some of the former supporters of Jobbik party. The government is likely to continue to face legal and political disputes at EU level, but such conflicts – as they seem to make Fidesz sup-
porters even more committed and determined – can serve the governing party as a valuable political asset ahead of the 2018 elections.

In Poland the PO’s stance on migration was much in line with the EU mainstream, whereas the harder line of the PiS was a perfect match with the values of the majority Polish population. The change in government also meant a shift in Poland’s EU and regional relations: with the replacement of the PO by the PiS the conformity with the EU and the emphasis on the Weimar Triangle (of Germany, France and Poland) lost their edge, whereas the tightening of V4 cooperation gained a higher priority. In Slovakia the main parties rejected the mandatory quotas and advocated European and international assistance to the migrant sending and transit countries. The differences among the party platforms on migration were mostly centred on the future of already registered asylum seekers. In the Czech Republic the firm anti-immigration and EU critical positions were occupied by smaller parties, but some mainstream politicians also tried to benefit from the issue. Although the fear of immigrants was widespread among the public, the anti-immigration parties could not benefit enough from the issue to occupy a position that would be politically decisive. While the issue of migration could remain on the political agenda, its domestic impact – being the strongest in Hungary and the faintest in the Czech Republic – does and will vary from country to country.

The migration crisis had a number of important impacts on domestic politics, but the international consequences were even more significant. The regional – and European – importance of the migration issue stems from its main political implication: the crisis brought the Visegrad countries to the same platform, made them capable to (re-)establish closer cooperation and formulate joint policy proposals. The V4 cooperation now serves as a platform facilitating the articulation and the representation of the jointly shared interests of its member states. Since the migration crisis began, the prime ministers of the Visegrad countries hold regular meetings ahead of the European Council summits. The more frequent consultations and the closer cooperation among the ministers and other government bodies have made the V4 platform in the EU louder and stronger than before and offered the possibility of transforming the Visegrad states from policy-takers to policy-makers within the European Union.
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