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BELIEFS AND MISCONCEPTIONS ABOUT THE CONTEMPORARY MIGRATION IN THE LIGHT OF THE LAW ON REFUGEES

ABSTRACT: Contemporary migration is not unparalleled in history. Wandering into Europe challenges the host countries. The flux of immigrants encumbers the social and economic boundaries of the European countries and the asylum rules as well. How should we change these rules to grant protection for those who really stand in need? What are the obligations of the destination countries and where do transit countries stand in this relation?

If we grant rights for a certain group of people, can we expect something in return? Can we establish obligations to the newcomers, or if they receive refugee status, are they going to be immune to the rules of the host countries? Is it a realistic expectation to integrate the newcomers into the European culture and system, or – as the tendencies show – can we consider them as a serious risk to European security? Are we allowed to stigmatize a group of people due to the behaviour of a few of them? Will different cultures and religions change Europe? The present essay tries to find answers, based on the literature, the legal background and personal experience, where and how we should reform the legal system regarding the law on refugees. How we could create a lawful but also enforceable legal regime on migration?

KEYWORDS: migration, Europe, migration law, law on refugees, refugee status, terrorism, human smuggling

A BRIEF HISTORY OF IMMIGRATION TO EUROPE

An analysis of the historical background is especially important in this matter. “Migrant crisis” and other similar terminologies are unable to correctly describe the real background and reasons of this phenomenon. To be objective is an important assumption not only for scholars but it has to be essential for legislators and even for average citizens. Yet, this essential element is a missing part in most of the cases. For this very reason we endeavour to present a few historical examples, which in some points, are similar to the recent situation.

Migration in the Carpathian Basin and in its close surrounding areas

The Carpathian Basin, surrounded with high mountains and crossed by rivers provides a natural and short route for those who would like to reach Western Europe across the Balkans.¹ The problems of our modern days are not without examples as the migrants who wanted to enter Europe used the roads which were the most logical way in the geographical sense.

¹ „Hátárok, hódítók, menekülők”. *Archeológia Altum Castrum Online Magazin*. <http://archeologia.hu/hatarok-hoditok-menekulok>, Accessed on 21 February 2016.

One of the first and highly protected borders in Pannonia was built by the Romans. It followed the line of the Danube. The limes and the river border, the so-called *ripa*, were constructed in order to encumber the invasion of barbarians. The Roman border protection system was breached in the 4th Century by the Quadis, then by the Sarmatians. After them Hun, Longobard, Avar, Slavic, Frank and Hungarian invaders conquered the province.

After the Magyars consolidated the Hungarian rule in the Carpathian Basin in the 9th Century, the immigration restarted and it was contiguous during the middle ages. Organised and spontaneous settling started in the 12th Century in the reign of Géza II. From Western Europe Walloon and Italian peasants arrived.²

Beside Latins, the biggest group of immigrants were the Saxons who moved in Hungary in the 12-13th Centuries. They settled in Southern Transylvania, in Beszterce, and in Northern Hungary.³ Before the Saxons, Székelys lived in Southern Transylvania but they had to move (internal migration)⁴ because of the Saxons, who received an autonomous territory and privileges from King Andrew II in the so-called *Diploma Andreanum* in 1224.⁵

The Cumans were forced to leave their former homelands when the Tartars attacked and defeated them in the first half of 13th Century. Subsequently they received asylum from King Béla IV. Their situation was similar to that of the Magyars, who had been attacked by the Pechenegs and forced to move into the Carpathian Basin.⁶

In some aspects, the history of the 13th Century is parallel with the modern era. There was a basic conflict, the attack of the Tartars, which forced the Cumans to move, who tried to seek asylum in a third country. After the Cumans moved in Hungary, the Tartars attacked Hungary as well, and not only slew a significant part of the population but also dislocated the people from their homelands. The Turkish soldiers in the age of the Ottoman conquest did the same.⁷ Nowadays the situation is almost the same in Syria, where 470 thousand people have been killed,⁸ and 4 million have fled. Another 6.36 million people have been forced to move somewhere else due to the war since 2011.⁹

From the way of armed conflicts civil population tries to run. It happened at the time of Hungarian-Turkish wars. Until the Kingdom was able to hold the frontline in the Southern valley of the Danube River, thousands of Serbs wandered into Hungary from the war-stricken neighbouring regions. In the 1480s, after Mehmed II died, the Hungarian army attacked occupied Serbia and brought several thousands of Serbs into Hungary.¹⁰

The geopolitical situation changed after 1526. When the frontline reached the internal part of the Kingdom, many people were forced to leave their homes. Historical regions, such as Sarmia, Bácska, Temesköz almost totally changed their population and ethnicity, and

² Koszta, L. *Magyarország története – Válság és megerősödés 1038–1196*. Budapest: Kossuth Kiadó, 2009. 91.

³ Ibid.

⁴ Ibid. 91.

⁵ Mezey, B. *Magyar alkotmánytörténet*. Budapest: Osiris Kiadó, 2003. 178.

⁶ Almási, T. *Magyar századok – A tizenharmadik század története*. Budapest: Pannonica Kiadó, 2000 83-84.

⁷ Ibid. p. 96.

⁸ “More than 191,000 people killed in Syria with ‘no end in sight’”. UN. <http://www.un.org/apps/news/story.asp?NewsID=48535#.VsyEXfnhDs0>, Accessed on 23. February 2016.

⁹ “Report on Syria conflict finds 11.5% of population killed or injured”. http://www.theguardian.com/world/2016/feb/11/report-on-syria-conflict-finds-115-of-population-killed-or-injured?CMP=Share_iOSApp_Other, Accessed on 23 February 2016.

¹⁰ Pálosfalvi, T. *Nikápolytól Mohácsig 1396–1526*. Budapest: Zrínyi Kiadó, 2005. 161.

in Transylvania similar process took place as a result of the so-called war for the castles and the Fifteen Years' War.¹¹

Jumping almost 180 years in time, a large-scale exodus took place from the 1880s until 1913, when 1.3 million people left the Carpathian Basin and immigrated into the United States.¹²

After the First World War broke out, 20 thousand Jewish people from Galicia arrived in Hungary.¹³ In 1916 100 thousand fled because of the first Rumanian offensive in Transylvania, then another 350 thousand refugees caused serious problems for the host country after the Treaty of Trianon. After the successful revision, 100 thousand Hungarian and Saxon people arrived from the Rumanian part of Transylvania, while numerous Rumanians left Hungary. At the end of the Second World War, 100 thousand citizens left Transylvania, while the communist government declared the German citizens collectively guilty and deported half of the Swabians,¹⁴ who arrived in Germany as refugees.

The last big exodus from Hungary took place after the Revolution of 1956, when more than 200 thousand people left the country in fear of retaliation.¹⁵ On the other hand, immigration to Hungary was at a much smaller scale. Greek refugees arrived after the civil war in Greece, then between 1988 and 1992 more than 200 thousand refugees arrived from Romania, Yugoslavia and the Soviet Union.¹⁶

Wandering, migration

Wandering presumes spatial mobility which typically disregards administrative borders, whether it is a state border, county, district or provincial boundary. Nowadays wandering into Europe is *external* and typically *forced migration*,¹⁷ because the people in the Middle East leave their residence due to the war. Beside forcibleness it is beyond doubt that the *voluntary migration* is also present. The best example is Kosovo, where living conditions are poor indeed but we can hardly find factors – except for the blood-revenge in the mountain region or the recruiters of the Islamic State – which could force the population to leave the country in such high proportions.

There is a difference between *collective* and *individual migration*, *legal* and *illegal*, *permanent* and *temporary*,¹⁸ *inward* and *outward*, *economic*, *political*, *ecological*, and *cultural wandering*.¹⁹

¹¹ Pálffy, G. *A Magyar Királyság és a Habsburg Monarchia a 16. században*. Budapest: MTA Történettudományi Intézet, 2011. 353.

¹² *Magyarország a XX. században*. Szekszárd: Babits Kiadó, 1996–2000. <http://mek.oszk.hu/02100/02185/html/207.html#208>, Accessed on 23 February 2016.

¹³ Sebők, L. "A magyarországi zsidók a számok tükrében". *Rubiconline*. 2013. http://www.rubicon.hu/magyar/oldalak/onlineplusz_2013_evfolyam/, Accessed on 23 February 2016.

¹⁴ Zinner, T. "Adalékok a magyarországi németek 1945 utáni kitelepítéséről". *Jogtörténeti Szemle*, 2003/3. 17.

¹⁵ *Magyarország a XX. században*. Szekszárd: Babits Kiadó, 1996–2000. <http://mek.oszk.hu/02100/02185/html/207.html#208>, Accessed on 23 February 2016.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Hautzinger, Z., Hegedüs, J. and Klenner, Z. *A migráció elmélete*. Budapest: Nemzeti Közszolgálati Egyetem, Rendészettudományi Kar, 2014. 7-18.

According to this categorization, the migration which is heading for the Schengen borders, is partly legal, partly illegal, permanent, collective and forced.

Similarly to irregular migration, *regular migration* is also an important factor. Within the framework defined by law it is possible to stay in a country for a certain period of time. We often think that the people crossing borders can only be citizens from a third country. But to cross a border is also possible inside Europe for a European citizen. If we say 'economic immigrant', we hardly think of those Hungarians who immigrated to Western Europe but we do refer to those who entered Hungary illegally across the green border. The word, 'migrant' has become more and more pejorative.

Migration and the law on refugees

We have to separate the wanderers into two groups: *asylum-seekers* and *immigrants*. Both are umbrella terms. The first one consists of persecutees who are forced to leave their motherland due to activities which fit the rules of the Refugee Conventions. The second group consists of those wanderers who live in a basically peaceful country but in substantially poorer living conditions. They try to settle in one of the European countries hoping for better life, healthcare, education or bigger income. Because these two types of migrants are wandering together it is easy and from a certain point of view useful to conflate them and use the terms *immigrant*, *illegal migrant*.

Legal framework and basic terms

About the legal status of the wanderers arriving in Hungary we have to look into the following three acts. Act I of 2007²⁰ and Act II of 2007²¹ regulate the right of residence and the consequences of illegal stay. Act LXXX of 2007 dispose about the right to asylum. Beside the three Acts, several other international and European legal documents add important details. Article XIV of the Fundamental Law of Hungary rhymes with the terminology of the Convention and Protocol Relating to the Status of Refugees. In the following we are going to demonstrate the rules of the abovementioned acts and conventions and try to apply them for the asylum-seekers.

In accordance with the Refugee Convention we have to consider a person a refugee who "*as a result of events (...) and owing to well-founded fear of being persecuted for reason of race, religion, nationality membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*"²²

The terminology is quite broad and it was necessary to make some corrections. The 2001/55/EC Temporary Protection Directive provides *temporary protection* for the time of mass influx of displaced persons who had to leave their country of origin owing to armed conflict or endemic violence, or they are at serious risk of or have been the victims of sys-

²⁰ Act I of 2007 on the Admission and Residence of Persons with the Right of Free Movement and Residence.

²¹ Act II of 2007 on the Admission and Right of Residence of Third-Country Nationals.

²² 15th Statutory Rule of 1985, Article 1 Point A Paragraph (2).

tematic or generalised violations of their human rights.²³ This recognition is temporary, providing protection for one year. The Qualification Directive of the European Union²⁴ created one more category. *Subsidiary protection* is granted for those third country nationals who do not qualify as refugees but if returned to their country of origin, or in the case of stateless person to their country of former habitual residence, would face a real risk of suffering serious harm. Such serious harm could be the infliction or execution of death penalty, torture and other cruel, inhuman or degrading treatment or punishment.

The following table lists all the above mentioned protection categories:

	1951 Refugee Convention: <i>general, universal term of refugee</i>	2001/55/EC Directive: <i>temporary protection for the time of mass influx of displaced persons</i>	2011/95/EU (2004/83/EC) <i>Subsidiary protection – in case of serious harm</i>
Reasons	<ul style="list-style-type: none"> – race, religion, nationality, – membership of a particular social group, – political opinion, – <i>persecution or fear of persecution</i> 	<ul style="list-style-type: none"> – armed conflict or endemic violence, – they are at serious risk of violation of their human rights¹ 	<ul style="list-style-type: none"> – infliction or execution of death penalty, – torture and other cruel, inhuman or degrading treatment or punishment, – serious and individual threat to a civilian's life or person by reason of indiscriminate violence in situations of international or internal armed conflict²
Other elements, criteria	<ul style="list-style-type: none"> – <i>outside</i> the country of his nationality, – <i>not having a nationality</i> and being outside the country of his former habitual residence. 	<ul style="list-style-type: none"> – <i>temporary protection</i>: exceptional, immediate and temporary protection, in case of mass influx of displaced persons, if the asylum system will be unable to process this flux,³ – <i>mass influx</i>: arrival in the Community of a large number of displaced persons from a specific country or geographical area⁴ – <i>duration</i>: 1 year, may be extended for a maximum of one year.⁵ 	

¹ 2001/55/EC Directive, Article 2 Point c).

² 2011/95/EU Directive, Article 15.

³ 2001/55/EC Directive, Article 2 Point a).

⁴ *Idem* Point d).

⁵ *Idem* Article 4 Paragraph (1).

²³ Kende, T., Nagy, B., Sonnevend, P. and Valki, L. *Nemzetközi jog*. Budapest: CompLex Kiadó, 2014. 528.

²⁴ 2004/83/EC Directive, and 2011/95/EU Directive on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast).

Refugees in the light of statistical data and personal experience

According to the estimation of the UNHCR²⁵ 59.5 million people have been forced to leave their country or place of habitual residence. In 2014 20 Million of them were refugees, and 86% of them had been received by Third World countries.²⁶ From Syria alone 4,718,279 people have left as refugees since the civil war broke out. In the first phase most of them went to Turkey. Based on the most recent data, 2,620,553 million refugees are burdening the Turkish asylum system.²⁷ The second biggest host country is Libanon (1,067,785), and the third one is Jordan (637,859).

Because the host countries are unable or unwilling to grant the proper accomodation and rights for the asylum seekers, the masses of migrants who are already in motion will no longer stay calm but start to wander towards Europe. This migration is generated by the so-called *pull factors*. Among them the most important are security, family reunification, better living conditions, social security, better healthcare and education.²⁸

In 2015 1,294,000 people sought asylum in Europe. Between March and December 2015, 1,105,820 people were first applicants out of 1,157,410. The number of second or third applicants was 51,950 (4.45%).²⁹ According to the data of Eurostat, in January 2016 62,825 applications were received by the authorities.³⁰ Beside Syrians, most of the asylum-seekers arrived from Afghanistan, Kosovo, Iraq, Albania, Pakistan, Eritrea, and Nigeria. Except for Kosovo and Albania, each state was a country of origin where, at least at regional level, the terms of refugees, established in the 1951 Refugee Convention, were realized.³¹ Until 2015 Syrians were recognised at the highest rate as refugees (94.8%). They were followed by Eritreans (88.5%), Iraqis (87.1%), Afghans (69.4%), Somalis (61.9%), Pakistanis (27.1%), while Albanians and people from Kosovo have been refused (93.6 and 91.8%).³² These numbers perfectly illustrate that people from the Middle East had a great chance to be recognised as refugees in one of the European countries.

Although these data are from 2014, it is also important, that from the people (626,000) who arrived in Europe in 2014, 70.3% was male and only 29.7 was female, and in the whole group the proportion of the underage juveniles (*unaccompanied minor*) who arrived either with their family or alone as an unaccompanied juvenile was significant. Their proportion among males was 21.4%, while among females it was higher: 35.5%.³³

²⁵ United Nations High Commissioner for Refugees.

²⁶ "Facts and Figures about Refugees". <http://www.unhcr.org.uk/about-us/key-facts-and-figures.html>, Accessed on 28 February 2016.

²⁷ "Syria Regional Refugee Response – Inter-agency Information Sharing Portal". <http://data.unhcr.org/syrian-refugees/regional.php>, Accessed on 28 February 2016

²⁸ Crisán, A. "Push és pull faktorok a Koszovóból kiinduló migráció hátterében". *Szakmai Szemle*, 2015/2. 177.

²⁹ "Asylum and new asylum applicants - monthly data". <http://ec.europa.eu/eurostat/tgm/table.do?tab=table&plugin=1&language=en&pcode=tps00189>, Accessed on 28 February 2016.

³⁰ Ibid.

³¹ "Migrant crisis: Migration to Europe explained in seven charts". <http://www.bbc.com/news/world-europe-34131911>, Accessed on 28 February 2016

³² "Europe's asylum seekers: Who they are, where they're going, and their chances of staying". <http://www.pewresearch.org/fact-tank/2015/09/30/europes-asylum-seekers-who-they-are-where-theyre-going-and-their-chances-of-staying/>, Accessed on 12. March 2016.

³³ "Asylum in the EU: Facts and Figures". http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/551332/EPRS_BR1%282015%29551332_EN.pdf, Accessed on 28 February 2016.

In 2016 more children hit the dangerous road to Europe than ever. Their route to Europe across Turkey and Greece is extremely risky, because they have to cross the Aegean Sea.³⁴ While in 2015 the child-adult rate was 1:10, in the first two months of 2016 three in ten refugees were children.³⁵

By the moment of this study's being created, 121,967 migrants have arrived in Greece and Italy. 85% have come from the biggest countries of origin. The proportion of children was pretty high, 34%, while women gave 20% and men 47%. 410 persons have died or are still missing. Most people have arrived from Syria (41%), Afghanistan (27%), and Iraq (17%). The remaining 11% is divided among Iran, Pakistan (3-3%), Nigeria, Gambia, Guinea, Morocco and Senegal (1-1%).³⁶

Since the number of asylum-seekers was abnormally high in 2014 and in 2015, the procedure of decisions, made by the authorities on the submitted applications, was quite slow. In 2014 163,000 applications were processed, and 45% of them resulted in positive decisions. The number of approved applications is extremely different in the member states. Hungary was the most refusing country, where the authorities made positive decisions only in 9% of the cases. In Bulgaria this rate was 94%. The average proportion in the European Union was 45%.³⁷

In Hungary 42,777 asylum-seekers arrived in 2014. In 2015 this number was 177,135, which was a record in the past 20 years. The composition was the following: 36.74% Syrians, 26.35% Afghans, 13.97% Kosovars, 5.17% Iraqis, 8.54% Pakistanis, 2.29 Bangladeshis, 6.94% other. From 177,135 applicants only 146 were recognised as refugees, 356 as beneficiaries of subsidiary protection and 6 as 'exiles'. 152,260 cases have been dismissed, 36,694 applications are still under reconsideration but the legal practise shows that only a few of them will end up with recognition.³⁸

In January 2016, 433 asylum-seekers arrived in Hungary. In February their number increased. The data from January were quite interesting in the light of the data of the previous years. 251 asylum-seekers fell in the 'other' category, coming probably from African countries. The number of Pakistanis was extremely high (85), while 29 people arrived from Afghanistan, 33 from Iraq, 11 from Kosovo and only 24 from Syria. Positive decisions were made in 7 cases out of 433. 34 people were recognised as beneficiaries of subsidiary protection, and one person as an exile. Another 186 applications were refused.³⁹

On the basis of the numbers and the news releases we could assume a political will in the background of the refusals. Although it is a well known fact that most of the migrants arriv-

³⁴ Besenyő, J. "Security preconditions: Understanding migratory routes". *Journal of Security and Sustainability Issues*, Volume 6, Number 1. 2016. 5–26. DOI: [http://dx.doi.org/10.9770/jssi.2016.6.1\(1\)](http://dx.doi.org/10.9770/jssi.2016.6.1(1))

³⁵ "Number of children fleeing to Europe escalating, U.N. says". <http://edition.cnn.com/2016/02/13/europe/europe-women-children-migrants/index.html>, Accessed on 28 February 2016.

³⁶ "Refugees/Migrants Emergency Response – Mediterranean". <http://data.unhcr.org/mediterranean/regional.php>, Accessed on 28 February 2016.

³⁷ "Asylum in the EU: Facts and Figures". http://www.europarl.europa.eu/RegData/etudes/BRIE/2015/551332/EPRS_BRI%282015%29551332_EN.pdf, Accessed on 28 February 2016.

³⁸ "A Bevándorlási és Állampolgársági Hivatal 2014-2015-ös kiadványfüzete". http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=177&Itemid=1232&lang=hu, Accessed on 28 February 2016.

³⁹ "Bevándorlási és Állampolgársági Hivatal Statisztikák 2015. január hónap – 2016. január hónap". http://www.bmbah.hu/index.php?option=com_k2&view=item&layout=item&id=177&Itemid=1232&lang=hu, Accessed on 28 February 2016.

ing in Hungary do not consider Hungary as a destination rather than a transit country. They also think about the asylum procedure as a mandatory formality. After registration, almost every applicant leaves Hungary as they are not willing to go to a refugee camp, or if they still go there, they spend there only a couple of days or weeks then they leave to an unknown place which is definitely somewhere in Western Europe so the application will be refused.

Before the asylum procedure is not completed, asylum-seekers cannot be considered as illegal migrants. They are residing lawfully on the territory of Hungary even if they crossed the border illegally without any valid documents.⁴⁰ They are entitled to protection if they apply for asylum as for a reason which could fit under the term of *misuse of rights*. We have to consider their activity as a misuse of rights when they apply for asylum only in order to avoid the expulsion or detention during the immigration procedure.

Although a scholar always has to be objective or at least he or she has to aim to be, in this topic it is very difficult to fulfill this requirement because the literature and the legal background is shaded by and full of personal experiences. It is doubtless and beyond dispute, that most of the migrants who arrived in Hungary in 2015 are potential refugees so they have every right to stay and reside in our country and also to apply for asylum.

On the field-work it was observable that asylum-seekers established their strategy on partially true information provided by human traffickers and their fellow migrants. All they knew was that they had crossed the Schengen-borders, they were already inside the European Union, where they could move “freely” without internal border control and they could travel to their final destination which was typically Germany, Sweden, Austria, or Belgium.⁴¹ This system operated uninterrupted until July-August 2015. Average EU citizens could easily experience it at train stations and on trains going to Budapest.

As the first migrants showed the way to the others, they also handed over the information about the procedure of the Hungarian authorities. Those who were caught inside of Hungary during their immigration proceedings said several times that neither in Greece nor in Macedonia or Serbia they had not applied for asylum, or even if they wanted to the authorities were not very co-operative. The interest of the countries in the Balkan Peninsula was to get rid of the migrants as soon as possible, so the wanderers firstly met appropriate procedure in Hungary.

As the pressure increased the rumor started to spread that the migrants would be deported back into that country where they first applied for asylum. More and more people started to refuse to give fingerprints, to co-operate with the authorities, or to withdraw their claims. By the end of the asylum procedure, their residence became illegal, and the immigration authority had to expel them. But the expulsion is only executable in accordance with a re-admission agreement. If it was not possible, a paradoxical situation evolved. The illegal and lawfully expelled migrant had to stay in Hungary, because their country of origin – Syria, Afghanistan, Iraq – was unsafe, therefore the *principle of non-refoulement* had to be applied and the immigration authority had to designate a place of residence. In fact it was a chance to escape. If the migrant was patient enough, he or she received subsidiary protection.

All in all, the situation by the end of 2015 had become critical and created a stressful atmosphere in the host countries.

⁴⁰ Kende, T., Nagy, B., Sonnevend, P. and Valki, L. *Nemzetközi jog*. 525.

⁴¹ Besenyő, J. “Security preconditions: Understanding migratory routes”. *Journal of Security and Sustainability Issues*, Volume 6, Number 1. 2016. 5–26. DOI: [http://dx.doi.org/10.9770/jssi.2016.6.1\(1\)](http://dx.doi.org/10.9770/jssi.2016.6.1(1))

ABOUT THE ASYLUM PROCEDURE IN NUTSHELL, THE LEGAL STATUS OF REFUGEES, THEIR RIGHTS AND OBLIGATIONS

Principles

Principle of non-discrimination

The Hungarian Act on refugees does not contain it expressly, but it refers to Article 3 of the Refugee Convention, which states, none of the refugees shall be discriminated because of their race, religion or country of origin. The host country cannot select among the asylum-seekers on the basis of their actual health, qualification or social background.⁴²

The principle of family unity

The unity of family is protected even if the members of a family are not entitled to be recognised as refugees. As the background rule of the asylum procedure, Act CXL of 2004 on the General Rules of Administrative Proceedings and Services defines the term of relative as follows: *direct descendants and his or her spouse; adoptive and foster parents; adoptee and foster child; sibling; spouse, life partner; direct descendant of spouse or life partner; his or her sibling and the spouse of the sibling.*⁴³ Hence it is unlawful to separate an asylum-seeker from his or her family, and during the procedure it is expected to facilitate the reunification of the divided families.

Prohibition of expulsion or return (refoulement)

In accordance with Article 33 of the Refugee Convention it is prohibited to send an asylum-seeker back to a country where his or her life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion. This benefit shall not be applied if *“there are reasonable grounds for regarding as a danger to security of the country in which he or she is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country.”*⁴⁴

The enforcement of this principle is important not only during the asylum procedure. The immigration authority shall not expell a third-country national into a country which is not safe, where the third-country national is likely to be subjected to persecution or death penalty, torture or any other form of cruel, inhuman or degrading treatment or punishment.⁴⁵ The immigration authorities shall take into account this requirement in any case.⁴⁶

The refugee authorities analyse whether the prohibition exists or not. During this procedure they use the so-called country-information database. This database categorises the countries according to the level of danger. The most dangerous ones are, for example, Syria, Ukraine, or Somalia.

⁴² Kende, T., Nagy, B., Sonnevend, P. and Valki, L. *Nemzetközi jog.* 529.

⁴³ Act CXL of 2004 Section 172 Point h).

⁴⁴ 1951 Refugee Convention Article 33 Paragraph 2.

⁴⁵ Act II of 2007, Section 51 Paragraph (1).

⁴⁶ Ibid. Section 52 Paragraph (1).

Section 2, Points g)-i) of Act LXXX of 2007 explains the terms of safe country of origin, and safe third country. These are listed below in the following table:

Country of origin:	Safe country of origin:	Safe third country:
the country of nationality or for a stateless person, the country of habitual residence.	<ul style="list-style-type: none"> – it is on the minimumlist of the European Union, – It is on the list of safe countries declared by the Hungarian Government, – it is a rebuttably presumption. 	<ul style="list-style-type: none"> – the applicant’s life and liberty are not jeopardised, and the applicant is not exposed to the risk of serious harm, – the principle of non-refoulement is observed in accordance with the Geneva Refugee Convention.

From asylum-seeker to recognised refugee

The asylum procedure starts with the application (request) submitted by the asylum-seeker. Until his or her application is recognised, or the authorities make another decision regarding the status of the asylum-seeker, he or she is entitled to stay and reside on the territory of Hungary. He or she is also entitled to the provisions, benefits and accomodations and to work in the territory of the reception center.⁴⁷

On the other hand, he or she is obliged to co-operate with the authorities, to reveal the circumstances of the flight, to communicate personal data, to facilitate the clarification of his or her identity, and to hand over the documents. He or she is also obliged to subject him- or herself to medical checkups and medical treatment in order to protect public health. To provide availability, he or she has to stay in the designated accommodation facility.⁴⁸ If he or she leaves the facility without permission and he or she does not return within 48 hours, he or she has to be considered as someone who left for an unkown place and the refugee authority shall inmediately discontinue the in-merit procedure.⁴⁹

Most asylum-seekers in 2015 hardly fulfilled the above mentioned requirements. To ascertain their personal identity was only possible, if the migrant had a valid and genuine travel document. It often happened that if they had documents, those were forged but in most of the time they did not have any kind of documents at all because they either destroyed or threw them away. The absence of documents is not every time the consequence of an unlawful activity.

If during the asylum procedure the refugee authority finds out that the applicant who is a non-Hungarian citizen “*is being persecuted or having a well-founded fear of persecution in his or her native country or in the country of their usual residence for reasons of race, nationality, membership of a particular social group, religious or political belief, if they do not receive protection from their country of origin or from any other country*” he or she will be recognised as a refugee, because his or her request was well-grounded.⁵⁰

⁴⁷ Act LXXX of 2007, Section 5 Paragraph (1) Point a)-b).

⁴⁸ Ibid. Paragraph (2) Point a)-e).

⁴⁹ Ibid. Section 66 Paragraph (2) Point d).

⁵⁰ Fundamental Law of Hungary, Article XIV.

Persecution and serious harm

According to Section 60 Paragraph (1) of Act LXXX of 2007 we have to consider acts as persecution, which are sufficiently serious by their nature, repetition or accumulation and violate the fundamental human rights. Typically actions which are directed against human life, and also torture, and slavery fall under this category.

These actions could be multivarious; they are summarized in the following table:

Persecution Section [60 Paragraph (2) Point a)-g)]	Serious harm [Section 61 Point a)-c)]	What is in the background [Section 62 Point a)-c)]
<ul style="list-style-type: none"> – acts of mental or physical violence, including acts of sexual violence, – acts committed on account of sexual orientation, – acts committed in connection with the childhood, – legal provisions or administrative measures which are in themselves discriminatory or which are implemented in a discriminatory manner, – disproportionate or discriminatory measures implemented in criminal proceedings, including disproportionate or discriminatory punishment, – denial of judicial redress, – punishment for refusal to perform military service in a conflict, where performing military service would include crimes or acts falling under the exclusion clauses related to recognition as a refugee or as a beneficiary of subsidiary protection. 	<ul style="list-style-type: none"> – threat of the death penalty, – application of torture, cruel, inhuman or degrading treatment or punishment, – a serious threat to the life or physical integrity of a civilian person which is the consequence of indiscriminate violence used in the course of an international or internal armed conflict. 	<ul style="list-style-type: none"> – the state from which the applicant was forced to flee, – a party or organisation controlling the state, – a person or organisation who or which is independent and unable or unwilling to provide protection against persecution or serious harm.

Act LXXX of 2007 specializes the term of refugee in Section 64 Paragraph 1 Point a)-e):

Race	Religion	Nationality	Membership of a particular social group	Political opinion
<ul style="list-style-type: none"> – colour, – descent, – membership of a particular ethnic group. 	<ul style="list-style-type: none"> – theistic, non-theistic and atheistic beliefs, – participation in, or abstention from formal worship in private or in public either alone or in community with others, – religious acts or expressions of view, – forms of personal or communal conduct based on or mandated by any religious belief. 	<ul style="list-style-type: none"> – nationality or its lack, – membership of a group determined by its cultural, ethnic linguistic identity, common geographical or political origins or its relationship with the population of another state. 	<ul style="list-style-type: none"> – members of that group share an innate characteristic, or a common background that cannot be changed, or share a characteristic or belief, – group has a distinct identity, – person should not be forced to renounce it. 	<ul style="list-style-type: none"> – opinion or belief on a matter related to the potential actors of persecution and to their policies or methods.

Persecution and serious harm in the light of examples

If we have to find examples for the reasons of fleeing, it is regrettably Syria which comes to our mind first. *Mental or physical violence* is the most typical reason of fleeing. In early February the Russian Air Force, supporting the troops of the Syrian government, bombed the city of Aleppo, while the government forces started to encircle the city. Right after the attack, 10 thousand refugees tried to get into Kilis province in Turkey. After the first flux the Turkish authorities expected a further 70 thousand asylum-seekers.⁵¹

While in Aleppo the civil population suffer from the bombing of the Russian Air Force and the strikes of the Syrian government army, on the territories controlled by the Islamic State *sexual slavery* is a wide-spread practice. According to stories of the victims of *sexual violence*, in the state of terror 3.5 thousand women and children are detained and forced to do or endure sexual intercourses.⁵²

From the acts committed in connection with *childhood* one of the best examples is the use of children for military purposes. In one of its propaganda videos the Islamic State presented a 4-year-old child who threatened the United Kingdom with terrorist attacks, while

⁵¹ “Russian bombs triggering mass Aleppo exodus, Syria conference told” <http://www.theguardian.com/world/2016/feb/04/russian-bombs-trigger-mass-aleppo-exodus-syria-conference-told>, Accessed on 23 February 2016.

⁵² “Islamic State: Yazidi women tell of sex-slavery trauma”. <http://www.bbc.com/news/world-middle-east-30573385>, Accessed on 29 February 2016.

in the background five prisoners were executed as suspects of spying.⁵³ Although the data is quite old but it is still worrying. In 1988 more than 200 thousands child soldiers were kept count of worldwide. In 1986 the National Resistance Army in Uganda had 3 thousands child soldiers, among them 500 girls. The National Patriotic Front of Liberia had a separate unit for boys. Most of the children were orphans. In the first place they took up arms not because of the desire of killing but in the hope of survival, or as it happened in Cambodia in hope of food and protection. In Myanmar the parents themselves sent their children to the Karen rebel guerrillas, because there they received clothes and meal twice a day.⁵⁴

Using children for military purposes is not new. In the time of the Crusades thousands of children marched towards the Holy Land in 1212. Most of the deaths occurred because of undernutrition. Those who embarked in Southern France never returned. According to the rumors, some of them were sold into slavery; others were shipwrecked and drowned. In the last decades scholars proved that in the march of children during the 12th century there were a lot of adult peasants and adventurers. But it is also a fact that in the Middle Ages the duty for boys started in their teenage years.⁵⁵

Iran is a perfect example of the *disproportionate or discriminatory measures implemented in criminal proceedings*. One of the reasons of the fleeing from Iran is that during the criminal procedure the custody is groundlessly long, or the detainees are being beaten during the time of custody.⁵⁶

Death penalty is still a legal way of punishment in Iran, which is a typical case of *serious harm*. The means of execution are diverse, hanging, execution by firearms or stoning are also common. Although according to a report, stoning has been erased from the Criminal Code by an amendment in 2013, Sharia still allows it.⁵⁷ The Islamic Republic does not perform well on the stage of political rights. It is informative that the refugees coming from Iran are mostly journalists, human or political rights activist or belong to a persecuted religious group.⁵⁸

It is well-known that the Islamic State hates and persecutes homosexuals.⁵⁹ In September 2015 correspondents reported that the members of the ISIS executed in public 10 people, one of them was a 15 year old boy, because it was assumed the victims were homosexual.⁶⁰ To

⁵³ "ISIS releases execution video showing 'new Jihadi John' killing five 'British spies' accompanied by young boy with UK accent promising new wave of terror attacks". <http://www.dailymail.co.uk/news/article-3382779/ISIS-releases-video-showing-execution-five-British-spies-warning-David-Cameron-UK-bombing.html>, Accessed on 29 February 2016.

⁵⁴ "Children as soldiers". <http://www.unicef.org/sowc96/2csoldrs.htm>, Accessed on 29 February 2016

⁵⁵ "Nem nyílt ketté a tenger a gyermek keresztetek előtt". <http://mult-kor.hu/nem-nyilt-kette-a-tenger-a-gyermek-keresztetek-elott-20150515?pid=3>, Accessed on 29 February 2016.

⁵⁶ "Iranian refugees tell story of escape from repression they face in Iran". http://www.todayszaman.com/national_iranian-refugees-tell-story-of-escape-from-repression-they-face-in-iran_284444.html, Accessed on 01. March 2016.

⁵⁷ "2015 UNHCR country operations profile – Islamic Republic of Iran" <http://www.unhcr.org/pages/49e486f96.html>, Accessed on 28 February 2016.

⁵⁸ "Iranian refugees tell story of escape from repression they face in Iran". http://www.todayszaman.com/national_iranian-refugees-tell-story-of-escape-from-repression-they-face-in-iran_284444.html, Accessed on 01. March 2016.

⁵⁹ Besenyő J. et al. *Az Iszlám Állam, Terrorizmus 2.0*. Budapest: Honvéd Vezérkar Tudományos Kutatóhely–Kossuth Kiadó, 2016. 54.

⁶⁰ "ISIS executes ten in public for being homosexual 'including a boy aged 15'". <http://www.dailymail.co.uk/news/article-3244736/ISIS-executes-nine-public-homosexual-including-boy-aged-15.html>, Accessed on 1 March 2016.

punish or suppress sexual behavior there are softer ways beside death penalty. The criminal law regime of African states provides three solutions in this issue. There are countries where it is prohibited and punishable to act *against the order of nature*. In Algeria the punishment could be from 2 months to 2 years imprisonment or a fine from 500 to 2,000 Algerian dinars. In Angola the act is not criminalized expressly, but acting against the order of nature can be sanctioned in certain ways, including community work. One of the most radical solutions has been adopted in Benin, where homosexuals could be sentenced for 1 to 5 years imprisonment or fined from 200 to 1,000 Dollars. In the Central African Republic only the public exhibition of homosexuality is felonious, but based on reports, local police do not really take steps in order to force the law. In Ghana the Criminal Code namely sanctionizes sodomy but there is also the expression of act against the order of nature, which could easily refer to homosexuals. In Burkina Faso and Côte d'Ivoire there is no legal sanction on sexual behavior.⁶¹

The reasons of fleeing from Eritrea are *enforced military conscription*, forced labor or the state of human rights. There is no constitution, no administration of justice, free elections or freedom of the press.⁶²

In the background of persecution or serious harm there is the state or other entities. In Syria, Eritrea, or Iran, the state itself commits persecution or causes harm. Somalia lacks the state as an organizing power therefore the living conditions are among the worst worldwide. At Ghouta the Syrian government used weapons of mass destructions which are strictly prohibited by international law. In this attack 300-1,800 people died according to different estimations.⁶³

If it is not the state that stands behind the atrocities, there is an armed group or organization which rules the whole or a part of the country. In Afghanistan and Pakistan this organization is the Taliban and the Islamic State, in Somalia the Al-Shabab, in Nigeria the Boko Haram which are responsible for the flux of refugees. In Syria and Iraq, which countries have already fallen apart, the Islamic State persecuted Christians because of their religion, and forced them to choose among conversion, paying tax, or flee.⁶⁴ The atrocities committed against Yazidis and the Turkmen minorities in Iraq, classify as genocide.⁶⁵

Cessation of refugee status; exclusion from recognition as a refugee

Cessation of refugee status

As every legal relation, the refugee status can also be ceased if some conditions occur. Section 11 Paragraph (1) Point a)-b) of Act LXXX of 2007 enumerates the following: *the refugee acquires Hungarian nationality or the recognition is revoked by the refugee authority*. The

⁶¹ "Laws on Homosexuality in African Nations". The Law Library of Congress, Global Legal Research Center. 2014. <https://www.loc.gov/law/help/criminal-laws-on-homosexuality/homosexuality-laws-in-african-nations.pdf>, Accessed on 01. March 2016.

⁶² "It's not at war, but up to 3% of its people have fled. What is going on in Eritrea?". <http://www.theguardian.com/world/2015/jul/22/eritrea-migrants-child-soldier-fled-what-is-going>, Accessed on 01. March 2016.

⁶³ "Syria chemical attack: What we know". <http://www.bbc.com/news/world-middle-east-23927399>, Accessed on 13 March 2016.

⁶⁴ "Islamic State's position on Christians". <http://www.bbc.com/news/world-middle-east-31648888>, Accessed on 01 March. 2016.

⁶⁵ "Islamic State committed genocide against Yazidi Christians in Iraq: report". <http://www.washingtontimes.com/news/2015/nov/13/islamic-state-committed-genocide-against-yazidi-ch/>, Accessed on 01 March 2016.

recognition has to be revoked, if the refugee a) has voluntarily re-availed himself/herself of the protection of the country of his/her nationality, b) having lost his/her nationality, s/he has voluntarily reacquired it, c) has acquired a new nationality and enjoys the protection of the country of his/her new nationality, d) has voluntarily re-established him/herself in the country which s/he left or outside which s/he had remained owing to fear of persecution, e) the circumstances in connection with which s/he has been recognised as a refugee have ceased to exist, f) waives the legal status of refugee in writing, g) was recognised in spite of the existence of the reasons for exclusion, h) the conditions of his/her recognition did not exist at the time of the adoption of the decision on his/her recognition, i) concealed a material fact or facts in the course of the refugee procedure or issued an untrue declaration in respect of such a fact or facts or used false or forged documents, provided that this was decisive for his/her recognition as a refugee. The refugee authority shall revoke the recognition as a refugee if a court with a final and absolute decision sentences the refugee for having committed a crime which is punishable by five years or longer term imprisonment.⁶⁶

Exclusion from recognition as a refugee

Article 1 Point F specifies the reasons of exclusion related to the illegal conduct of the asylum-seeker. Section 8 Paragraph (1)-(3) of Act LXXX of 2007, besides referring to the Geneva Convention, adds some extra criteria. The rules of the Convention and the Act are listed in the following table:

1951 Geneva Convention	Act LXXX of 2007
<ul style="list-style-type: none"> – crime against peace, war crime, crime against humanity, – serious non-political crime outside the country of refuge, – guilty of acts contrary to the purposes and principles of the United Nations. 	<ul style="list-style-type: none"> – serious, non-political act: with regard to the totality of the circumstances, including the objective intended to be attained through the crime, the motivation of the crime, the method of commission and the means used or intended to be used, the ordinary legal aspect of the crime dominates over the political aspect and it is punishable by a five-year or longer term imprisonment according to Hungarian law – acts contrary to the purposes and principles of the United Nations: acts of terrorism, financing terrorism, incitement of the previous criminal activities, – presence on the territory of Hungary endangers the national safety and security.

Temporary and subsidiary protection

To grant the status of refugee is sometimes impossible but because of the principle of non-refoulement the asylum-seeker has to stay in Hungary. To solve this situation, legislators created temporary and subsidiary forms of protection.

Beneficiaries of subsidiary protection are foreigners who do not fulfil the requirements of refugee but there is a risk of serious harm in case of their return to the country of origin, and they are unwilling or unable to avail the protection of that country. This status has to

⁶⁶ Act LXXX of 2007 Section 11 Paragraph (3).

be reviewed in every five years by the refugee authorities, whether the criteria still exist or not.⁶⁷ Otherwise the beneficiaries have the same rights and obligations as the refugees.⁶⁸

Beneficiaries of temporary protection are foreigners who belong in a group of displaced persons arriving in the territory of the Republic of Hungary en masse, fulfil the requirements of refugee or other beneficiaries based on the above mentioned rules of the European Union. Those who have been recognised by Hungarian Parliament because they were forced to leave their country of origin due to an armed conflict, civil war or ethnic clashes or the general, systematic or gross violation of human rights, are also entitled to temporary protection.⁶⁹

Although the Refugee Act does not provide for it, there is a third category which is very similar to the above mentioned types of protection. Those who have finally and absolutely expelled from the territory of Hungary, but their expulsion is inexecutable, are entitled to the *admitted status* because there are no safe third countries which are willing to receive the foreigner. In that case, the immigration authority will recognise the foreigner as *admitted* and issue a humanitarian residential permission.⁷⁰

BACKGROUND POWER OR CONCOMITANTS?

Terrorism

Mass media consequently consider every wanderer as an economic immigrant except for Syrians although this expression describes the situation of Kosovars, Albanians or other migrants arriving from a safe third country. Those who arrive from conflict zones are all potential refugees. Because the criteria of refugee exist on a geographic and time-horizon, refugees are forced to leave their native country more or less at the same time. This movement has a final destination, which is Europe. It is incorrect to claim that there is a sort of background power behind the scenes.

On the other hand it is also a fact that there are some factors which try to abuse the flux of migrants. The two most dangerous are: terrorism and mansmuggling. It is easy to get into Europe for those immigrants who are willing to commit an act of terrorism as it happened several times. One of the originators of the terrorist attack committed in the Bardo Museum in Tunisia was Abdelmajid Touil, who tried to get into and hide in Italy as a refugee.⁷¹ Egyptian citizen Ibrahim Hussein Idarus applied for asylum and was recognised as a refugee in 1996 in the United Kingdom. Later he took part in blowing up two embassies of the United States in Africa.⁷² Terrorists who committed the attacks in Paris in December 2015 included those who had come across the Balkans among refugees with fake documents.⁷³

⁶⁷ Act LXXX of 2007 Section 12-14.

⁶⁸ Ibid. Section 17.

⁶⁹ Ibid. Section 19.

⁷⁰ Act II of 2007 Section 52/A.

⁷¹ Besenyő, J. "Nem az ISIS találmanya – Terroristák a migránsok között". *Felderítő Szemle*, XIV/3. 2015. 20.

⁷² Ibid. 26.

⁷³ "Paris attacks: Two suspected Isis militants found posing as refugees in Austria". <http://www.independent.co.uk/news/world/europe/paris-attacks-two-suspected-isis-militants-found-posing-as-refugees-in-austria-a6775456.html>, Accessed on 12. March 2016.

Mansmuggling

It is less perceptible than terrorism but is an even more dangerous phenomenon, which is also connected to a background power. But it is not true, of course. The phenomenon of mansmuggling only overlays on migration, in a business-like way it tries to benefit from migration. The number of refugees who arrived in Europe in 2015 is dwarfed by the amount of money earned by smugglers. Last year they received 1 billion dollars, which is really nothing compared with the 10 billion dollars earned by the criminal organizations since 2000.⁷⁴

This income probably came from the private possessions, sold real estates, or earnings gained by work of the migrants and from the donations sent by their relatives living in European countries. It means that from the conflict zones not only the human resources but money also “migrates”. There is a good chance that the latter one falls into the wrong hands, enriching the black market and criminal organizations.

The sum to be payed for the services of the smugglers starts from 700 dollars and goes up to 277 thousand dollars. A “trip” from Afghanistan to London costs 25 thousand dollars, from Iran to the EU it is 25 thousand dollars, from Iraq to the United Kingdom it costs 10 thousand, while from Morocco to the EU the migrant has to pay 24 thousand.⁷⁵ A place in a cockleshell from Turkey to the Aegean isles costs 1 thousand dollars. The much more dangerous travel from Lybia to Lampedusa is also 1 thousand dollars. Syrians have to pay a double fee. The smugglers ask 11 thousand Dollars for their help from Afghanistan to Hungary. The fee does not cover the extraordinary dangerousness of the trip. The cost of the journey depends on the distance, the number of refugees, destination, difficulties, devices and vehicles in use and other supplementary services, such as fake passports, GPS co-ordinates, maps, and guidances.⁷⁶

To retrace and explore the traffic-networks is rather hard because they are less hierarchical, the subtask are done by recruiters, transporters, quarter-masters, and organisers. The authorities often take part in human trafficking activity, either as active or passive – but well-paid – observers.⁷⁷

CONCLUSION

To stop the permanent flux of immigration is almost impossible but it is also necessary to handle and deal with it. Since the problem is decently complex, first it is practical to separate the part-problems and the answers from each other. Perhaps it would be wise to categorise the subtask according to how much they cost for the European Union and the host countries.

One of the typical examples of the low-budget, temporary or “deflector” solutions is the fence. After Hungary had built a fence along its Serbian and Croatian borders,⁷⁸ the migrants

⁷⁴ “EU gets one million migrants in 2015, smugglers seen making \$1 billion”. <http://www.reuters.com/article/us-europe-migrants-idUSKBN0U50W120151222>, Accessed on 12. March 2016.

⁷⁵ “Prices Charged by Human Smugglers”. <http://www.havocscope.com/black-market-prices/human-smuggling-fees/>, Accessed on 12 March 2016.

⁷⁶ “People smuggling: how it works, who benefits and how it can be stopped”. <http://www.theguardian.com/global-development/2015/jul/31/people-smuggling-how-works-who-benefits-and-how-to-put-stop>, Accessed on 12 March 2016.

⁷⁷ Ibid.

⁷⁸ “Hungary Is Building a Wall Along the Serbian Border to Keep Migrants Out”. <https://news.vice.com/article/hungary-is-building-a-wall-along-the-serbian-border-to-keep-migrants-out>, Accessed on 13. March 2016.

immediately changed the routes.⁷⁹ To build a fence was a priority because it is not only a physical barrier but – with the legal aggravation – it helps to keep the flux under control. However, it is impossible to solve the problem with a fence because immigration is still persistent. Albeit after the fence was built, the officers and public servants of the Hungarian authorities finally had the possibility to respire in the the early spring of 2016 – in spite of the fence – the number of asylum-seekers started to increase.⁸⁰

To control the sea-routes, to save the people in seas and to counter the mansmugglers is more expensive than building a fence, and it also requires closer co-operation from the EU member states. But it also has international legal barriers. The Aegean coastal states, Greece and Turkey are allowed to use force in their own territorial waters. On the other hand, other ships under foreign flags, in NATO or European convoys, are not allowed to act the same way. The Aegean region is not the first place in the Mediterranean region, where NATO takes part in missions against mansmuggling. On the migration routes from Libya to Italy the EU also tried to use naval forces. In operation Sophia, which replaces mission EUNAVFOR, the memberstates execute not only reconnosaince missions but they also intercept suspicious vessels, and they are allowed to step on the board, examine and even to confiscate the vessels. However, they are not allowed to use force against the smugglers.⁸¹

The task of the new NATO mission in the Aegean region would be to trace the migrant routes and to eliminate the mansmuggling networks. The plans of the operation are still under development but it seems the main task will be similar to that of the mission in the Mediterranean Sea. The actual actions against the smuggling networks will be incumbent on the Turkish and Greek authorities. The smuggling vessels intercepted in the sea would be turned back to Turkey. With the mission the second NATO permanent maritime group will be mandated.⁸²

Against mansmugglers the international community can use not only military forces but the secret services and other international co-operation as well. Criminal networks try to launder the money earned from human trafficking and mansmuggling through different ways, from kebab restaurants to snooker saloons. The challenge is to explore and close the route of the money.⁸³

Those utopian solutions which are aimed at the pacification of the countries of origin or which try to keep the wanderers in those countries which hosted them on the first place are the most expensive, and they promise the least success.⁸⁴ The second one is not only uncontrollable, but also inexecutable. For the first one, there is no political reality, since the Western countries are using only air forces and limited special, training troops, and beside

⁷⁹ “Lezártuk a zöldhatárt délen – Teljes a horvát határzár, Szlovénia felé terelődik a menekültáradat”. http://index.hu/belfold/2015/10/16/horvatorszag_hatarzar_menekultvalsag_hatarvedelem/, Accessed on 13. March 2016.

⁸⁰ “Ismét több száz menekült jött át a határon”. http://hvg.hu/itthon/20160222_500_menekult_a_hataron, Accessed on 13. March 2016.

⁸¹ “Sophia: indul az embercsempészek elleni újabb uniós hadművelet”. http://hvg.hu/vilag/20150928_sophia_embercsempeszek_hadmuelet, Accessed on 13 March 2016

⁸² “A NATO hajókat küld az embercsempészek ellen”. http://index.hu/kulfold/2016/02/11/a_nato_hajokat_kuld_az_embercsempeszek_ellen/, Accessed on 28 February 2016.

⁸³ “People smuggling: how it works, who benefits and how it can be stopped”. <http://www.theguardian.com/global-development/2015/jul/31/people-smuggling-how-works-who-benefits-and-how-to-put-stop>, Accessed on 12 March 2016.

⁸⁴ “Stopping Europe’s Refugee Crisis at the Source”. <http://foreignpolicy.com/2015/09/18/stopping-europes-refugee-crisis-source-syria-iraq-aid/>, Accessed on 13 March 2016.

the arms shipments, they are not willing to get involved in the conflicts which had been caused partly by the previous Western interventions.

It also requires significant expenditures and years or decades to integrate the refugees in Western societies. Even if the flux is unstoppable, maybe it would be wise if the European countries tried to benefit from the phenomenon. The cultural and language differences could be overcome by strict and consistent integration policies even if it required some restrictions on the rights of the newcomers. It needs not only political but also voters' will, and endless patience. The host countries need rules which are clear, well defined, rigorous but fair and enforceable with consequences. The effectiveness of integration requires regret, conformity from both parties in order to successfully incorporate quite different cultures. The host countries have to create the conditions while the newcomers have to accept the language, the culture, the traditions and the customs of their new home.

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