CIVIL POLICY ON MIGRATION (CEVIPOP PROJECT)

Country analysis of Hungary (2017)

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Introduction

The core of civil and NGOs’ actions shall be secondary or additional to the state’s migration policy based on the international legal obligations and values such as solidarity. Hungary as a party of all relevant human rights treaties and as member of the EU shall respect the legal norms and values of the European Union in the migration policy, too. Article 80 of the Treaty on the Functioning of the European Union (TFEU) establishes a clear connection between solidarity and fair sharing of responsibility, when it treats them as aspects of a single principle applicable also to the asylum policy:

„The policies of the Union set out in this Chapter and their implementation shall be governed by the principle of solidarity and fair sharing of responsibility, including its financial implications, between the Member States. Whenever necessary, the Union acts adopted pursuant to this Chapter shall contain appropriate measures to give effect to this principle.” The Article 78(3) TFEU states that „In the event of one or more Member States being confronted by an emergency situation characterised by a sudden inflow of nationals of third countries, the Council, on a proposal from the Commission, may adopt provisional measures for the benefit of the Member State(s) concerned. It shall act after consulting the European Parliament”. The rule inserted into the Article 80 is binding: the policies and their implementation „shall be governed” by the principle and EU acts “shall contain appropriate measures” to realise solidarity and fair-sharing. However, there is a meaningful difference between “burden-sharing” and “responsibility-sharing” by using the first expression to the allocation of costs and the second to the placement of persons.1

Sharing costs without moving persons, which is the underlying idea of the EU’s Asylum, Migration and Integration Fund (AMIF) while the EU Regional Trust Fund in Response to the Syrian Crisis is an inter-regional form of burden-sharing. By contrast, the AMIF is a sub-regional body, covering the EU countries. Moreover, the allocation of responsibility is assigning competence or duty to act. Since its inception in 1990 the Dublin system has been a system of allocating responsibility for refugee status determination procedure, but it was never a system aimed at fairness or genuine burden/responsibility-sharing-- system was not designed for situations of large-scale uncontrolled arrivals and does not ensure a sustainable and fair sharing of responsibility for asylum applicants across the Union.2

Solidarity and fair sharing of responsibility in Article 80 TFEU make room for more than an allocation of tasks; they enable fairness and assistance beyond existing legal obligations. As the Dublin regime ignores the size of the task assigned by it to the individual Member States, it is neither an expression of solidarity nor a fair sharing of responsibility.

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2 see the Reg.604/2013/EU 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.
The V4 countries documents and statements on irregular movement proves that whereas they uniformly reject the idea of compulsory relocation within the EU of persons applying for international protection, in general the Visegrad group is far from homogenous. Even within the group, Hungary may have acquired a specific position with its total denial of the fact that irregularly arriving persons may need protection within the EU. The conclusion is that more responsibility-sharing within the EU as a whole would be needed, leading to a unified protection space, but in reality a shift of the focus emerges, with the effort to move protection into geographic areas outside the EU. The recent refugee crisis contributes to this focus.

It is intended to identify synergies between the Union action and the actions of the V4 countries in parallel to enhance V4 assistance and better communication in the wider region. Naturally, this civil diplomacy must respect not only the external dimension of migration but humanitarian aspects of migratory movements and our human rights obligations.

No.1. Border protection and security issues

Since the total implementation of the Schengen regime in 2007 the Border Guard’s function has been faded into the Police tasks. However, the mass influx of protection seekers in 2015 inspired a radical changes in law enforcement management because staff in pratolling and border surveillance was extended. At first Police has mobilized students at police academy and law enforcement schools to the southern borders to a professional practice. Secondly the military units of the defence were moved to assist surveillance task. Thirdly the Police started to recruite members to its mobile troops (‘Border Rangers’) in 2016. For instance, the HQ of the Police recruited through advertisement 3000 youngsters (over the maturity exam) for patrolling rangers offering for them 6 months transing and 12 months work as probationers before the professional employment. All of these recently involved persons have to direct third-country nationals to the transit zones, to the gates at fence or to apprehend irregular migrants. These steps demonstrate how the border management is moving towards a militant practice instead of the administrative legal practice and professional approach.

Police is responsible for border and passangers control refusing entry of TCN and implementation of readmission agreements. It is the executive authority of expulsion and deportation ordered also by the immigration authority and the court.

Facing the enormous increase in the number of Syrian, Afghan and other non-European asylum seekers, authorities tried to register applications until mid-summer of 2015. Due to a lack of systemic controls within the Schengen area, asylum-seekers in practice remained free to leave Hungary for other Schengen countries. Tumultuous scenes took place at the railway stations of Budapest, as Hungarian authorities no longer allowed migrants to board trains for Austria and Germany in August 2015, while later transported the crowd to the Austrian border. Given the lack of official support, refugees and other migrants significantly depended on the NGO activism. By September 2015 the average number of irregular border crossers through the Serbian-Hungarian border reached some

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3 see recently the involvement to the enhanced cooperation in establishment of EPPO (12 Oct 2017, Council Conclusions) without Hungary and Poland from V4.


5 The Council is committed to further strengthening the coherence between the internal and external dimension of EU fundamental and human rights policy in line with the EU action Plan on Human Rights and Democracy (2015-2019) – as the Concil Conclusions (12/13 Oct 2017, 12913/17) outlined.

6 2 Sept 2016, www.police.hu
2,000 per day, a figure that sharply increased just before the **barbed-wire fence along the 175 km long** border section was completed on 15 September. Due to a similar fence erected at 16 October at the Croatian-Hungarian border, the figure dropped again sharply from 6,000 persons per day of late September and early October. Roughly 390,000 persons were subject to alien law measures at Hungary’s external borders between January and October 2015, while the submitted asylum applications during that period were below 200,000 – such gap indicates the order of magnitude of those assisted to travel onward without any registration. Drastic measures such as sealing the border with razor-wire fences have received wide scale international criticism, including by the European Parliament and the UNHCR.

Statistical data from the Immigration & Asylum Office and EUROSTAT prove that a great majority of mass protection seekers were neither registered nor assessed in 2015: about 500,000 persons were moving through the country without processed personal data in 2015-2017. Moreover, from all registered 207,000 applicants in 2015-2017 (up to July) at least 142,000 persons disappeared moving to other Member States of the EU. The rate of transit-migrants is higher if we account the stable and small number of resident with protected status that is about 3500. (Table 1) As UNHCR Hungary stated: “nearly half a million people crossed through Hungarian territory at the height of the refugee crisis in 2015 summer but although 177,000 were registered here, just 500 have been granted asylum. Over 1,000 are in detention for illegal border crossing and likely to be deported.”

<table>
<thead>
<tr>
<th>Table 1.</th>
<th>2015</th>
<th>2016</th>
<th>2017, 1 July</th>
</tr>
</thead>
<tbody>
<tr>
<td>refused TCN at HU borders</td>
<td>11,505 (3.9% of the EU28)</td>
<td>9,905 (2.6% of the EU28)</td>
<td>n.d.</td>
</tr>
<tr>
<td>applicants for protection</td>
<td>177,135 (registered)</td>
<td>28,432</td>
<td>1,979</td>
</tr>
<tr>
<td>recognised refugees</td>
<td>146</td>
<td>154</td>
<td>46</td>
</tr>
<tr>
<td>recognised subsidiary protection status</td>
<td>356</td>
<td>271</td>
<td>275</td>
</tr>
<tr>
<td>authorised to stay (tolerated migrant status)</td>
<td>6</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>procedure/application is deleted</td>
<td>n.d.</td>
<td>49,700</td>
<td>1,870</td>
</tr>
<tr>
<td>rejected applications</td>
<td>n.d.</td>
<td>4,675</td>
<td>2,417</td>
</tr>
<tr>
<td>application is pending</td>
<td>n.d.</td>
<td>3,700</td>
<td>754</td>
</tr>
<tr>
<td>resident as recognised refugee in Hungary</td>
<td>n.d.</td>
<td>1,830</td>
<td>1,833</td>
</tr>
<tr>
<td>resident as recognised subsidiary protected person in Hungary</td>
<td>n.d.</td>
<td>1,540</td>
<td>1,542</td>
</tr>
<tr>
<td>resident as tolerant migrant in Hungary</td>
<td>n.d.</td>
<td>48</td>
<td>49</td>
</tr>
<tr>
<td>detention of asylum seekers</td>
<td>2,393</td>
<td>2,621</td>
<td>366</td>
</tr>
<tr>
<td>expulsion order issued by the alien police</td>
<td>1,550</td>
<td>753</td>
<td>346</td>
</tr>
<tr>
<td>expulsion order issued by the court</td>
<td>1,053</td>
<td>2,521</td>
<td>201</td>
</tr>
<tr>
<td>expulsion enforced by the police</td>
<td>734</td>
<td>845</td>
<td>285</td>
</tr>
</tbody>
</table>

7 see the statistics of the Immigration and Asylum Office, UNHCR and EUROSTAT
This prorousus external and internal borders and mass movement together with terror attacks mean security challenge, consequently some states have re-introduced the control at internal borders (Germany, Sveden, Denmark, Austria, France and Poland) giving up the dream of easy movement inside the EU while others upgraded the uploaded data into the SIS preventing futher terror attacks. Federica Mogherini, the EU’s foreign and security policy chief, told the Guardian. “It’s sad to see Europe panicking before 700,000 refugees. This is a sign of weakness.” The Hungarian reaction to the challenge – as the Austrian action to set up at the Slovenia border - is to build up a razor-wired fence-system consuming about 800 million EUR. However, the wider European response was to propose an extended competence of the European border guard that woud be empowered to overrule national authorities. Regardless hard discussion on it, Hungary’s razor wire has no impact on the numbers reaching the EU although the physical barrier was accompanied and reinforced by legal measures, such as the criminalization of illegal entry (15 Sept 2015). Under new rules that took effect on 5 July 2016 (and were expanded in late March 2017), the Police have to automatically push back potential asylum-seekers who are apprehended within 8 km of either the Serbian-Hungarian or the Croatian-Hungarian border to the external side of the border fence. As a consequence of these measures, within 14 months in 2016-2017 14 438 irregular migrants were pushed back from deep within Hungarian territory to the external side of the border fence. Furthermore, in 18 334 cases irregular migrants were denied access while they had attempted to cross the border fence. These people were denied the right to apply for international protection, despite the fact that most of them came from warand terror-torn countriessuch as Syria, Iraq or Afghanistan. Despite the fact that 56 reports had been filed for abuse committed against migrants at the border and the prosecutor’s office launched 50 investigations, so far only one member of the police and one member of the army were convicted (fined) in court. Moreover, the maximal capacity of the Hungarian reception at tranzit zone gates has been defined in 50 persons per week. In parallel with closingdown permanent asylum reception facilities, and some tent camps were opened in poor conditions. The entire transit zone is surrounded by a razor-wire fence, and is patrolled by police officers and armed security guards. There are cameras in every corner violating privacy.

In March-December 2016, an ever-growing number of migrants continued to gather in the ‘pre-transit areas’. These areas are partly on Hungarian, partly on Serbian territory and can be found on the external side of the border fence, close to the entrance of the transit zones. Here, people waited in the hope of entering the Hungarian transit ones and accessing the asylum procedure in a lawful manner. Although the pre-transit areas are physically partly located on Hungarian soil, the Hungarian authorities provided little to nothing to meet basic human needs. In this situation other member states can no longer use the Dublin system to return asylum-seekers to Hungary. In 2016, administrative authorities and courts at various levels in 15 EU Member States had stopped Dublin transfers to Hungary for the general application of the safe third country concept with regards to Serbia, the risk of chain refoulement, the systemic deficiencies in the Hungarian asylum system. UNHCR also called for the suspension of the Dublin transfers to Hungary.10 State of crisis due to mass migration was extended until 7 September 2017, and it has been prolonged by further six months entitling the law

<table>
<thead>
<tr>
<th>detention by the alien police</th>
<th>1 545</th>
<th>1 073</th>
<th>302</th>
</tr>
</thead>
<tbody>
<tr>
<td>order to reside in a community (controlled) lodging</td>
<td>12 092</td>
<td>949</td>
<td>153</td>
</tr>
</tbody>
</table>

8 Is the Schengen dream of Europe without borders becoming a thing of the past? The Guardian, 2016 Jan 5
9 Délmagyar, ME sajtókújéköztató, 1 Sept 2017

endorsement and defence units to patrolling the border and to force the crossed people to the transit zone or to initiate a trial or to force them back.

The Hungarian borders are located in the geopolitical position means embeddedness in the European Union border regime and the Schengen zone, on one hand, and in the transitory dynamics of the Balkan Route, on the other. In advancing an aggressive form of border control and an eagerness to ‘protect’ the European Union from migrants, the Hungarian government has strategically capitalized on its geopolitical position, portraying itself as a proud and tough Eastern European leader who has a ‘historical responsibility’ to protect Europe, unlike liberal and multicultural policymakers in Brussels. Perhaps this national-centred and heroic approach explains the reluctant participation in the Frontex, the European Border Guard Team and the rapid intervention or support to joint actions.

The other reason of ‘passive resistance’ to joint actions would be the tradition of the monolit (state) public power without accountability. Moreover, integrative, complex management of the borders is a hard task. Since the new Regulation (EU) 2016/1624 came into effect, the mandate of Frontex has significantly changed to ensure efficient implementation of European Integrated Border Management as a shared responsibility of the Union, the Agency and of the national authorities. Large migration flows, as witnessed during the crisis of 2015–2016, made secondary routes more visible for strategic analysis. The reinstatement of controls at the internal borders of some Member States led to a diversification in routes and modi operandi, and the migrant routes running through Europe, and in particular through the Western Balkans, are getting more dynamic and dangerous. Also, the rise in migration pressure at the Central Mediterranean route brought about changes in the extent to which certain Member States were affected by the migration of undocumented persons on secondary routes within the EU and Schengen area. For instance:

- in 2016, the level of intra-Schengen migration of persons coming from the Eastern Mediterranean and Western Balkan route was far lower than in 2015 – even though secondary routes became more diverse, and in 2016, Hungary reported more than 25 000 illegal border crossings from Serbia, which is a significant decrease;
- In addition, Member State reports in 2016, especially Eurodac data, point to an important corridor of intra Schengen movements along the Eastern Mediterranean and then Western Balkan route towards Italy. In 2016, the country reported over 10 000 Eurodac hits related to illegal border crossings or prior asylum applications in Hungary;
- Also, intra Schengen FRAN data reported by France showed an increase in asylum applicants who had previously been fingerprinted in Hungary;
- The eastern land border route is, in effect, an amalgam of illegal border crossing detections reported by Finland, Estonia, Latvia, Lithuania, Poland, Slovakia, Hungary and Romania. Despite the considerable total length of all the border sections, detections on this route tend to be lower than on other routes, possibly due to the long distances between major hubs and many countries of origin;
- Afghans were, by and large, detected at the Hungarian Ukrainian section. The main migratory movement across the Western Balkans was the flow from the Greek land border with Macedonia towards the Hungarian land border with Serbia.


12 Risk Analysis for 2017, Frontex
In Hungary, a new law was passed in July 2016 allowing the authorities to return all migrants detected up to 8 km inside the country to specially designated transit zones at the country’s external borders. Once they arrive in the transit areas, migrants must wait for registration and limited legal admission into Hungary or voluntarily return to Serbia. This legislative change also impacted Hungary’s reporting standards, resulting in fewer reported detections of illegal border crossing. However, information gathered in the framework of Joint Operations showed that the pressure at this border section persisted, despite a larger number of officers deployed and reinforcement of technical obstacles put in place along the border.

Summing up, the practice at bilateral level of border cooperation has rich traditions and based on stronger confidence. Similarly as the German Interior Minister said in a written statement recently that the authorities will continue controls along the German-Austrian border and on flights coming in from Greece. In this context the relevance of joint border control actions and cooperation in crime connecting to border crossing shall not be multilateral. For this reason, the European Border Guard Teams (EBGT) or the new Frontex regulation (entered into force in December 2011) providing the basis for a joint operation and rapid border interventions have not been implemented upon the initiative of Hungary. The Frontex plays a role in bringing together and analysing in the ‘European situational picture’ information from the member states detecting changing routes or new methods used by criminal networks. This European situational picture also contains information on certain land border sections that are collected during Frontex joint operations and on the pre-frontier area. The bilateral actions on surveillance, exchange of data, transfer and readmission would be built on this analytical information.

As the V4 emphasized rather that the European Union would need to pay more attention to the Western Balkan route and that it should seek voluntary, not mandatory, mechanisms when considering relocation and resettlement. At this stage, however, migration was just one of many program points and not a central question for the V4, in particular after the blocked migratory movements by the by the construction of a fence along its southern borders with Croatia and Serbia. A joint position was developed in which the Visegrad countries called for the protection of the EU’s external borders also with the involvement of Frontex where necessary, reminded member states to respect the rules of Schengen, the Dublin regulations and the existing asylum acquis, and encouraged the EU to engage more actively in the MENA region both in terms of peace building and development in an attempt to address the root causes of the crisis. With the implicit aim of reducing the number of people arriving to the EU including the Visegrad states, the joint statement called both for the establishment of ‘hotspots’ outside the EU to process asylum requests and for “preserving the voluntary nature of EU solidarity measures.” Furthermore, in order to promote the importance of the Western Balkans, the V4

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14 The EBGT is composed of border guards from the EU Member States, experts in different areas of border management including land and sea border surveillance, dog handling, identification of false documents and second line activities such as establishing nationalities of irregular migrants detected at the border. Member States will contribute border guards to this pool based on the specific expert profiles developed by Frontex. Following the selection process Frontex will provide training to members of the teams relevant to their field of expertise and tasks performed. All members of EGBT will receive training in relevant union and international law, including fundamental rights and access to international protection.

15 The summit of V4 also proposed a protective line along the Bulgarian and Macedonian borders if the defensive measures for the Turkish-Greek border protection would stagnate. 2016 január 26., 2016 február 15. MTI
demanded both more attention and financial support for the region.\textsuperscript{16} The better established cooperation playing a stronger protection role in migration crisis on the basis of joint responsibility is aimed in the presidency program of Hungary in the V4.\textsuperscript{17} In the spirit of solidarity, a limited number of law enforcement staff from V3 has started joint surveillance actions (patrolling, accompanying irregular TCN to the transit zone) in the southern borders of Hungary. The V4 cooperation consists of police forces from Slovakia an Czech Republic, and of police and border guard forces from Poland in the Serbian-Hungarian border region as well as of the protection of Macedonian-Greek frontiers.\textsuperscript{18} A joint conclusion was passed by the ministerial meeting of V4 that as a group of independent states would offer its assistance and capacity for MS of the EU with external borders in the protection of frontiers. As the Hungarian responsible minister explained the irregular migration should be blocked at borders refusing the idea of forced quotas in reception.\textsuperscript{19}

In September 2015 the upgraded police control capacity was increased on the Slovak-Hungarian border. This effort intend to compensate the growing security challenges and to prevent severe troubles in border crossing as happened at the German-Austrian border due to the reintroduction of the passangers’ control.\textsuperscript{20} The bilateral cooperation with the Slovakian police means a joint patrolling by car in the border zone and checking the documents of mobile persons in the zone (e.g. in the zone of Győr-Vámosszabadi-Dunaszerdahely-Bós)\textsuperscript{21}. Moreover, a joint defence training ‘New Horizon’ was managed for 126 Slovak and Hungarian law enforcement staff on how to secure the traffic and public order in the environment of the BCPs.\textsuperscript{22} These efforts included the extensive and flexible information sharing patrolling and checking the movement at the green borders. For this purpose the staff of the border police was increased with 220 persons. These measures – similarly to the joint training for police at the Czech-Slovak and Czech-German and Slovak-Auszrian borders\textsuperscript{23} - would endanger the mansmugglers but „those are not equal the termination of the Schengen regime” as the Slovakian state secretary underlined.\textsuperscript{24} Gradually, similar passanger and traffic control for security reasons was introduced for instance at the Slovak-Ukraine borders subsequently.\textsuperscript{25}

The temporary suspension of the systematic passanger and traffic control at internal borders in Hungary was announced in May 2017 due to the long queues and waiting time. Instead of it a selected control on risky groups providing the free movement for others. The short period of generalized control since April was a test but a better developed risk analysis a targeted checking method would be effective according to the responsible state secretary.\textsuperscript{26} However, the porous or less checked borders may contribute to the security challenges, such as uncontrolled movement of TCN with falsified documents and terrorists across the Schengen borders, so the stronger border control means a better

\textsuperscript{16} The Refugee Crisis and the Reactions of the Visegrad Countries. Final Report., István Hegedűs et.al., Hungarian Europe Society, September 2016
\textsuperscript{18} 2016. december 28. MTI
\textsuperscript{19} 2017.október 6. Magyar Idők
\textsuperscript{20} 2015. szeptember 14. MTI: Szlovákia fokozza a rendőri jelenlétet
\textsuperscript{21} 2015. augusztus 7. Új Szó
\textsuperscript{22} Hadgyakorlat a szlovák-magyar határon. 2015. október 25. https://ujszo.com/online/kozelet/2015/10/25/hadgyakorlat-a-szlovak-magyar-hataron
\textsuperscript{23} Közösen gyakorlatokat az cseh és szlovák határáról. Új Szó, 2016. szeptember 27.
\textsuperscript{24} 2015. szeptember 14. Paraméter, Újra ellenőrizzek a szlovák-magyar határon is!
\textsuperscript{26} Magyarország felfüggeszti a szisztematikus határellőrzést. 2017. május 9., MTI
prevention of terror attacks – as the recent report of the Slovak secret service (SIS) states. Thus setting up hotspots would be an urgent measure. 27

The ‘Enhanced Action’ on 9 September 2015 as a military training on the southern border of Hungary involving at least 4300 soldiers, thousand of bantams and martial vehicle prove how the border control has moved toward the defence and military enforcement from the public administration. Soldiers are entitled to practice the tasks of law enforcement such as checking identity documents, passports, investigation of vehicles or the baggage of migrating people due to the amendments of laws. 28

No.2. Humanitarian and ethnic-religious aspects

As the Hungarian government attempted to even superficially respect EU asylum legislation, most notably the Dublin Regulation, by blocking migrants from taking trains towards the west, by August 2015 there was an estimated one-to-two thousand people at a time occupying the downstairs passageway. At the absence of state agencies, national and international humanitarian organizations, thousands of Hungarian citizens joined together to provide food, clothing and medical aid. The migrants’ frustration at the state of immobilization reached a saturation point after the tragic death of 71 people in an overcrowded lorry near the Hungarian border in Austria in late August 2015 while there were two marches of hope. The Austrian border would open, and later buses would also be sent to Keleti, to pick up the people who had not joined the march. The arrival of the buses meant the temporary collapse of the Dublin regulation and a short-lived rupture to Hungarian government’s respect of European asylum policy. The march marked the beginning of a months-long escapade of state-organized transportation, or in the vocabulary of the state, the ‘smuggling’ of migrants through the Hungarian territory to the Austrian border. As a response to the protest of the migrants, heightened by the presence of international media, the Hungarian government completely and utterly disregarded the Dublin regulation, that very EU legislation that had caused the deadlock in the first place. 29

Migration Crisis has been one of the most dramatic humanitarian crises that the humanity has witnessed after the Second World War. People have been forced to flee from their homes due to the conflict in their region and many of them have to seek a shelter in the neighboring countries while quite a few chose to take a dangerous route towards the Western Europe. In recent history, it can be seen that the Hungarian-Serbian Border has opened the door for Europe to the people coming thorough the Western Balkan route. Yet, none of these transit passes made an overwhelming impact in the international arena as the one in 2015. 30 Securitization approach, verbal aggression and anti-migrants campaign of the Hungarian government in their rhetoric; the restrictive legislative amendment on the asylum system and subsequently policy changes escalated the crisis.

All these new regulations and amendments created the brand new Hungarian asylum policy and intentionally tore down the whole asylum system of Hungary by failing its obligations as a European

27 SIS: a határellenőrzés hiánya növeli a terrortámadások kockázatát. 2016. február 26., TASR
28 Több ezer katonával védi a határokat a honvédség. 2015. szeptember 25.,MTI
Union member state. As a result of these policy changes, the most visible outcome was seen as a physical barrier on the borders of Hungary. Hungarian-Serbian border was closed by 175-km long barbed wire fences in the mid-September 2015 and following this, Hungarian-Croatian border was blocked by barriers in October 2015. Within a short time, “Hungarian Fortress” was built with the aim of securing the country from the migrants and asylum seekers coming from the south.

Extremely restrictive legislative and policy changes left people fleeing from their homes and dreaming to arrive to the Western Europe with two options at the Hungarian borders: either they intend to pass the fences violating the current Hungarian Asylum law or they go for the transit zones or containment camps located along the southern border (namely Beremend, Letenye, Tompa and Röszke- only two of them being accessible from Serbia) to apply for asylum and submit their documents.

However, while the fence enabled to decrease the amount of the asylum applications, the irregular entries from the borders, which is a criminal act from September 2015 on as a result of the new regulations, continue to be as numerous as before. According to the statistics given by the Szeged Court, since the new Penal Code came into force, between 15 September 2015 and 10 July 2016, 2888 new criminal cases were opened because of crossing the border fence unlawfully. 2792 of these cases were found guilty and deported from the country. Even though just seven cases were detected with the intention of crossing the border illegally between 10 July and 31 December 2016, overall number for asylum applications still remained high as 29.432 during 2016. No matter how many restrictive precautions: such as political changes, amendments and physical barriers are taken, people do not refrain from seeking protection.

The asylum-seekers follow the Western Balkan route to enter Hungary via Serbian border. Taking this into account, pre-transit areas are located partly in Hungarian and partly in Serbian territories. Since the fences built as physical barriers, as tangible evidences of the existence of the border lines, did not manage to diminish the asylum applications completely, the Hungarian government forced asylum-seekers to leave the Hungarian territory by using violent the push-back policies. The Hungarian Asylum authority limited the admission quotas only ten persons per working day which makes only fifty persons per week. In order to deter the asylum seekers out of the country and keep the number of the asylum applications as low as possible, the Hungarian government took all the possible measures to push back the asylum seekers to the external side of the border fence.

The Hungarian authorities designated Serbia as a safe third country for asylum-seekers which means that people coming from the Serbian border can be sent back to Serbia without giving them any opportunity to apply for an asylum. This means that all potential asylum seekers are automatically pushed back by the Hungarian Police if they are caught within 8 km (5 miles) of either Hungarian-Serbian border or the Croatian-Hungarian border. Between 5 July 2016 and 31 August 2017, 14 438 asylum seekers were pushed back while 18 334 applicants were denied access, thus leaving them incapacitated to seek for international protection.

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34 Ibid., p:3
35 Ibid.
Another push back policy is to deter the migrants by not meeting the necessary humane conditions in the pre-transit zones. Apart from a vague admission system, there are also long waiting queues in the transit zones and lack of humane conditions that are not suitable from the human rights perspective; asylum seekers need to wait for an unknown number of days and on many occasions, even weeks.\textsuperscript{36} The transit zones are surrounded by a razor-wire fence, along with security cameras located all around and police officers and armed forces patrolling all the time; not giving any room for privacy.\textsuperscript{37} Not only monthly cash allowance but also school enrolment benefits were cut down as of 1 April 2016.\textsuperscript{38} Hygienic situation in the reception centers is reported very low, accommodation facilities are not enough, dietary products for babies and children are inadequate. Communication barrier due to the lack of qualified translation facilities or even absence of such service also block the information flood. This is very dire especially during the medical consultation time; because it builds another huge wall between doctor and the patient. Consequently, feeling of insecurity and helplessness triggered among the asylum seekers who seek for international protection in the border zone.\textsuperscript{39}

Asylum seekers are entitled to submit their asylum applications only in the transit zones. Since the asylum seekers confront with different challenges from ill-treatment, government’s restrictions, criminal activities and violence, the pre-transit area between Hungary and Serbia is known as “grey zone”.\textsuperscript{40} Daily quotas on the numbers of people who can enter the transit zone restrict vulnerable groups including women, elderly people, and unaccompanied minors in the very dire conditions. Since May 2016, most single men’s applications for asylum are not taken into considerations even without accepting the claim. Reception conditions have never been on the optimal level but from day to day it keeps getting worse. In line with this, permanent asylum reception centers were closed down and a tent camp started to operate in Kőrmend in 2016 and closed down in 2017. During winter, inside of the tents was very cold and dark. Even though there were many requests to change the place, the immigration office did not accept their demand. There was not any opportunity to spend their time in a meaningful way; especially for children, there was not any education center where they could follow the courses. These facts left them isolated from the society and poorer the possibility of integration.\textsuperscript{41}

There is a great lack of established definitions about vulnerable people on the legal framework so the authorities/safeguards decide if the people are vulnerable or not, according to their appearance: pregnant women, minors and disabled persons mostly the ones easily can be recognized by eyes.\textsuperscript{42} However, vulnerable people are mostly ignored and the Hungarian government cannot provide the necessary conditions for them in the transit zones.

Regardless of their protection needs, Hungarian authorities forced asylum seekers by using violence to go back to where they have come from.\textsuperscript{43} According to the Medicine Sans Frontieres, during 2016, numerous asylum-seekers were treated heavily as they have been imposed to dog bites; pepper spray, tear gas and the extreme violence caused them to have violence related-traumas, injuries from beatings

\textsuperscript{36} Köves, op.cit.
\textsuperscript{38} Ibid.
\textsuperscript{40} Ibid.
\textsuperscript{41} Hungarian Helsinki Committee, op.cit. p:6
\textsuperscript{42} Köves, Nora, op.cit.
inflicted on them while they were trying to pass the Serbian-Hungarian border. This treatment includes even unaccompanied minors, children and it has become a systematic manipulation that many international organizations put this into their top priority on their agendas.

In 2016, detentions become a norm and the number of detained people continued to get higher than the ones staying in the open reception centers. In 2017, many asylum-seekers have been detained in the transit border zones. There are not any exceptions from the point of vulnerable persons and unaccompanied children between 14 and 18. They are all automatically detained. Currently 96 percent asylum-seekers are under detention.

Hungary as a member of the European Union gave a responsibility sharing and solidarity test in the field of asylum. With the new regulations and amendments, Hungary challenged the relocation plan which started in September 2015 in order to help Greece and Italy. And as a result of this, the Court of Justice of the European Union (CJEU) did not accept the Hungary’s legal action that so far no asylum seekers have been relocated to Hungary. Because of worsening systematic deficiencies in the Hungarian asylum system, concerns over the refugees and asylum-seekers as well as the reception conditions UNHCR called for an urgent suspension of Dublin transfer to Hungary. The long-term impact of the anti-islam, anti-refugee, anti-migrant and anti-European rhetoric and regulation will exclude legality and solidarity that cannot be expected from people here.

No.3 On legal issues concerning the border management

The European Border Surevillance System (EUROSUR) was set up in 2013 by a Regulation 1052/2013/EU as a multipurpose network for cooperation between the EU Member States and Frontex in order to improve situational awareness and increase reaction capability at external borders (Art.1). Its main aim is to prevent cross-border crime and irregular migration and contribute to protecting migrants’ lives. It comprises all Schengen area countries with Bulgaria, Romania and Croatia. This cooperation may provide the maintenance of national situational picture together with an overview of the situation at its external border, including the events taking place and assets deployed, as well as relevant background information and analysis (e.g. on pre-fronter area, migration routes). In this way EUROSUR empowers the ability in participating countries to rapid exchange of information, coordination in application of the surveillance and intelligence tools (Art.4). Hungary as landbordered country can profit from the detected cases of irregular migration, cross-border crimes in the pre-fronter area and in the border-zone, too or the implementation of the Handbook that contains many technical, operational recommendations and know-how from others (Art.21).

45 Köves, Nora, op.cit.
46 Hungarian Helsinki Committee, op.cit. p.10
47 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 (OJ 2015 L 248, p. 80)
48 Hungarian Helsinki Committee, op.cit. p: 10
Under the Regulation, Hungary has set up a National Coordination Centre (NCC) inside the Headquarters of the Police which coordinates and exchanges information among all the authorities responsible for external border surveillance as well as with other NCCs and Frontex. The NCC shall provide the Agency, via the communication network, with information from the the Hungarian situational pictures, and NCC can access to certain parts of the European situational picture and to the common pre-frontier intelligence picture. The Hungarian NCC in daily 24 hours provides the coordination in external border surveillance and continuous contacts with other NCCs of the Member State of the EU and the Schengen zone.

The EUROSUR supports the cooperation with neighbouring third countries. For this purposes Hungary may exchange information and cooperate with one or several neighbouring third countries (Art.20). Such exchange of information and such cooperation shall take place on the basis of bilateral or multilateral agreements or through regional networks established on the basis of those agreements. The NCC is the contact point for the exchange of information and personal data with neighbouring third countries that must be in harmony with national data protection system, the relevant Union and international law on fundamental rights and on international protection (1951 Geneva Convention) including the principle of non-refoulement, prohibition of torture and inhuman treatment. Naturally, this exchange of data operates under the approval of the Agency. We may illustrate the legal frame of the bilateral cooperation with Serbia as follows:

(a) Agreement on the control on the border crossing points (BCP) in land, on river and at railways entitles the parties to set up joint contact points (JCP) in the designated BCPs in order to provide the institutionalised cooperation in frontier checking and exchange of data. It includes the joint actions and combating illegal migration and additional unlawful conduct, analysis of border traffic as well as the smooth execution of readmission of persons upon request on the basis of existing treaties. The technical and procedural issues of the application of the Agreement shall be defined in a Protocol signed by the responsible authorities. (Art.20)

(b) Agreement on the combating and prevention of cross-border and organised crimes entitles the criminal investigation authorities – respecting all legal obligations of Hungary coming from the membership in the EU – to take joint measures and action in order to protect the public order, security. The cooperation covers on crime prevention in the border zone (e.g. in Hungary in Csongrád and Bács-Kiskun county), investigation of ordinary (non-policial) crimes, exchange of information (e.g. personal data of cross-border felonies, perpetrators, working methods, new forms of organised crimes) and direct connections between the investigating authorities through the responsible central organs (HQ of the Police and the International Criminal Cooperation Unit in Hungary) if the necessary measures to be taken are relating to the border zone and unlawful cross-border conduct. The bilateral cooperation provides not only a joint analysis of criminal picture and events also in the border zone but a joint investigating team if the crime is punishable for longer than five years imprisonment and

51 Directive 95/46/EC, Regulation (EC) No 45/2001 and Framework Decision 2008/977/JHA. However, the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data replaces the Directive 95/46/EC (General Data Protection Regulation) that shall be applied only from 25 May 2018; Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data replaces the Council Framework Decision 2008/977/JHA, it shall be transposed up to 6 May 2018.

52 Published in the Act IV of 2012 (Magyarország Kormánya és a Szerb Köztársaság Kormánya között a közúti, a vasúti és a vízi határforgalom ellenőrzéséről szóló Megállapodás)
the organised offence affects more countries on the basis of a protocol upon the initiative of the parties. The Protocol has to define the share of working, competences and the legal references on the costs and liability of investigating police staff for own conduct in the territory of the other party state. The national liaison officer shall manage the operative, ongoing implementation of the Agreement and exchange of information in general directed by the sending party and the provisions of the Protocols mentioned above. The JCP of investigating authorities can play an important role in cooperation, readmission/transfer of migrants or involvement of third country’s representative in the fact-finding on the basis of a separate protocol on references on the national legal, financial and liability rules. (Art. 2, Art.6-7, 10, 13, 15, 28)\textsuperscript{35} The Agreement regulates on the rights and accountability of proceeding officers in the other party state, the personal data protection including how to inform the migrant in proceedings (Art.21-23)
\begin{itemize}
  \item (c) Agreement concerning the cooperation in the field of defence provides, inter alia, cooperation through inspections, meeting, joint training in mutual studying and analysis of common execution in crisis management and humanitarian activities under the aegis of UN or OSCE and respecting the other international obligations of Hungary in the EU. (Art.4-5)\textsuperscript{54}
\end{itemize}

Due to strong traditions of bilateralism few examples can be given on regional cooperation: a \textit{genuine regional law enforcement cooperation in cross-border crimes and combating illegal migration} was developed in 2006-2016 inside the \textbf{Southeast European Police Cooperation (PCC SEE)}\textsuperscript{55} that is extending now on 11 contracting parties: Albania, Austria, Bosnia-Herzegovina, Bulgaria, Hungary, Macedonia, Moldova, Montenegro, Romania, Serbia and Slovenia. Accordingly, parties shall strengthen their cooperation with respect to fighting threats to public security and/or order as well as with respect to prevention, detection and police investigation of criminal offences. This is done under national law, unless otherwise indicated in the Convention. The PCC SSE wants to exchange information, to enhance operative cooperation and investigation for the purpose of prevention, detection and reduction threats by deploying the forces in the neighbouring border areas in line with coordinated planning, and to facilitate mutual training/study visits. Some results of its the history.\textsuperscript{56}
\begin{itemize}
  \item (a) The project on Joint Investigation Teams (JITs) was awarded to DCAF Ljubljana with a grant by the European Commission and it was supported by the Europol and Eurojust (2010). The project contributed to a more efficient fight against organised crime and other forms of cross-border crime. Before creating JITs a training for judicial and police practitioners can increase the knowledge on how to use of methods and strategy in cross-border cooperation. The practical use of common operational JITs is presented at different relevant EU levels as best EU practises. This lead the way to an increasing use of this effective instrument of judicial and police cooperation.
  \item (b) Contact points in each party state were established by the responsible ministry coordinating their daily activities.
  \item (c) A Manual was prepared by the PCC SEE Secretariat, including a chapter on cross-border surveillance, a model bilateral implementation agreement and transferring modern learning tools, three e-learning modules in the area of cross-border policing – on Hot Pursuit, Mixed
\end{itemize}

\textsuperscript{53} Published in Act XXXIV of 2009 (a Magyar Köztársaság és a Szerb Köztársaság között a bűnüldöző szerveknek a határokat átlépő bűnözés megelőzésében és a szervezett bűnözés elleni harcban folytatott együttműködéséről szóló Megállapodása)
\textsuperscript{54} Government Decree No.135 of 2010, April 23 (a Magyar Köztársaság Kormánya és a Szerb Köztársaság Kormánya között a honvédélem terén folytatott együttműködésről szóló megállapodás)
\textsuperscript{55} Published in Act XCII of 2012 (a Délkelet-európai Rendőri Együttműködési Egyezmény)
\textsuperscript{56} \url{http://www.pccseesecretariat.si/index.php?page=static&item=49}
Patrols, and Data and Information Exchange, with the use of established CEPOL’s methodology.
(d) PCC SEE operational exercises took place between 2010-2012, preceded by expert missions in each Contracting Party to identify the level of operational preparedness, practical gaps and harmonisation with EU legislation and practices. "TRAPPERS 2014" involved the authorities of all parties in cross-border surveillance, controlled delivery and information exchange activities. The Joint activity on Illegal Migration 'SIROCCO’ was initiated by the Hungarian PCC SEE Chairmanship-In-Office and took place in June 2015. This PCC SEE activity aimed to support Europol’s International Operation 'Blue Amber’, which was planned and executed within the EU Policy Cycle framework for implementing EU priorities in the fight against Serious and Organised Crime. The activity focused on the exchange of information related to illegal migration, Europol also deployed mobile units that enabled a better facilitation of real-time information exchange in the field. Summing up, it may facilitate a pan-European law enforcement cooperation, establishing links between PCC SEE and EU expert networks.

The Police are represented at several international border police forums. It is both involved into the decision-making mechanism of the European Union on border control and illegal migration and in the work of Frontex, the EU's External Borders Agency. Hungarian Police and technical equipment - thermal cameras and patrol cars – participate in various joint operations at the external borders of the Schengen area in order to assist their border control and surveillance activities in the countries concerned, and through their efforts the Police also contribute to the security of the external borders of the Schengen area.57

The legal basis to the cooperation can be found also in the national regulation.
(a) The tasks of the authority of N.SIS II the Government appointed the Minister of the Interior as a responsible person.58
(b) The Act on Police (PolA)59 determine how the police officer from other state acting in border control on the basis of the Reg.2016/1624/EU in Hungary shall perform his tasks. For instance, he is entitled to use own gun for self-protection or in emergency, to apprehend only unlawfully residing person that shall be transfered immediately to the Police, to access to certain parts of the SIS and VIS. Partipants in the joint action of law enforcement from another MS of the EU can wear own uniform, gun and regular equipment. Member of the special intervention team from another MS of the EU is entitled to capture the supposed terrorists in Hungary using coercive measures. Officer in joint action is reliable for imputably caused damage or harm on the base of own national legislation in a disciplinary process while the compensation for the victims shall be paid by the Police and reimbursement from the reliable MS of the EU would beprovided upon the request of the Minster of the Interior. (Art.62/A-D)
(c) The executive rules of the border control and surveillance of the Police60 describes the analytical and evaluating tasks including the non/regular changes in border crossing data, efficiency and shortages of border control, trends in unlawful border crossing in each BCP establishing a prognosis to the next months. The aggregated data and proposals to the useful measures are gathered at county police stations. The HQ of the Police collects data on the risk analysis of non-systematic control on free movement of persons (their documents) from BCPs and police units. It is forwarded twice per annum to the Agency. (Section 3-6/A-C)

57 http://www.police.hu/hu/a-rendorsegrol/testulet/rendeszt-szakterulet/hatarrendezset
58 Act CLXXXI of 2012, Government Decree No.15 of 2013, Jan 28 (a Schengeni Információs Rendszer második generációja keretében történő információcsere részletes szabályairól, valamint az egyes kapcsolódó kormányrendeletek módosításáról)
59 Act XXXIV of 1994 (Rendőrségi törvény)
60 Order issued by the HQ of the Police No.24 of 2015, Oct 15 (a Határforgalom-ellenőrzési Szabályzat)
(d) The border control, protection and surveillance shall be considered as a branch of policing (alien policing) and as a part of the border management (border policing). This complex function includes some specific tasks\textsuperscript{61}. For instance, taking provisional measure to protect persons in need of care and the safeguarding of unattended property, TCN detention, intervention of abusive, unlawful or agressiv conduct at BCPs and in the environment of the borders, in particular in the period of mass influx or refugee crisis when the security measures precede the administrative services in border crossing in accordance with the crisis management plan. There mass influx or unlawful actions of migrants shall be localalized keeping up the order, checking and surveillance (Section 59-61) The police officer, in cooperation with other authorities, shall carry out a deep-seated inspection outside the border area for the purpose of detecting persons illegally present in the territory of the country. (Section 65) In carrying out border policing tasks\textsuperscript{62}, the police staff should apply the "Practice Guide for Border Guards" (Schengen Manual) and its annexes. Confirmed service may be ordered for instance, if mass influxes are expected in the state border, or it is justified by the information received from the border authorities of the neighboring country based on the regular cooperation with adjacent BCPs. (Section 29, 313)

(e) In its law enforcement and border policing efforts, the Police strongly advocates against all forms of illegal migration and support for organized crime: including\textsuperscript{63} the continually collecting, analyzing and evaluating changes in neighboring or third countries’ immigration, refugee policies and public security situations, mainly in transit countries, information on the operation of the smuggling groups, organizations, document tampering workshops of foreign perpetrators in Hungary, in particular with regard to Albanian, Turkish, Ukrainain, Moldovan, Russian, Polish, Slovakian, Romanian, Bulgarian, Chinese organizations; participation in the activities of FRONTEX (preparation of background documents for the members of the board of directors, representation of Agency expert working groups, preparation of professional materials, organization and coordination of Agency joint operations and participation in the Rapid Border Intervention Units, organization of Agency operations in Hungary. )

These legal tasks are enhanced by numerous measures in capacity building as follows:

(a) The infrastructural development of BCPs through the technical and measuring equipment on the echecking and surveillance was financed from the External Border Fund in the frame of the national planning programmes. The transplantation of the best or promising practices from toher MS of the EU would contribute to the growing efficacy of the control and capacity in fast reactions using various indicators (e.g. participation in EUROSUR and Agency’s joint actions, number of accessed mobile equipment, revealed smuggling cases). The developing programme is aiming to a uniformed and advanced implementation of Schengen Border Code respecting the human dignity of people crossing the borders.\textsuperscript{64}

(b) The cooperation in the security issues has been outlined also in the AFSJ planning and national priorities. In cooperation with law enforcement agencies, emphasis has been shifted from co-operation through traditional central authorities to direct inquiries between law enforcement agencies, direct, substantive coordination between Member States’ authorities and operational co-operation. Hungary supports the implementation of alternatives and continuous development of the infrasturcture in border management that are considered more effective on the basis of practical considerations including EUROSUR. Hungary will

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\textsuperscript{61} Decree of the Minister of the Interior No.30 of 2011, Sept 22 (a rendőrség szolgálati szabályzata)

\textsuperscript{62} Order issued by the HQ of the Police No.8 of 2008 (rendőrség határrendszeti szabályzata)

\textsuperscript{63} Order issued by the HQ of the Police No.21 of 2008 (az illegális migrációval összefüggő jogsértések kezelésével kapcsolatos rendőri feladatok végrehajtása)

\textsuperscript{64} Government Resolution No.1102 of 2007, Dec 23 (a Magyar Köztársaság Külső Határok Alap Nemzeti Programja)
develop the possibilities for effective action against illegal migration by providing expert and technical assistance on a reciprocal basis within FRONTEX. The IT strategic development for law enforcement also takes into accounts the effective contacts and cooperation with EUROSUR.

(c) The curricula of baccelor degree for border policing officer contains the knowledge on legal and informatic structure and integrated operation of border management system in the EU, such as SISII, SIREN, VIS, EES, Eurodac, EUROSUR, e-Gate and RTP.

From the long list of rights of TCN crossing the border we mention certain changes relating to the second generation of the SIS. Regular Data Protection Control tasks are initiated by the National Data Protection and Information Freedom Authority (NDPA) as an independent national audit authority designated pursuant to Article 44 of the SIS II Regulation. According to the Act on Informative Self-determination (Act CXII of 2011), the NDPA is fully and unconditionally subject to any right to control all data management. NDPA shall either check the lawfulness of data handling and data transfer in connection with the SIS II and shall investigate the objection to the lawfulness of the data processing and the transfer of data as well as the appeal against the refusal of the information by the data processing entity notwithstanding the judicial remedy of TCN on the ground of the Act on Informative Self-determination. If the data controlled by NDPA have been forwarded by the competent authority of the SIS II using the CS.SIS or provided as additional information, the NDPA shall, with the involvement of the control authority of the Member State concerned, apply the procedure in Article 34 (3)-(4) of the SIS II Regulation. If the alert is placed by a foreign state employing SIS II and information is provided in Hungary that any data is incorrect or unlawfully stored, it may be remedied under the law of the issuing State. If, at the request of the SIRENE Bureau, the foreign state concerned does not correct or delete the data within two months, the SIRENE Bureau shall seek NDPA for the purpose of carrying out the procedure under Article 34 of the SIS II Regulation.

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65 Government Resolution No.1057 of 2009, April 24 (a szabadság, biztonság és a jog érvényesülése térségében való együttműködésére vonatkozó 2009–2014 közötti kormányzati stratégia)
66 Order issued by the Minister of the Interior No.12 of 2012, Marc 22 (a Belügyminisztérium Informatikai Stratégiája)
67 Government Decree No.282 of 2016, Sept 21 (az államhukományi képzési terület alap- és mesterképzési szakjainak meghatározása és azok képzési és kimeneti követelményei)
68 Act CLXXXI of 2012 (Schengeni Információs Rendszer második generációja keretében történő információcsere)
Annex:
Amendments due to the refugee crisis and a short history of changes in Hungary

AssisA = Act LXXX of 2003 on legal assistance service
AsylA = Act LXXX of 2007 on asylum
BordA = Act LXXXIX of 2007 on the state borders
CivA = Act III of 1952 on civil (and administrative) judicial procedures
Code Civile = Act V of 2013
EquA = Act CXXV of 2003 on equal treatment
IRMD = Ministerial Decree No.26 of 2007, 31 May on deportation proceedings
OmbA = Act CXI of 2011 on the ombudsman and its procedure
PolA = Act XXXIV of 1993 on the Police
ProsA = Act CLXIII of 2011 on public prosecutors
ProsO = Order issued by the Chief Public Prosecutor No.20 of 2014, 23 Dec on legal protection in deprivation of personal freedom
PubA = Act CXL of 2004 on public administration procedure
ThirdA = Act II of 2007 on entry and residence of TCN in Hungary
ThirdD = Government Decree No.114 of 2007, 24 May on procedural rules of the ThirdA

1 August 2015: Serbia is designated as a safe third country for asylum-seekers, resulting in the quasi-automatic rejection of over 99% asylum claims; extremely accelerated asylum proceedings; the one-instance judicial review of asylum cases is rendered ineffective with unreasonably short deadlines for submitting an appeal; transit zones are introduced, where immigration and asylum cases are processed.

15 September 2015: The asylum procedure at the border—a specific type of admissibility procedure—is introduced, which can only be initiated if the applicant submitted her/his asylum claim in a transit zone; the unreasonably short deadline of the admissibility procedure is further shortened: the asylum authority has to deliver a decision in maximum 8 calendar days; in parallel with the inadmissibility decision, the asylum authority also immediately expels the rejected asylum-seeker and orders a ban on entry and stay for 1 or 2 years; criminal sanctions are introduced for illegal border-crossing through the border fence.

5 July 2016: Hungarian police are obliged to automatically push back asylum-seekers who are apprehended within 8 km of either the Serbian-Hungarian or the Croatian-Hungarian border to the external side of the border fence.

28 March 2017: During this state of crisis special rules apply to third-country nationals unlawfully entering and/or staying in Hungary and those seeking asylum, including: Police are authorised to push-back unlawfully staying migrants who wish to seek asylum in Hungary across the border fence from any part of the country, without any legal procedure or opportunity to challenge this measure, asylum applications can only be submitted in the transit zones at the border. Asylum-seekers are to be held in the transit zones for the entire asylum procedure without any legal basis for detention or judicial remedies. All vulnerable persons and unaccompanied asylum-seeking children over 14 years of age will be also automatically detained, the deadlines to seek judicial review against inadmissibility decisions and rejections of asylum applications are drastically shortened to 3 days, hindering the applicant’s ability to challenge these decisions in court.

The recommendations:

Free operation of NGOs would compensate the anti-migration and anti-refugee propaganda in V4.

Civil society cooperation across borders needs to be improved via the exchange of experiences and development of communication strategies that extend the solidarity and work of NGOs in each country. This network building cooperation must follow a “bottom-up” approach taking into accounts the local needs and conditions. Naturally, efforts of NGOs are additional character to the state responsibility and legal obligations.
NGOs should make better use of European institutions and funds. European institutions for their part need to step up efforts to support (cross-border, regional) civil society actions. The European Commission should use its programmes and resources to finance cross-border cooperation and to cover national costs related to expenses for refugees as effectively as possible in order to incentivize active regions.

Border police and law enforcement units would manage regular consultations with local community, self-government, municipal and local authorities inside and cross-border partners directly in adjacent states.

Distance translation and legal aid service as minimum must be available for migrants in each BCP as the minimum to the effect legal protection and accession to legal remedy.