

From Reluctance to Total Denial: Asylum Policy in Hungary 2015–2018

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1 Introduction*

During his visit to Hungary in September 2017, Filippo Grandi, the United Nations High Commissioner for Refugees, standing in front of the fence separating Serbia from Hungary summarised his impressions of the two-day visit that was never reported at the government website in the following words:

When I was standing at the border fence today, I felt the entire system is designed to keep people, many of whom are fleeing war and persecution, out of the country and preventing many from making a legitimate asylum claim.¹

How did the once eminent candidate and new member of the EU, which even before accession to the EU generously received refugees from Romania and the former Yugoslavia get there?² This chapter offers an overview of the developments, concentrating on events in 2015 and thereafter leading to a situation when Hungary and other Visegrad cooperation countries rhetorically or in reality defy fundamental principles and rules of international and EU refugee law.

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1 UNHCR Chief visits Hungary, calls for greater access to asylum, end to detention and more solidarity with refugees, 12 September 2017, <http://www.unhcr.org/news/press/2017/9/59b809d24/unhcr-chief-visits-hungary-calls-greater-access-asylum-end-detention-solidarity.html>

2 For a comprehensive account of the early years of asylum law and policy in Hungary see: B Nagy, 'Hungary' in R Byrne, G Noll, and J Vedsted-Hansen (eds) *New Asylum Countries? Migration Control and Refugee Protection in an Enlarged European Union* (Kluwer Law International, 2002) 138.

Law in itself is mere fact. The understanding of its changes involves external tools offered by jurisprudential and other theories. The underlying premise of much what follows is that securitisation, majority identitarian populism and crimmigration are interpretative frames which help identify motivations and goals of actors.³ The conclusion is dire: Hungarian asylum policy (and all refugee assisting civil society actors) fell pray to domestic politics, which in an effort to keep together the pro-government camp created an enemy image of the asylum seeker who is presented as a threat to the culture, to the security and to the welfare of 'the nation'. In the official Hungarian propaganda, the European Commission and the European Parliament also ended up as representing vile forces sponsored and animated by the billionaire George Soros. The demolition of a functioning asylum system went hand in hand with the ending the rule of law and severely undermining democracy, but that is not in the focus of this chapter.⁴

2 The State of Play

This section describes and explains the fluctuations in the number of asylum seekers reaching Hungary and presents the political context, concentrating on the increasingly hostile public discourse, generated by the government.

2.1 *Asylum Decisions in Hungary in the Period 2000–2017*

Hungary's involvement in the irregular movements has been hectic, to say the least. After its substantive participation in receiving tens of thousands of people escaping from Romania in the late eighties and those escaping the war in Croatia and in Bosnia in the early nineties, the country became a backwater in asylum terms.⁵ That situation has not changed with the accession to the

3 I elaborated the theoretical frame in a longer study: B Nagy, 'Hungarian Asylum Law and Policy in 2015–2016. Securitization Instead of Loyal Cooperation' (2016) 17 *German Law Journal*, 1040–1044.

4 B Bugarič, 'Protecting Democracy inside the EU: On Article 7 TEU and the Hungarian Turn to Authoritarianism' in C Closa and D Kochenov, (eds) *Reinforcing rule of law oversight in the European Union* (Cambridge University Press, 2016) 82–103; C Bridge, 'Orbán's Hungary The othering of liberal Western Europe' in J Chovanec, K Molek-Kozakowska (eds), *Representing the Other in European Media Discourses* (John Benjamins Publishing Company, 2017) 25.

5 Details in B Nagy: Hungary (n 2) 146 – 157; In Hungarian language see also B Nagy, *A magyar menekültjog és menekültügy a rendszerváltozástól az Európai Unióba lépésig. Erkölcsi, politikai-filozófiai és jogi vizsgálódások. (Hungarian refugee law and refugee affairs from the system change in the late eighties until accession to the European Union. Moral, political-philosophical and legal investigations)* (Gondolat Kiadó, 2012) 112.