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# Is there a Hungarian migration policy?

## 1. Introduction

As a result of the present migration trends and social tensions the handling of global migration gets more attention in the European Union, as well. On the other hand the purpose of any action should not only be improvidently reacting on the migration movements, but should rather be prepared to react on changes that can be foreseen or even precede any harmful result of them. In order to be able to act in an effective way, many experts are emphasising the need of a comprehensive migration policy based on thorough researches. The results of the newest Hungarian legislation in 2007 in the field of migration are already in force, but were these acts based on a clearly formulated migration policy or do they just try to keep up with the present trends of migration?

A policy is a deliberate plan of action to guide decisions and achieve rational outcomes. Policies are typically instituted in order to avoid some negative effect that has been noticed, or to seek some positive benefit. Policies are many times promulgated through official documents. But can we find such a document in the field of migration in Hungary? Or is there a non-written type of migration policy in our country? These are the questions for which this study is looking for the answers.

## 2. Legal requirements

When we try to recall any news we might have heard about a Hungarian migration policy, a memorable one that can come to our mind is about a supposed governmental proposal made public by Mr. Semjén by also threatening the country with the news of a mass of Asians being settled in Hungary. To this rumour the government responded by admitting that a document analysing migration truly exists, on the other hand it merely discusses the challenges of migration. According to the detailed announcement of the Ministry of Justice the Migration Strategy is willing to comprehensively identify the priorities and needed tools related to the government's demographic, migration and integration policy after analysing the processes of movement of people, identifying its typical directions, root causes and formulating the country's national interests, values and goals. It means that there is an intention on behalf of the government to form a migration strategy, and it seems it is in process. But what stage is this migration policy at?

The Government Decree 2073 of 2004 about the national security strategy of Hungary not only stated the challenges, risks, and threats, then the goals and tasks related to national security, but it also instructed the Minister of the Interior to prepare the migration strategy of Hungary. With another Government Decree in 2004 the so-called Migration Interministerial Committee was set up in order to form the strategic elements of a long-term migration policy. First the deadline of creating the departmental strategies related to the national security strategy was the end of September 2004, then it was prolonged, but still the strategy should have been ready by December 2005. At the present the Main Department of Cooperation of the Interior and Justice in the Ministry of Interior and Law Enforcement has the task of preparing the migration strategy of the Republic of Hungary and based on the strategy this department shall also make recommendation for the long-term migration policy, moreover its tasks include duties about coordinating the regulations concerning the social integration of foreigners, and it is also the authority for carrying out analysis, evaluations and forecasts about migration.

## 3. Recognizable elements

Therefore apart from the demand on behalf of the experts for a visible migration policy, there is also a legal obligation for creating such a document. But can we clearly say that no elements of such a policy exist? Or by a series of government and parliamentary actions some elements of this strategy are already visible. The following part of the study deals with such recognizable parts of a partly existing migration policy.

### 3.1 Hungarian minorities

Hungary has played a leading role in transforming the moral responsibility for nationals outside the borders into legal forms and this way the lines that later became known as the ‘responsibility clause’ have become a part of the Constitution of the Republic of Hungary with the Act XXXI of 1989. Therefore the feeling of responsibility for the fate of the Hungarian nationals behind the border belongs to those rare themes in which the political elite after 1989 has come to an agreement. Article 6 of the Constitution of the Republic of Hungary states that ‘the Republic of Hungary feels responsibility for the fate of the Hungarians behind the borders, and promotes the cultivation of relationship with Hungary.’ This responsibility clause records a one-sided and permanent responsibility: ‘As a result of all these the clause can be meant as a purpose of the state in the founding document of the political community, a general command that obligates the Hungarian government and public administration.’ [2]

Therefore even the Constitution states that the kin state is willing to act an important role in the life of the Hungarians behind the borders. It is therefore a very complex task for the Hungarian state to support its nationals who find themselves on the periphery of the Hungarian nation. The Hungarian authorities have embarked on a policy of supporting the Hungarian minorities living in the neighbouring countries, with the dual goal of fostering their links and increasing the sense of belonging to the Hungarian nation and at the same time ensuring that they feel happy where they live without wishing to move to Hungary.

A positive discrimination that has already existed in the previous immigration law is related to the application for settlement permit and with this preferential regulation the Hungarian state wants to express that it is its obligation to help the prosperity of Hungarian nationals even if they decide to leave their birthplace and choose to migrate to Hungary. Therefore instead of having to live in the country for a continuous period of three years, no period of stay needs to be proven when applying for a settlement permit in the case the applicant had once been a Hungarian or is of Hungarian origin, and either of these facts can be proven or at least can be shown to be probable.

Yet, the immigration regulations after the unsuccessful referendum on giving preferential citizenship to these nationals tend to contain more and more special treatment in the case of Hungarian nationals. The reform in 2005 not only resided in the form of new institutions, but the revision of the former legal provisions was also needed. Therefore, the government agent Dezső Avarkeszi had the task of investigating both the legal background and the procedures concerning foreigners in Hungary, and his investigation resulted in amendment proposals concerning both the act on naturalization and the foreign policy act. The Hungarian Parliament accepted the amendment bill unanimously on the 6<sup>th</sup> of June 2005, this amendment act mainly changed procedural provisions: the procedures became shorter and the administrative and other burdens of the clients decreased.

Apart from procedural issues one of the most important parts of the proposal was the introduction of a national visa that allows its holder to stay in Hungary for a maximum of five years. On the other hand, because of the EU provisions it would not entitle the holder to work or study in the country. The basic purpose of this new visa was to ease the upkeep of relationships between Hungary and the national Hungarians. As for the preferential regulations of the naturalization procedure, individuals who have Hungarian ancestry can apply for Hungarian citizenship immediately after establishing permanent residence in Hungary, moreover not only individuals who gain a degree in Hungary would be exempt from having to take the citizenship exam, but also those who received education in Hungarian language outside of Hungary.

### 3.2 Family reunification

Although some elements of family reunification have already existed under the previous immigration law, there used to exist some regulations that created an unequal situation between the family members of EU nationals and the family members of Hungarian citizens. The regulations of Act I of 2007 implement the **2004/38/EC Directive on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, which directive reflects the fact that** the European Commission supports the view that family reunification is a necessary way of making family life and facilitating the integration of third-country nationals in a Member State. [3]

**This implementation** gave an opportunity for the Hungarian legislation to extend the right of free movement and residence to the third-country national family members of the Hungarians, as well. As a result of this decision these third-country national family members may claim documents for their residence in Hungary in very preferential procedures and also as a result they can have permanent residence in Hungary even with a definite term residence permit that helps them apply for citizenship much earlier than previously.

#### 4. Elements that need to be improved

András Kováts identifies the following fields as the main aspects of migration policy: labour market situation, demographic changes, refugee issues, the role of Hungarian nationals and the integration of foreigners. [4] Kováts added a further element to this list in a lecture this month, namely the control of migration related to security policy. In the following section I am willing to focus on two issues from the elements that need to be worked out in a future migration policy: the question of integration, and the national security questions of migration.

##### 4.1 Integration

One of the main deficiencies of the present immigration laws is that they do not take into consideration the question of integration of the immigrants, they do not give proper legal basis for the provisions helping the social integration of foreigners residing in the Hungary. These provisions should firstly help the realization of expectations from the foreigners, secondly they would strengthen the social cohesion. [1] Therefore integration should have two basic dimensions: one that helps immigrants fit into their new home, the other one that makes the hosting society more tolerant with the foreigners.

As for the first aspect we find some initiatives both from non-governmental organizations, as well as from the Office of Immigration and Nationality, such as the European Refugee Fund. On the other hand what we can clearly experience is that these initiatives typically concentrate on integrating refugees, while they make up only a smaller part of the foreigners in Hungary. You might say that refugees were forced to leave their country, therefore they are not prepared to fit into a different society and are definitely in the need of efficient and active help on behalf of the host country. On the contrary those individuals who choose to migrate tend to be young, entrepreneurial and risk-taking. Their motivation, aspiration and capacity help to facilitate their integration and enable them to make a positive contribution to the receiving society. [3] This is all true, yet the example of France and the immigrants in the ghettos should serve as an object-lesson for us not to forget about the legal migrants, especially knowing the fact that there are more and more immigrants in our country from outside Europe.

Pál Nyíri divides the migrants in Hungary into three groups based on their welfare and integration in the host country. [6] The first group is constituted by such temporary workers – like managers from the western states or Romanian seasonal workers – whose cases related to living and accommodation is handled by their employers. The second group is composed by Hungarian nationals and those who used to attend school in Hungary. As a result of their language knowledge and a system of relations they are more likely to deal with bureaucracy and the sometimes unfriendly or hostile environment and therefore have a better chance for getting settlement permit and for being able to send their children to Hungarian schools. Finally the members of the third group – namely the Chinese and Vietnamese, and to some extent the Arabs and Mongolians – take the position of the so-called ‘intermediary minority’. This phrase tends to describe a group of migrants who build institutionalized positions in some fields of the market based on ethnic networks, but in order to reserve their competitiveness they tend to undertake deviant, subordinate economic roles. As a result the host society is likely to identify the whole group with a certain line of business and look at them as an economic threat.

The integration of the immigrants also depends on the reception ability of the host country, and Hungary is known to be a country where xenophobia rises from year to year. It is not a surprise if we try to recall recent news concerning migrants, such as the vanished Cuban refugees and the reception centre residents who climbed a column in order to get their documents. These news do not shed a good light on migrants, therefore in order to get a more complex and more real picture about migrants, the host society should also be the target of integration policy.

##### 4.2 National security

In his report on the preparedness for the accession to the Schengen territory Carlos Coelho, a Portuguese member of the European Parliament draws our attention to the fact that Hungary is facing a very serious challenge, since it is becoming responsible for almost 15 percent of the Central-Eastern border of the Schengen territory. This puts a notable responsibility on the Hungarian border guards and foreign police authorities, since as a result of our accession to the Schengen area Hungary can mean an entrance point for the illegal migrants willing to get to Western Europe. [5]

The national security strategy of Hungary adds that the handling of the security risks are needed not only as a result of our EU membership, but they are also indispensable because of our own national interests, since it

cannot be excluded that in the framework of migration movements actors of organized crime or members of terrorist groups may try to settle in Hungary and form certain positions. The National Security Office writes about a possible tool with which these foreigners meaning a possible threat to the country may try to get a free way to Europe: the ones entering a marriage of convenience and receiving a residence permit as a result of family reunification are allowed to travel to other member states of the European Union freely, which is especially dangerous, because even members of organized crime or terrorist groups may try to make use of this. [5] Therefore we can admit that even the patronized idea of family reunification can hold security risks, which makes it a complex task to find a solution for these challenges.

## 5. Conclusion

The present migration regulations have been accused of only implementing the EU expectations and not being based on a thoroughly formed migration strategy. This accusation is partly true, yet we can find some clearly formed elements of the Hungarian migration policy especially related to the support of Hungarian minorities. Yet, the Hungarian authorities are already behind time with a clear migration policy, for which the needed professional disputes are still to be organized and the governmental, public administrative structure being responsible for forming a migration strategy seems to be under continuous changes.

On the other hand even though the comprehensive, big conception is missing, there are more and more expert opinions about certain aspects of the national migration policy and in spite of the fragmented picture the main problem fields seem to be formed. The remaining question is when we can expect these fragments to be compiled into a clear migration policy that can be the basis of the future legislation instead of the present situation when legislation tries to sketch some elements of migration strategy.

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