

SOME ISSUES REGARDING MIGRATION REGULATION BY THE VISEGRAD GROUP

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Abstract: *This article explores the topical migration issue, namely the migration regulation by the Visegrad group. Emphasis is placed on the fact that the EU policy to the migration crisis is declined by Hungary, Poland, the Czech Republic and Slovakia. They are against any changes that could lead to the introduction of a permanent and binding mechanism, redistribution or reduce Member States' competence in this area. It is inferred that the European policy to the migration crisis, which requires the obligatory quota principle for resettlement of migrants in the EU Member States, has no positive outcomes. Thus, the different legislative and political approach of the countries in the Visegrad Group, opposing the quota principle, can be described as logical.*

Keywords: *migration regulation, Visegrad Group, quota principle*

НЯКОИ ПРОБЛЕМИ, СВЪРЗАНИ С РЕГУЛАЦИЯТА НА МИГРАЦИОННИЯ ПРОЦЕС ОТ СТРАНА НА ВИШЕГРАДСКАТА ЧЕТВОРКА

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Резюме: *Статията разглежда актуални въпроси, свързани с миграцията, а именно регулирането на миграционния процес от страна на Вишеградската четворка. Поставя се акцент върху факта, че Унгария, Полша, Чехия и Словакия се противопоставят на политиката на ЕС в областта на миграцията. Те са против всякакви промени, които биха могли да доведат до въвеждане на постоянен и задължителен механизъм, разпределение или намаляване на компетентността на държавите членки в тази област. Прави се изводът, че европейската политика, свързана с миграционния поток, която изисква задължителния квотен принцип за преселване на мигранти в държавите членки на ЕС, няма положителни резултати. По този начин различният законодателен и политически подход на страните от Вишеградската група, които се противопоставят на квотния принцип, може да бъде описан като логичен.*

Ключови думи: *регулация на миграционния процес, Вишеградска четворка, квотен принцип.*

The migration problem has been one of the major challenges for the European Union during the last several years. The non-precedented refugee and migrant flow to the EU states in 2015 and 2016, when 1 000 000 migrants reached Europe, needs a solution to this problem that should be formulated by the European Commission.

The common EU policy that is related to the settlement of refugees, immigration, visa and the control of external borders, is based on Title V: Area of freedom, justice and security from the Treaty on the Functioning of the European Union (2007)¹. On May 1, 2013, the Commission established a European migration programme that is focused on the measures against the migration pressure in 3 directions: 1) out of the EU; 2) on the EU external borders and 3) within the EU. The actions supposed to be undertaken to the first direction include support for refugees all over the world; resettlement of refugees in the EU and coping with the reasons for illegal migration (along with the home states and the transit crossing countries). The second direction comprises increasing of the EU patrols on the sea borders that aims at the rescue of migrants and the destruction of trafficking groups; development of the external borders regulation; establishing hot spots in Greece and Italy; identifying and registering migrants who come to Europe. This requires procedures for asylum, return and readmission. The activities to the third direction are related to resettlement of migrants in other countries within the EU and simplification and harmonizing of the system for giving asylum and refugee status. The plan is resettlement of 160 000 asylum candidates².

The measures, drowned in the European programme for migration, are specified in Regulation (EC) No 604/2013 (Dublin III Regulation) of the European Parliament and the Council of EU (June 26, 2013) for the establishment of criteria and a mechanism for defining the member state, competent on the application for international protection, deposited in one of the member states by a citizen of another country or by a person without any citizenship³. According to the “Dublin system”, the member states are obliged to accept the quota principle for the settlement of refugees.

¹ Consolidated version of the Treaty on the functioning of the European Union (2007). URL: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012E/TXT&from=EN>.

² Европейска програма за миграцията от 13 май 2015. (Европейская миграционная программа от 13 мая 2015). URL: https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_bg.pdf.

³ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013/ Official Journal of the European Union, L 180/31, 29.6.2013.

However, the EU policy to the migration crisis is declined by Hungary, Poland, the Czech Republic and Slovakia. They are against any changes that could lead to the introduction of a permanent and binding mechanism, redistribution or reduce Member States' competence in this area. Their endeavours are mainly directed to providing assistance to third countries and enhancing the cooperation with them to address the root causes of migration pressure. This firm position of the four Central European countries, though, is not a result of xenophobia in Eastern Europe, which they are often accused of⁴.

A few reasons can be enumerated in relation to the refusal of the Czech Republic to allow migrants to enter its territory. In the first place, what stands out is the confrontation between the restrictions imposed by the common European rules and the national interests of the state.

According to the Czech Prime Minister Bohuslav Sobotka, the policy on granting asylum ought to be an authority only of the national governments. He claims that historically it is usual for his state to let refugees enter the country on a voluntary basis in compliance with the rules of the Schengen Union and on the basis of the Czech national legislation and lays emphasis on the intention that this practice shall be maintained in the future.⁵ B. Sobotka states the construction of refugee camps in Europe could not be a solution to the humanitarian crisis in the war-ruined states. In his view, the Czech Republic could not afford to accept more refugees both for financial reasons and for the occupancy of the restricted to 700-seat capacity of the temporary refugee camps.⁶

Even though the Prime Minister highlights the financial ground to justify his government's reluctance to accept migrants, it is not very likely that a major reason for refusing is issues with accommodation and food for the refugees, since it comes to accepting reasonably few people. According to the leaders of V4 countries, the obligatory quota principle for resettlement of migrants will not get the required outcomes. The concentration of struggles predominantly on the settlement of people needing asylum is determined as non-efficient.

The situation is even more complex due to the fact that – together with the refugees of the war in Syria – a huge number of people from Afghanistan, Iraq, Iran and Northern Africa migrate to Europe. They could not be treated after the Geneva Convention for the refugee status, established

⁴ Хайнлайн, Щ. Страхът на чехите от чуждото. 19.01.2015. URL: <http://p.dw.com/p/1EHnq> (available on 10.04.2018).

⁵ Sobotka: Česko může přijmout stovky migrantů, ale dobrovolně. Echo24.cz, 24. června 2015. URL: <http://echo24.cz/a/wPZfF/sobotka-cesko-muze-prijmout-stovky-migrantu-ale-dobrovolne> (available on 02.04.2018).

⁶ Ibid.

on July 28, 1951, but aim to benefit from the social system in Western Europe. After Article 1(2) of the Convention, the refugee status can be applied to a person being out of the state where this person has citizenship, because of a righteous fear of persecution on a racial, religious or national principle or because of the appurtenance to a specific social group or political conviction. Another reason could be connected with having no citizenship and being out of the state of the previous usual place of residence as a result of similar events, not being able to return to the home state or not wanting to do that⁷.

About the accuracy of the quota principle, it ought to be considered that a large part of the migrants might not be willing to settle in the financially not so developed countries in the previous Eastern bloc.

In January 2016, the prime minister of the Czech Republic B. Sobotka pointed out that people who are in real need of support should be helped, but not with the price of hazard for their own security. He stressed upon the fact that people who need asylum have to consider the legislation and the regulations of the respective state⁸.

The migrant issue is depicted as a key priority during two consequent presidencies of the Visegrad Group – the Czech (July 1, 2015 – June 30, 2016) and the Polish (July 1, 2016 – June 30, 2017).

On account of the differences between the policy of V4 to the migration crisis and this of Brussel, in the first weeks of May 2017, Slovakia and Hungary filed a claim in the European Court of Justice in Luxemburg against the quota principle for the settlement of refugees. The Court, however, rejected the claim of both states against the mandatory resettlement of migrants and people struggling for asylum in the EU countries⁹.

The topic that is related to the compulsory settlement of refugees is still causing various conflicts in the EU. That is why there has been no progress in the planned reform of the Dublin system since 2016. The reform has been unsuccessful so far because of the fact that the mechanism for limiting the crisis is not efficient enough. It considers the resettlement of migrants from the states where the refugees first reached the EU – Greece, Italy and Spain – in the other Member States when the first group of states is overloaded. Some of the countries have categorically declined this

⁷ Convention and Protocol Relating to the Status of Refugees. URL: <http://www.unhcr.org/3b66c2aa10.html> (available on 27.03.2018).

⁸ Чехия с готовност да затвори границата си за мигранти. 21.01.2016. URL: http://europe.actualno.com/chehija-s-gotovnost-da-zatvori-granicata-si-za-migranti-news_519590.html (available on 28.03.2018).

⁹ Ригерт, Б. Всички са длъжни да приемат бежанци и точка. 06.09.2017. URL: <http://p.dw.com/p/2jSbX> (available on 15.03.2018).

resettlement mechanism – especially Poland and Hungary as well as Austria, since the election of the new government.¹⁰

The disability of joining to an agreement about the quota principle requires a change of the priorities. On the summit of the interior ministers and ministers of justice of the EU, held in January 2018, in Sofia, the German interior minister Thomas de Mesier said that, firstly, all issues will be discussed, which may easily be arranged. The topic about the reforms of the systems for identification of fingerprints Eurodac and of an agency for asylums has reached success. There are five topics left that supposedly need modifications. Several of them are the reorganization of the border defence, the establishment of common conditions and legislation for giving an asylum.

The European Commission has already started a procedure in the European Court against Hungary, Poland and the Czech Republic. What is expected is that the Court will sentence these states to financial amercements, but will not demand the settlement of migrants in these countries. Practically, the quota principle is not applicable.

The only possible way to deal with this situation is the financial compensation - the states in Eastern Europe against the quotas would have to pay for every unsettled refugee a determined amount in a common bank or these countries should increase their participation in the defence of common borders. If the reform of the Dublin system is only partial and the issue of the resettlement of migrants is finally unresolved, that will cause the negative reaction of the countries on the Sputh external borders of EU related to the migration crisis.

The analysis of these facts on the migrant problems allows some conclusions to be drawn. Categorically, the European policy to the migration crisis, which requires the obligatory quota principle for resettlement of migrants in the EU Member States, has no positive outcomes. Thus, the different legislative and political approach of the countries in the Visegrad Group, opposing the quota principle, can be described as logical. According to V4, the common European efforts can be efficient when directed to restricting the reasons for migration in the Middle East and Northern Africa. They accept the concept of “effective solidarity”. The leaders of the Visegrád Group see the realization of this notion in two interrelated ways. The first one provides for assistance in the protection of the external borders of the EU (including the Republic of Macedonia) and the second one – support to accelerate the EU accession of Western Balkan countries, which will strengthen security in the region.

¹⁰ Везел, Б. И в София без пробив за квотите, дебатът се отлага. URL: <http://p.dw.com/p/2raEl> (available on 20.04.2018).

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