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SNAPSHOT

“SUMMER IS COMING?” ESCALATING HOST–REFUGEE TENSIONS OVER SCARCE WATER IN JORDAN

Kinga SZÁLKAI*

ABSTRACT

In the Hashemite Kingdom of Jordan, water scarcity was treated as a fundamental, but seemingly manageable challenge at the beginning of the 21st century. The number of refugees, though, has increased very significantly since the eruption of the Syrian civil war in 2011. According to a government report, the total figure can even reach 1.4 million—still counting. The flow of refugees substantially worsens the already existing tensions within the population due to water scarcity. The article focuses on this phenomenon, when the possibility of water conflict is inherent but apparently manageable in a society, but an external factor quickly worsens the situation to the critical level—bringing conflict within reachable distance.

KEYWORDS

Jordan, water scarcity, refugees, conflict over water, Syrian civil war

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INTRODUCTION

The nexus between water scarcity and violent conflict has been a widespread topic of scholarly articles dealing with environmental security.¹ A number of these studies focus on the possibility of so-called water wars, the aim of which is to ensure states' security and survival through fighting for the necessary amount of water. When we understand the notion of water wars in such a narrow way, we can conclude that, so far, no water wars have occurred.² Partly for this reason, the mainstream of water security experts refuses this radical understanding, and argues that water scarcity, in itself, is not a direct factor which typically causes war. Rather, they concentrate on the role of water scarcity as an exacerbating factor for already existing tensions. In accordance with this assumption, other analysts deal with the question how cooperation over water can decrease existing tensions among states.

These approaches commonly focus on the role of water scarcity as a catalyst for conflict. However, a recent example shows that this causal direction can occur inversely as well. In the Hashemite Kingdom of Jordan, water scarcity was treated as a fundamental, but seemingly manageable challenge at the beginning of the 21st century. Nevertheless, no one counted with a major flow of refugees when the prospects of the Water Strategy for 2008–2022³ were calculated. The number of refugees, though, has increased very significantly since the eruption of the Syrian civil war in 2011. In March 2014, the number of Syrian refugees was around 600 000, and beyond registered refugees, hundreds of thousands Syrians were reported to have crossed the border to Jordan. According to a government report, the total figure can even reach 1.4 million—still counting.⁴ It is unambiguous that the flow of refugees plays the role of the exacerbating factor here, substantially worsening the already existing tensions within the population due to water scarcity.

This article focuses on this, so far uncommon phenomenon, when the possibility of water conflict is inherent but seemingly manageable in a society, but an external factor quickly worsens the situation to the critical level—bringing conflict within reachable distance. The aim of the article is to analyse the case of the Hashemite Kingdom of Jordan. First, it introduces the causes of water scarcity, then it describes the approach towards water management defined in the Water Strategy 2008–2022. After the summary of the initial problems and strategic challenges, the article studies the

effects of the Syrian refugee flow on the already fragile water situation on the example of the Mafraq governorate hosting the Zaatari refugee camp. Finally, it examines several proposed solutions by international organizations and NGOs.

WATER STRESS IN JORDAN

The Hashemite Kingdom of Jordan is one of the three most water scarce countries in the world according to the UN⁵ and is labelled as being in 'extreme risk' by the Water Stress Index of the leading global risk analyst company Maplecroft, measuring risk of water interruptions to supply chains, operations and investments.⁶ The water situation of Jordan has not always been such strained. In 1946, when the kingdom gained its independence, the amount of renewable freshwater supplies reached 3600 m³ per capita per year.⁷ This was high above the "international poverty line" of 500 m³,⁸ and exceeded the necessary amount of water to healthy growth (adequate for drinking, sanitation, industry and agriculture) based on World Bank figures, namely 1000 m³.⁹ By 2014, this number was reduced to 110 m³, and it continues to fall.¹⁰ According to some forecasts, it could even reach 90 m³ by the year 2025.¹¹ The roots of this perplexing decrease can be traced back to many factors.

First of all, Jordan has a harsh and dry climate. Deserts cover 92% of its area,¹² and the annual precipitation is estimated to 266 mm per year. Rain typically falls between November and April, and varies among the different parts of the kingdom. Northern areas are the most water-rich, receiving around 600 mm, while the southern and eastern deserts receive only 50 mm. Rainfall is the only source of groundwater aquifers, which are very important for the water supply of the country.¹³ As temperature is high, evaporation means a great risk for water supplies. According to most estimations, around 90% of the total rainfall is lost in this way, and only 5% of the remaining part reaches the aquifers.¹⁴ Shared rivers and groundwater basins also serve the needs of other water-scarce countries neighbouring Jordan. In order to meet the population's water demand, Jordan has exceeded the limits of sustainable water use since the 1980s.¹⁵

Second, climate change has a negative effect on these already severe conditions, and it seems to be gaining speed in the Middle East. Between 2020 and 2030, temperatures in Jordan is predicted to rise by one to two C°, while the precipitation is anticipated to be 10 to 15 mm less (a decline

of 13 to 20 percent), and droughts will be more widespread and pronounced.¹⁶

Third, Jordan is one of the Arab countries with a quickly-growing population. Between 1990 and 2008, the population grew with 2.7 million (86%). According to data calculated before the Syrian refugee crisis, this population might be doubled in the next two decades.¹⁷ The Water Strategy for 2008–2022 estimated a constant population growth, from about 6 million to around 8 million by 2022.¹⁸

Fourth, not only the population is growing, but also the volume of agriculture and industry, which also contributes to the decline in water resources. Agriculture is the most significant user (64%). It has an important role in providing the country's food supplies and through this, it also has an influence on stability. In the meantime, this sector only adds around 3% to the GDP. Agricultural areas are expected to be exceeding to meet the needs of the growing population. 30% of the available water supply goes for municipal uses, 5% for industry, and 1% for tourism.¹⁹ Urbanization is a further source of growing water use.

Fifth, inefficient use of the available water resources also contribute significantly to water scarcity. The pipe system is old and in a sore need of maintenance.²⁰ Moreover, stealing water is also a common problem among people who cannot have access to water either for financial or for technical reasons. The amount of water which is lost to leakage and theft every year is 76 billion litres—it would make enough water for 2.6 million people.²¹ In the years of the global financial crisis, these problems have become even more serious.²²

Sixth, and related to the problem of inefficiency, contamination and the following groundwater depletion is also a significant challenge for the government of Jordan. Salinity belongs also to the aspect of decreasing quality, endangering the already declining waters of the kingdom.

Despite all these difficulties and problems, the government of Jordan was ready to accept the challenge in the past decades. In 1983, the Water Authority of Jordan (WAJ) was established to control water management issues. The WAJ published Jordan's Water Strategy in 2009 in order to accelerate and organize sustainable water use developments. The document identified seven core principles:

1. 'Jordanians must recognize that there are limits to the available water supply.
2. Citizens, Private and Public Sectors must share responsibility for water management and protection in Jordan and work together to improve conditions within their local watershed.
3. A deeper knowledge of the available amounts, actual quality and natural protection of Jordan's water resources is the foundation for effective decision making.
4. Jordanians must use water more effectively and efficiently and will use and reuse water wisely and responsibly.
5. Healthy aquatic ecosystems are vital to a high quality of life for Jordanians and must be preserved.
6. Groundwater and surface water quality must be preserved in pursuing economic and community development.
7. Jordan will take care of the drinking water quality and standards to ensure that Jordanians have safe and secure drinking water.'²³

In line with these theoretical principles, many micro-reform policies were introduced on current practices, and a considerable progress was made. In 2014, 98 per cent of households are connected to the water network and 68 per cent are connected to the sewage network, while 98 per cent of the collected wastewater is treated.²⁴ The government has also worked on the planning and implementation of megaprojects like desalination and water treatment plants. Although the most well-known megaproject of the Red Sea-Dead Sea canal has still remained a dream, desalination and water treatment projects were carried out successfully.²⁵ The currently ongoing Disi aquifer project is one of the most significant megaprojects. When it is finished, the installed facilities will provide 100 million m³ water per year.²⁶

JORDAN: AN OLD-NEW TARGET FOR REFUGEES

Under the above-described circumstances, in spite of the government's efforts, Jordanian water supplies were predicted to become exhausted even as early as 2060.²⁷ Then the Syrian refugee crisis hit the kingdom, and overwrote all calculations concerning water.

Jordan has been a traditional haven for refugees, being an island of stability among many instable countries such as Israel, Palestine, Iraq and recently, Syria. The second half of the 20th century brought an almost constant flow of refugees to Jordan. The first major group arrived during the first Arab-Israeli war, and received citizenship under eased conditions. These Palestinians and their descendants make up almost half of the Jordanian society currently.²⁸ The Six-Day War of 1967 and the Palestinian Intifada of 1987 brought new flows of Palestinians to Jordan, while after 1991 and 2003 Iraqis also arrived in a great number.

Jordan is not a party of the 1951 Geneva Convention relating to the Status of Refugees and its 1967 Protocol. However, Memoranda of Understanding establish a link between the kingdom and the UNHCR, and, since 1997, an UNHCR Office is working in Amman. The Memorandum of Understanding of 1998 accepts many parts of the Convention, including the definition of refugees. This document also describes the rights and obligations of refugees in Jordan, providing a maximum stay of six months after recognition for them, during which a durable solution must be found for their residence, that is, return or resettlement.²⁹ According to UNHCR reports, authorities are “lenient” in this question in practice—the reason for which is the extremely increased pressure on them.³⁰

In March 2013, nearly 30 000 Iraqi refugees ‘enjoyed’ the hospitality of Jordan, while in the last years, around 1700 Sudanis and other nationalities arrived to the kingdom as refugees and asylum-seekers.³¹ With the 600 000 officially registered and the presumably more than 750.000 unregistered Syrian refugees, the estimations of the Mercy Corps³² and the CIA³³ are in line with each other: the population of Jordan has already (or almost already) approached 8 million—exactly the number which was proposed by the Water Strategy for 2022, causing a huge strain on the already fragile water supplies.

ESCALATING HOST–REFUGEE TENSIONS OVER WATER

Regarding water, “the refugee crisis ruined the old strategy,” claimed Saeed Hamed, a UNICEF specialist. “There is not enough time to close the gap” and finish megaprojects which would provide water for the increased population, he continued.³⁴ Originally, a Jordanian’s water needs were estimated to 80 litres per day due to the rationed water use practices being

already widespread since the 1980s. With the arrival of Syrian refugees (who have not been adapted to water scarcity in this extent), the communities in the hardest situation can only be provided with 30 (!) or even less litres a day.³⁵

The most problematic areas are the northern governorates of Jordan: Mafraq, Jarash, Irbid, Ajlun, Amman and Zarqa. The majority of refugees arrive here and live in cities and towns. The city of Mafraq, for example, had an original population of 70 000 people. After the outburst of the Syrian civil war, 90 000 refugees decided to reside here. According to the Mercy Corps, “some families rent rooftops and chicken coops,”³⁶ while the water deficit has already quadrupled.³⁷ Mafraq was one of the water-richest governorates in Jordan, gaining more than 100 m³ water per capita per year. The governorate disposes over many of the kingdom’s main water reservoirs, including the Sumaya artesian wells supplying Amman, Irbid, Jerash and Zarqa with water.³⁸

The present state of the Sumaya pump station indicates well the hardships in the region. It served 80 000 people before the crisis, but now it has to fulfil the needs of over 200 000 people. The station is deteriorated and out-of-date. It used to pump 650–700 m³ a day according to Jordanian authorities, but now it is capable to provide only 250 m³. They claim that “the productivity is dropping because pumps and equipment have deteriorated and the aquifer is suffering from over-extraction.”³⁹ The water network is not in a better state either; it also suffers from over-exploitation, especially under the pressure of the refugee flow. According to Mercy Corps, 75% of the water pumped from the Sumaya station goes to waste.⁴⁰ Moreover, the quality of water is deteriorating as well. “Only four wells are currently operational because some need maintenance while water in the rest reached high salinity levels,” told the authorities.⁴¹

Oxfam reported of host communities where before the Syrian crisis, water was delivered twice a week, but now it is only possible to do it once a week. Several families need to buy extra water sources from tankers. Already in 2008, a tank of 2000 litres of water cost around 100 JD (around 90 Euros)—only 10 JD less, than a monthly average wage.⁴² In the meantime, the quality of tap water has decreased and the costs of water (both tap and filtered) have been growing. Among those who cannot afford purchasing water, diarrhoeal diseases are observed, especially in the case of children.⁴³

Mafraq governorate hosts the Zaatari refugee camp with more than 100 000 inhabitants (a year ago this figure was around 200 000), one of the world's largest refugee camps, which was first opened on July 28, 2012. The camp, which is the fourth biggest settlement in Jordan, is under the joint administration of the Jordanian government and UNHCR.⁴⁴ The governorate pays a high toll for its hospitality. Its population has more than doubled since 2011, and the Zaatari camp consumes 3000–4000 m³ water a day. Water problems, such as delays, disruptions, limited amounts of water service, faster deteriorating water systems, inoperable or too saline wells, over-extraction of sources and high pressure on sewage systems all hit the region in a much greater extent than it was experienced before.⁴⁵

Meanwhile, the Zaatari is running out of space and resources. UNHCR admitted in its last yearly report that new funding is needed for the Zaatari, unless it will be “simply impossible to provide food, clean water, schooling, shelter and healthcare for new refugees who keep streaming in.”⁴⁶ The situation in the camp is very tense, even smaller events like detentions can lead to violent incidents with injured and dead victims.⁴⁷ The government of Jordan, UNHCR and its partners have opened a new refugee camp, Azraq, in the Zarqa governorate on April 30, 2014 in order to give relief to the Zaatari. According to the UNHCR website, the camp is not yet fully operational, but it is reported to already have inhabitants. Azraq currently disposes over 5000 shelters, adequate to the housing of 25 000 refugees. The camp site overall is capable to host even 130 000 residents.⁴⁸

Refugee camps and the related data of water consumption indicate the tremendously increasing water stress in Jordan. However, it is only the smaller part of the problem, as almost four in every five Syrian refugees live outside these camps.⁴⁹ Jordanian citizens are aware of the link between the flow of refugees and the decline in the quality and quantity of their water resources. “It is our moral responsibility to host our Syrian brothers and sisters, but the crisis in Syria is taking its toll on our daily life and our most basic human right, which is water,”⁵⁰ said a school principal in Mafraq.

Mafraq authorities expressed their concern about protests of Jordanians because of the scarce water and supply disruptions. Summer is a particularly stressful period of time regarding water-related tensions. During the summer of 2012, more than 30 demonstrations and water riots took place, protesters blocked several streets to express their dissatisfaction

and to prevent water delivery to the Zaatari camp. In some cases, they even called for the refugees to be deported.⁵¹ Mafrqa authorities afraid that through such incidents, increasing water scarcity may undermine the security of the governorate: “We are bracing ourselves for a tough summer because of the inevitable water cuts and the demonstrations that will follow,” the governor said.⁵² Several current interviews contain references to the increasing hostility against Syrians, such as the one conducted with Brigadier Waddah al-Hmoud, a Jordanian responsible for security at the refugee camps by the Guardian. He said: “Tensions between Jordanians and Syrians are rising. (...) It is not too bad now but we are afraid it [the conflict] will come, due to pressure on services.”⁵³ Syrians are also frustrated concerning water. On the one hand, they have not got used to rationing water, so they find it very difficult to cope with scarcity. On the other hand, several refugees feel discriminated. “Syrians renting apartments from Jordanian landlords don’t get access to the building’s water supply. (...) We have to buy water from private wells. It isn’t right. But we’re desperate, so what else can we do?” says a Syrian refugee woman, and other interviewees also report being “very afraid and worried” because of the tense water situation.⁵⁴ A poll conducted by the University of Jordan’s Centre for Strategic Studies in 2013 showed that over 70% of Jordanians believe the government should stop the flow of Syrian refugees to the kingdom. 58% claimed that the presence of refugees in their neighbourhood caused a decline in the public services provided to citizens.⁵⁵ Under these circumstances, Jordan has to prepare for new demonstrations, especially during the approaching summertime.

PROPOSED SOLUTIONS—NO QUICK REMEDIES FOR JORDAN

In order to avoid escalating tensions between Jordanians and refugees because of the decreasing water supplies, the government of Jordan and its international partners need to take steps in the field of water management as soon as possible. Many suggestions and proposed solutions are circulating nowadays, published by a range of actors from the Jordanian government to international organizations.

The government conceptualized Response Plans in 2013 in order to cope with the increasing flow of refugees from Syria. Concerning water, the Response Plan of April highlights the need for the rehabilitation and

expansion of the existing infrastructure, especially in the northern governorates of Zarqa, Irbid and Mafraq. Avoiding pollution coming from refugee camps to water sources is also an important issue. The government plans to finance and implement certain projects in order to fulfil these aims and to guarantee a sustainable availability of water, allocating around 100 million USD for these reasons.⁵⁶ In an earlier Response Plan, which was published in January, this number was only 18.6 USD.⁵⁷ The increase of the necessary allocated funding indicates the serious deterioration of water stress due to the flow of refugees. On the other hand, it is questionable if the government has the necessary resources to implement the Response Plan, even if it only concentrates on the physical development of the infrastructure, ignoring wider and deeper water-scarcity-related issues.

In 2014, UNHCR also issued a response plan: the Syria Regional Response Plan of Jordan. This document analyses the impacts of refugees in Jordan in a detailed way, and then describes objectives to deal with them. UNHCR also lists the lead and participating agencies and the necessary requirements for fulfilling its main aims. As for water, these objectives are the following:

1. “Affected populations are ensured with safe, equitable and sustainable access to sufficient quantity of water for drinking, cooking and personal and domestic hygiene.
2. Affected populations have access to safe and appropriate sanitation facilities.
3. Affected populations have reduced risk of WASH-related [Water, Sanitation and Hygiene] diseases through access to improved hygienic practices, hygiene promotion and delivery of hygiene products and services on a sustainable and equitable basis.
4. Establish and maintain effective mechanisms for WASH coordination at national and sub-national levels.”⁵⁸

Besides, the water-related problems occurring in refugee camps are addressed widely in the Response Plan.⁵⁹ UNHCR analyses the potential outputs of its activities concerning the set objectives and the necessary requirements as well. The plan is very detailed and practical, contains a wide range of data, and the tasks and the financial requirements are carefully divided among the participating agencies and organizations. Although UNHCR concentrates mainly on the role of these agencies and

organizations, it takes into consideration the role of the society and sub-national elements as well. It is sensitive to the present tensions—in the Response Plan it demonstrates that developments aiming to provide better shelter and services for Syrian refugees may benefit Jordanians as well, in order to cushion the tensions between refugees and host communities.⁶⁰ However, the proposed solutions can be criticised as being way too practical and short-term, ignoring the deeper roots of tensions and water scarcity.

Mercy Corps, which works in the Jordanian water sector since 2006, proposes a three-part solution concentrating on long-term developments:

1. “International actors must increase investments in long-term development. Given the prolonged nature of the refugee crisis and its devastating impact on host community water resources, assistance must be provided to upgrade and properly maintain existing Jordanian infrastructure and services. This is particularly important in rural areas, where the poor often have limited access to the water network and few opportunities to peacefully voice frustrations.
2. International actors must work to bridge the governance gap. While responding to the immediate needs of the crisis, we must also build the capacity of Jordanian government actors working on the front lines. Investments in equipment, spare parts, and training for local utility personnel could improve response times in fixing network failures. In addition, key local stakeholders—municipal governments, civil society, tribes—should be actively engaged in managing communal water resources and outlining development priorities. By decentralizing the response, responsibility can be shared and local people empowered.
3. International actors should work to address both conflict and conservation. Mercy Corps’ programs provide models for how to target interventions, easing tensions while strategically improving sustainable practices around water use. Local investments in water-saving technology—such as rainwater catchments, cisterns, and household greywater treatment systems—can diversify supply; successful conservation programs can reduce demand; and conflict mitigation programs, which train Jordanian and Syrian community leaders in interest-based negotiation, can nip tensions in the bud.”⁶¹

The approach of Mercy Corps unites several aspects to deal with the tensions between refugees and host communities. It starts from the

practical issue of the modernisation and maintenance of the existing water and sanitation infrastructure, but incorporates the social dimension in this question as well. Then it goes further, highlighting the role of the government of Jordan and its need for contribution in form of capacity-building from international organizations. The idea of engaging and empowering local actors and communities is distinctively present in the Mercy Corps approach. The third part of the proposed solution is rather technical, dealing with a wide range of issues again, from water saving technologies to negotiation techniques. It is overall an integrated and holistic list of recommendations, which takes a wide range of relevant aspects, both theoretical and practical, into consideration. However, it is rather a list of recommendations than a real plan, as it lacks the elements which were mentioned before as the strengths of the UNHCR Response Plan: carefully collected data, the amount of the necessary costs of implementation, and the division of certain tasks among actors.

One of the most recent developments in Jordan was the visit of Catarina de Albuquerque, the UN Special Rapporteur on the human right to safe drinking water and sanitation in March 2014. She formulated her claim to the government to “accord clear priority to water for human consumption over other uses and to explicitly recognize the human rights to water and sanitation in the law.”⁶² Her further suggestions contained the followings:

1. the need for a holistic approach
2. the need for a long-term, comprehensive development strategy that ensures access to water and sanitation for all people in Jordan
3. the need for ‘a new tariff system that requires better-off households to pay higher tariffs, while poorer households would be guaranteed a lower, subsidized price. The revision must extend to non-domestic water tariffs. The tariff system should aim at balancing water savings and adequate provision.’⁶³

This rights-based approach reflects yet another attitude towards the intertwined water and refugee issues in Jordan. The visit of the UN Special Rapporteur on the human right to safe drinking water and sanitation is certainly an important symbolic act which draws attention to the seriousness of the problem. However, the recommendations of Ms Albuquerque can be criticised as too theoretical and lacking practical

considerations. The formal report on the visit, which will be published in September, will include more detailed recommendations for Jordan.

After the overview of the solutions proposed by several different actors, the conclusion can be drawn that many different and colliding approaches are present, and none of them can offer a direct and viable remedy for the complex and intertwined problems of Jordan. The government sees the question as a mere financial and investment problem of the water and sanitation infrastructure, while UNHCR focuses on the division of short-term practical tasks among agencies with carefully calculated data. Mercy Corps offers a holistic approach covering a wide range of issues and long-term developments without practical calculations, and the UN represents a rights-based approach, while the implementations of any plans are hindered by the lack of the necessary resources. In the meantime, summer is coming, and before any of the recommendations and plans could become realized, Jordan has to face another hot season of escalating host-refugee tensions over scarce water.

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SNAPSHOT

INTERNAL SECURITY OF *SCHENGENLAND*: WHAT DO WE NEED SIS II FOR?

Zoltán DÓCZI*

ABSTRACT

It took more than ten years to get SIS II on track. Thousands of working hours were devoted to development of the newest, i.e. second generation of the Schengen Information System (SIS II) until it has become operational on 9th April, 2013.

The abolishment of internal border checks and common procedures at external borders is keep on fostering European decision-makers to establish large-scale IT systems in the area of freedom, security and justice. The decrease of security deficit by control of immigration flow consists of three endeavours: common border control policy, common visa policy and common asylum policy. SIS helps common border control policy of the borderless Europe's home affairs.

The aim of the paper is to analyse and evaluate the development of SIS focusing on the latest achievements making SIS II work. The SIS of which basic system is operational since March 1995 is a special large-scale IT system that allows competent authorities to obtain information regarding certain categories of persons, vehicles and objects, i.e. it is a useful tool in relation to law enforcement. Information systems are highly important for the border security strategy, since among others systematic data gathering and data exchange of information concerning (mainly but not exclusively) third country nationals happen through them. The observation of SIS's operation dynamics, difficulties and synergies (with eu-LISA, PNRs and the smart borders initiative) gives a frame of reference to evaluate the phases of SIS's creation.

The paper like a case study has a special focus on the additional tasks of the Hungarian public administration, since solely a well-embodied structure could complement national efforts efficiently.

KEYWORDS

Schengen, EU home affairs, Schengen Information System, (and) Hungary, information power, security deficit

* The author is a PhD student at the University of Pécs. The final version of the manuscript was closed on November 4, 2013.

The abolishment of the internal border checks is the cornerstone of the Schengen regime facilitating the movement of peoples internally and externally. Persons having the right of free movement can travel freely in the Schengen area (and in non-Schengen EU countries), which makes for economic, regional and cultural dynamism within Europe and especially the border areas. Third country nationals visitor can travel to all Schengen States with a single visa, which means, for example, that economic activity related to tourism is promoted. At the same time, the Schengen cooperation aims to protect people and their property, since it fosters the cooperation among police forces, customs authorities and external border control authorities of the Member States in order to decrease the security deficit formed with the abolition of internal borders. The Schengen *acquis* provides systems of communication for police forces, hot pursuit of criminals and the cross border surveillance of suspects, as well as mutual operational assistance and direct exchanges of information among police authorities. In parallel, strict uniform rules have been adopted to ensure the protection of data and to protect people against any infringements of their fundamental rights.

The decrease of the security deficit by the control of immigration flow consists of three endeavours: the common border control policy, the common visa policy and the common asylum policy.

The European Union realised the opportunity of the exploitation of the information power by the establishment of large-scale IT systems following the analogy of these policies. Thus, the legal instruments of the Schengen Information System (hereinafter: SIS), the Visa Information System (hereinafter: VIS) and the EURODAC were adopted by the European decision-makers. Irregular immigrants found in Member States can be registered in the SIS, but irregular immigration defies this registration itself. Those who enter through asylum procedures are registered in EURODAC and those who enter using a legal channel, i.e. being issued a visa are registered by the VIS. The consideration for the integration of all systems into one “European Information System” is not new. This possibility shall aim the more effective use of information power, which contributes to the fight against terrorism, organised crime, human trafficking and illegal immigration.

Hence the analysis of SIS is carried out evaluating the development of SIS focusing on the latest achievements making SIS II work. The observation of SIS’s operation dynamics, difficulties and synergies (with eu-LISA, PNRs and

the smart borders initiative) gives a frame of reference to evaluate the phases of SIS's creation. The writing has a special focus on the additional tasks of the Hungarian public administration, since solely a well-embodied structure could complement national efforts efficiently.

The paper is based on the presentation of mine entitled "Launching SIS II".¹

EVERY END HAS A START: CYCLICAL DYNAMICS OF SIS DEVELOPMENT¹

Schengen Information System is a large-scale IT system that allows the competent authorities (i.e. national police, customs, and border control authorities when making checks on persons at external borders or within *Schengenland*, and the immigration officers when dealing with third country nationals, in particular when deciding whether to issue visas or residence permits²) to obtain information regarding certain categories of persons, vehicles and objects.

It has become operational with the entry into force of the Schengen Implementing Convention in March 1995. Further rules were laid down by the decisions of the Schengen Executive Committee, such as "the Decision establishing the SIRENE³ Manual, which governs subsequent exchanges of information following a 'hit' in the SIS."⁴ The factual data are stored on the SIS but the SIRENE bureaus make it possible to exchange 'soft' data such as criminal intelligence information. The power of the Executive Committee and its working groups was transferred by the Treaty of Amsterdam to the Council and to its working groups. The SIS consists of two fundamental elements: the central database (called C-SIS) that is located in Strasbourg and the national SIS-bases (called N-SIS) in all of the participating states.

The corresponding authorities can enter certain types of information about or relating to persons. Submitted personal data are certain personal details and an indication of whether he or she is armed or dangerous.⁵ There are six broadly defined reasons for which information can be included on the SIS. These are the so-called types of SIS 'alerts'.⁶ The SIS is communitarised as a Schengen *acquis* with the entry into effect of the Treaty of Amsterdam. In spite of the protocols on the special status of the United

¹ Original title "A SIS II beindítása", presentation given in Hungarian at the 11st National Conference of the Hungarian National Contact Point of the European Migration Network held at the Ministry of Interior, Hungary, 13.3.2013.

Kingdom and Ireland, they also joined the SIS for criminal law and policing purposes⁷; however they do not apply the Schengen *acquis*.

The original SIS has already been updated to “SIS 1+”. Reasons for change were quite technical; the infrastructure was insufficient to linking the Nordic countries to SIS.⁸ Thus the Schengen Implementing Convention SIS rules were amended in 2004 and 2005 giving access for judicial authorities, Europol, Eurojust and with another regulation the vehicle registration authorities to SIS data. Data storage capacity of SIS was planned for a limited number of countries (ideally for eighteen according to the average opinion), so due to the Eastern enlargement the Member States decided to develop and to build up the second generation SIS till March 2007. It became clear at the meeting of the Ministers of Justice and Home Affairs in December 2006 that more time is needed for the development of SIS II. Thus they agreed on that the accession of those new Member States from the ten which are ready to join to the Schengen area shall happen with the accession to the SIS 1+, while the SIS II should have been operational in the enlarged *Schengenland* in 2008. This proposal came from Portugal for the development of a “SIS One4 All” which is basically the extension of the existing SIS 1+, a solution which had previously been understood to be technically impossible.⁹

The operational phase of SIS II has become operational on 9th April, 2013 (with a significant delay). New functions were added to the second generation SIS compared to the previous ones including biometric data, new categories of data and the possibility for running searches on the basis of incomplete data.¹⁰ So, the functioning of SIS has been extended to provide for the fight against terrorism¹¹ and adopted to enable the storage of photographs and fingerprints after 11th September 2001. The addition of biometric information to SIS is one of the key aspects of the overhaul, while biometric data can be used both to confirm someone’s identity and to identify somebody.¹² The SIS II legal instruments has a further novelty concerning the access of data, i.e. persons listed on the EU terrorist list based on decisions by the Sanctions Committee of the UN Security Council can be included in the SIS.¹³ Its core is to pose entry and stay ban signals on persons listed by the Sanctions Committee and the Council. Previously entry and stay ban signal in this case was applicable solely by national decision. Furthermore, copy of a European Arrest Warrant is enclosed to signals for arrest and surrender persons or persons wanted for extradition. There is no change in relation to the accessing authorities. To sum up, the

stored data on SIS II are surrender persons or persons wanted for extradition on the basis of European or international arrest warrant; persons with entry and stay ban; missing persons; persons to be looked for to participate in judicial proceedings; persons and objects under target or covered control; documents, vehicle and other objects set out in law wanted or seizure in order to use as evidence.

SIS II AND HUNGARY

The Hungarian state administration incorporates, translates the SIS II structure which is transposed to the matrix of turf-war-like-competencies of the single entities of state administration. Two pieces of legislation govern SIS II in the Hungarian legal system: Act No. CLXXXI of 2012 on the Information Exchange in the framework of the Second Generation of the Schengen Information System and other Law Enforcement Acts relating this Topic on the modification of the Magyary Simplification Program (hereinafter: SIS II Act) and Government Decree No. 15/2013 (I. 28.) on the Detailed Rules of the Information Exchange in the framework of the Second Generation of the Schengen Information System and on the Amendment of Certain Related Government Decrees. The SIS II Act is the depository of competence division which is hence observed.

In Hungary, N-SIS II office is the Central Office for Administrative and Electronic Public Services being responsible for cooperation and information exchange in the frame of Schengen Implementing Convention. Supplementary exchange of information is done via SIRENE Bureau of the Hungarian National Police Headquarters. In accordance with the above explained *acquis*, SIS II data is accessible by the National Police, by the National Tax and Customs Administration of Hungary, by the Office of Immigration and Nationality, by the Hungarian foreign representations, by the Central Office for Administrative and Electronic Public Services and its district offices, by the courts and by the public prosecutors' offices.

High level data protection standards are transposed to the current Hungarian national SIS II governance structure. All persons have the right on his/her request to access all data stored about him/her on SIS II. Request shall be submitted at government offices, police headquarters or foreign representations. Correction or deletion of inadequate personal data can be requested. Perceiving any ill-treatment, proceedings can be filed before courts to enforce rights of the applicant. In Hungary, the National

Authority for Data Protection and Freedom of Information is responsible for the control of due process data handling. The Authority shall cooperate with European Data Protection Supervisor (also) in SIS II relevant cases.

SIS II AND EU-LISA: EVOLUTION OR PATH DEPENDENCY?

The EU-wide integration of the operational management of (existing) large-scale IT systems was legally predetermined.¹⁴ EU Agency for large-scale IT systems (hereinafter: eu-LISA) is a regulatory agency being responsible for the 24/7 operation of SIS II, VIS and EURODAC. Technically, eu-LISA runs the operational management of SIS II after a 30-day-start-up of the second generation, i.e. since 9th May, 2013.

The Lisbon-born non-pillar Europe fosters the unified management of large-scale IT systems being operational in the area of freedom, security and justice. The Constitutional Treaty would have significantly changed the structure of justice and home affairs if it had come into force. The Treaty of Lisbon¹⁵ inherited the substantive changes proposed in the Constitutional Treaty. As a result of the disappearance of the Pillars, the decision-making procedure of measures in relation to the area of freedom, security and justice is basically the ordinary decision legislative procedure. The European Union *“[...] shall ensure the absence of internal border controls for persons and shall frame a common policy on asylum, immigration and external border control, based on solidarity between Members States [...]”*¹⁶.

The Treaty confirmed the tendency towards the integration of external border controls, since it investigates the establishment of a Union policy on border checks.¹⁷ The protocols on the special status of the United Kingdom, Ireland and Denmark are included in the Treaty with some minor amendments¹⁸. In connection with common asylum policy the Treaty of Lisbon states that *“[...] [t]he Union shall develop a common policy on asylum, subsidiary protection and temporary protection with a view to offering appropriate status to any third-country national requiring international protection and ensuring compliance with the principle of non-refoulement.”*¹⁹

The Lisbon Treaty closed the process started by the 1997 Amsterdam Treaty, since the Third Pillar abolished and the decision-making procedure concerning the area of freedom, security and justice was reviewed.

Examining the smart borders initiative of the European Commission (hereinafter: smart borders initiative)²⁰, it endeavours for the establishment of the European level entry/exit system (hereinafter: EES) and of the registered traveller programme (hereinafter: RTP) which are the results of a typically spill-over process. It is practicable legally and technically that eu-LISA may develop and operate the newly envisioned RTP and/or the EES. Moreover, it would be desirable, since experience and practice of the existing large-scale IT systems' development and operation could be directly implemented into the new systems without any special authorisation. Article 77 (2)d of the Treaty on the Functioning of the European Union, stipulates one, unified management system for the external borders. Therefore, the operational management of RTP and EES have to be merged into eu-LISA. The envisioned systems are defined as large-scale IT systems. Therefore, eu-LISA shall host, manage and develop their (at least EU level) operations.²¹

Programmes, action plans and communications are compasses of future legislation. Focusing on the core legislation of SIS II, its delineated development is more likely to be seen path dependent. However, bearing in mind the cyclic development of SIS and having an outlook to further plans in the field of large-scale IT systems, the evolution is clear, i.e. information gatherings securitise more facilitated migration flows.

NEVER ENOUGH? NEW SYSTEMS ON THE HORIZON

The smart borders initiative presents the newest endeavours for the development of new (and related) large-scale IT systems in the area of freedom, security and justice. The smart borders initiative prepared by the European Commission is a short summary of the main options, implications and of the possible way forward. The full package²² has been released on 28th February, 2013. Analysing the documents, a quick assessment of the planned directions towards the achievement of smarter European borders is made. The basic role of the RTP would be to ensure fast and simple border crossing for third country nationals at the external borders. The EES would take the challenge of establishing a more effective monitoring tool for travel flows and for the movements of third country nationals across the external borders.

The smart borders imitative highlights that the main sources of illegal migration are the so-called overstayers, i.e. persons who stay longer in a

Member State as it is allowed. Concerning the problem of law enforcement entry and exit dates are not centrally recorded.²³ The EES would allow the calculation of authorised stay basically for third country nationals in the Schengen area. Individual travel history of third country nationals obliged to obtain visa to enter *Schengenland* is crucial for frequent travel. Moreover, it is an essential part of first line risk assessment concerning visa exempted travellers, too.²⁴ The issue of the verified individual travel history links the EES with the RTP, since these records may help to estimate travellers' risks during the process of granting them registered traveller status. The EES is envisioned to replace the current system of stamping passports with an electronic registry of the dates and places of third country national admitted for short stays. Its main purpose would be to monitor authorised stay of third country nationals; it would enhance security at the moment of the crossing the external borders.²⁵ As it is planned in relation to RTP, EES shall use biometric identifier which is likely to be fingerprints and the digital facial image as it has been chosen for the EURODAC, VIS and SIS II, too.²⁶

A fully operational VIS is a prerequisite for the smart European borders. Concerning mainly the EES (and the RTP to some extent), a reliably functioning VIS is needed in order to make maximum usage of the existing systems and tools.²⁷ VIS goes and EES could go hand in hand with Decision No 1105/2011/EU²⁸. On the basis of the Decision, synergies with FADO²⁹ could be obtained in the long run.

The cornerstone of EES and RTP is speed. If the estimations are valid, using the current procedures, the rising number of border crossings at the external borders will need an extreme accrual of human resources. Therefore, it is logical to foster a technological shift. The smart borders initiative aims to reinforce checks while speeding up border crossings for regular travellers. EES combating overstayers helps law enforcement. Their interaction handles the problem of the increasing travel flow without compromising security.³⁰ VIS is the prerequisite for the EES, since VIS could be used in conjunction with identity checks within the Schengen area. Furthermore, using VIS, it would be possible for the EES to identify undocumented persons.³¹ Obviously, before the establishment of the EES and RTP, there is a need for some changings in the Schengen Border Code, too.³² Moreover, the smart borders package flashes the vision of Automated Border Control³³ for which more Member State commitments would be needed. The EES would have similar aims as the so-called US VISIT system

of the United States of America, which was seemingly not feasible.³⁴ Therefore, its lessons shall be taken into account at the time of the planning and of the operation of EES.

Other European policies foster the realisation of the examined smart borders initiative's aims. The envisioned systems could help the common visa policy. The Member States do not have enough capacity to manage the increasing travel flows which are the results of the common visa policy efforts. Having no EU-wide passenger name record (PNR), the EES (and to some extent the RTP) is needed to gather more information on travel flows into and out of *Schengenland*.³⁵ This information may help further policy formation with reliable data. In conclusion, the smart borders initiative is in favour of facilitating travel into and out of the Schengen area focusing on long-term goals and efficiency without compromising security. It merges the triple prerequisite of intelligent border control which is technology, automation and security.

The second generation of the Schengen Information System is an enormous step in the internal security of the Schengen area. Its augmented capacity may combat future challenges. New categories and signals are incorporated into SIS II, which can be interlinked as well helping investigation and law enforcement. Eu-LISA is a common platform for all existing large-scale IT systems (SIS, VIS and EURODAC) being operational in the area of freedom, security and justice. Taking into account human rights concerns, the interoperability is not allowed within the central systems.

SIS II is clearly a milestone. However, it is a single internal security segment of *Schengenland*, since, for example, SIS, being not a border registration system, has never contained travellers' information. Therefore, new systems (EES and RTP) have appeared on the horizon to supplement and extend the scope of not only the operation of SIS but also the operation of all large-scale IT systems working in the area of freedom, security and justice.

¹ Read more on large-scale IT systems: DÓCZI, Zoltán (2013), "The Development, the Integration and the Assessment of the Existing Large-Scale IT Systems in the Area of Freedom, Security and Justice." *Acta Juridica Hungarica*, Vol. 54. No. 2: 164–183.

² Schengen Implementing Convention, OJ L 239, 22.9.2000, Art. 92(1), p. 42.

- ³ It stands for Supplément d'Information Requis à l'Entrée Nationale.
- ⁴ PEERS, Steve (2008), "Key Legislative Developments on Migration in the European Union: SIS II." *European Journal of Migration and Law*, Vol. 10. No. 1: 79.
- ⁵ Schengen Implementing Convention, *op. cit.*, Art. 94(3), 43.
- ⁶ See: Schengen Implementing Convention, *op. cit.*, Art. 95-100., pp. 43–45.
- ⁷ Peers, Steve (2008), 80.
- ⁸ See the incorporation of the Nordic Passport Union into the Schengen area.
- ⁹ Peers, Steve (2008), 81–82.
- ¹⁰ Council Regulation (EU) No 541/2010 of 3 June 2010 amending Regulation (EC) No 1104/2008 on migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II), OJ L 155, 22.6.2010, Art. 1(6), 22.
- ¹¹ See: Council Regulation (EC) No. 871/2004 of 29 April 2004 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism, OJ L 162, 30.4.2004, 29-31; and Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism, OJ L 68, 15.3.2005, 44–48.
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- ¹⁷ *Ibid.*, Art. 77, 75–76.
- ¹⁸ Protocol (No 20) on the application of certain aspects of article 26 of the Treaty on the Functioning of the European Union to the United Kingdom and to Ireland, OJ C 115, 9.5.2008, 293–294. Protocol (No 21) on the position of the United Kingdom and to Ireland in respect of the area of freedom, security and justice, OJ C 115, 9.5.2008, 295–298. Protocol (No 22) on the position of Denmark, OJ C 115, 9.5.2008, 299–303.
- ¹⁹ Treaty on the Functioning of the European Union, *op. cit.*, Art. 78, 76.
- ²⁰ COM (2011) 680 final Communication from the Commission to the European Parliament and the Council Smart borders – options and the way ahead, Brussels, 25.10.2011.
- ²¹ See: COM (2013) 95 final Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data of third country nationals crossing the external borders of the Member States of the European Union, Brussels, 28.2.2013; and COM (2013) 97 final Proposal for a Regulation of the

European Parliament and of the Council establishing a Registered Traveller Programme, Brussels, 28.2.2013.

- ²² Smart Borders Package, Accessed October 27, 2013. http://ec.europa.eu/dgs/home-affairs/what-is-new/news/news/2013/20130228_01_en.htm#/c.
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- ²⁴ *Ibid*, 4.
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- ³⁰ See: COM (2011) 680 final, *op. cit.*, 4.
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- ³² See also: COM (2013) 96 final Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 562/2006 as regards the use of the Entry/Exit System (EES) and the Registered Traveller Programme (RTP), Brussels, 28.2.2013.
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ESSAY

THE CHALLENGES FOR COMMON EUROPEAN ASYLUM POLICY—THE PRACTICE OF DETENTION IN HUNGARY

Péter STEPPER*

ABSTRACT

Immigration will be one of the key security concerns in the 21st century. The estimated number of international migrants worldwide is 232 million persons and the number of refugees in 2013 is 15.4 million people worldwide. Migration was connected to the phenomena of terrorism, economic and social challenges and identity. Instead of ensuring access to territory compatible with the principle of free movement, law enforcement is increasingly becoming the subject of legal harmonization concerning immigration control. The convergence of legal practices ensures to strengthen state-control and European cooperation can be an appropriate tool and platform for it. Thus, after third country nationals arrive at the frontiers of the European Union, it is quite hard to track their movements and EU has only three options to decrease this security deficit: to implement common border control, common visa policy and common asylum-policy. Common European Asylum Policy has been established in the '90s and some of its goals have changed during the last two decades. This paper will evaluate the added value of recently adopted institutions like detention of asylum-seekers in certain member-states. While decision-makers presume that detention is an appropriate tool to handle the security deficit, NGO's are constantly arguing that detention can cause serious harm with only little benefit. The case study of this article explains how detention of asylum-seekers arising in the official agenda of a member-state, namely Hungary in particular and how this discourse could influence the nature of the newly established institution.

KEYWORDS:

Migration, securitization, detention of refugees, Common European Asylum System

* Disclaimer: The author is the editor-in-chief of the Hungarian journal *BiztPol Affairs* and a PhD student at the Corvinus University of Budapest.

INTRODUCTION

Immigration will be one of the key security concerns in the 21st century. The estimated number of international migrants worldwide is 232 million persons, according to International Migration Organization.¹ This number means 3.1% of the world's population. The number of refugees in 2013 was 15.4 million, which shows a decline of 500,000 persons in comparison to the millennium. On the other hand, there are 27.5 million internally displaced persons around the world, but in 2010, this number was only 21 million.² The academic literature identifies many forms of migration such as irregular, illegal, involuntary migration. These labels have serious effects on the functioning of this policy field. Certain issue areas seem to be considered as security problems both in the 'real world of politics' and in the academic literature. The notion of migration often occurs in connection with phenomena of terrorism, economic and social challenges, or identity. Migration to Europe is only a part of the global large-scale flow of population, but this paper presumes that the regional trends and symptoms of this global challenge are quite similar. In 2012, 335.380 persons sought asylum in the EU.³ These numbers show a small increase in comparison to 2011, but a significant growth as far as the subsequent applications are concerned. The large number of subsequent applications indicates that several applications were refused. The trends of non-acceptance of refugee claims made it more difficult to move across Europe freely. Although, the free movement of people is a fundamental principle of the EU, it has obvious impacts on security deficit also.

Once a third country national arrives the frontiers of the European Union, it is quite hard to track its movement, which could be a security threat for all European countries. The European Union has three options to decrease this security deficit: to implement common border control¹, common visa policy and common asylum policy. The implementation and further harmonization of the Common European Asylum System is definitely an essential challenge for the European Union.

The aim of this article is to examine these challenges in general and in focus with a special issue, the detention of asylum-seekers, as well. On the one hand, decision-makers presumed that detention is an appropriate tool to handle the security deficit in the field of asylum-policy. On the other hand

¹ As Dóczy states in this volume that common border control can achieve considerable results after the introduction of SIS II and large-scale IT system in Europe.

NGO's are constantly keeping the question on agenda, that detention of persons can cause serious harm with only little benefit. The case study of this article explains how detention of asylum-seekers arising in the official agenda of a member-state, namely Hungary in particular. The challenges stemming from harmonization obligations are quite similar in all 28 member-states, as far as CEAS is concerned. Hence, the results of the case study will shed light on the costs and benefits of the newly occurring institutions in the field of detention (closed or open reception centers and community shelters).

The first section overviews the general discourse of security policy about migration and asylum. At first I will introduce the general definitions, the applied theory and methodology. The second section is a case study about recently adopted Hungarian rules and procedures about detention of asylum-seekers, in accordance with the formulating CEAS. After the description of the history of the development of asylum policy on the European level, I will explain the functioning of the Hungarian institutions in this regard and compare to other European examples.

GENERAL OVERVIEW OF MIGRATION AND SECURITY—DEFINITIONS, THEORY AND METHODOLOGY

This section argues how asylum policy is becoming an issue of security. Policy-making in this field is embedded in sectors of security, namely military, political, economic and societal or even environmental security.² The approaches towards the nature and significance of economic, societal or environmental challenges are very diverse in the member-states. While e.g. Sweden prefers to accept every immigrant who is meant to be a potential workforce in the unpopulated regions of the country, other states construct the image of immigrants as a threat for domestic jobs. The image of "*plombier polonais*" was constructed through certain misperceptions about the relevance of Polish emigration to UK. Discourses about the immigrants formulate the approach towards them horizontally and vertically, as well. While decision-makers of Sweden consider migrants and asylum-seekers rather as an opportunity than a challenge in the economic

² As Szálkai argued in this volume environmental concerns, such as water scarcity could be also intertwined with the phenomenon of migration and asylum-policy.

sense, UK and its workers feel threatened by them. At this point, migration as an issue of economic security is horizontally equal in these states, but the level of security risk perception is different vertically. On the other hand Italy and other littoral states in the Mediterranean consider migration and even asylum issues as a military challenge, establishing a discourse about the need of efficient border patrol by military equipment.

Definitions

A regular migrant or documented migrant is a person, who entered a country lawfully and remains in the country in accordance with his or her admission criteria.⁴ It can be stated that the regulation of the conditions of regular migration (tourism, scholarship programs, or foreign enterprises) is not meant to be security policy issues. On the other hand, irregular migration is considered definitely as a hardcore security challenge. An irregular migrant is “a person who—owing to unauthorized entry, breach of a condition of entry, or the expiry of his or her visa—lacks legal status in a transit or host country. The definition covers inter alia those persons who have entered a transit or host country lawfully but have stayed for a longer period than authorized or subsequently taken up unauthorized employment.”⁵ The term irregular is preferable to illegal because the latter carries a criminal connotation. Irregular migrants—often travelling by smugglers—could be economic migrants or asylum-seekers, but even members of a terrorist group. Hence, these persons are often considered as potential threats to the country’s security. The last category used in this paper is asylum-seeker, who enters the host country mostly unauthorized and during the period of refugee status determination, they lack the legal status, *per se*.⁶ On the other hand, it is misleading to treat them irregular migrants, because they are hope-to-be refugees, with far more rights based on the Convention relating to the Status of Refugees signed in Geneva 1951 hereinafter: Refugee Convention)⁷ and regional human rights treaties such as the European Convention on Human Rights⁸ or the Fundamental Charter of the European Union.⁹

Theory—Critical Security Studies

State-centered realist approaches deny the decreasing relevance of borders or the increasing role of transnational (migrant) communities. They maintain their key ideas of sovereignty (territoriality), self-help and

survival. Therefore, according to them, the access to territory is limited by the state, state-led (or joint) authorities defend it and foreign newcomers meant to be essential threats. On the other hand, we shall see that asylum-seekers and refugees are not an essential threat for the European society, *per se*. If it is taken into consideration that even in 2001, which was the most extreme year as far as the number of refugees is concerned, only 425,000¹⁰ people arrived to Europe, it is a very small number in comparison to the 700 million population of the old continent. This number reduced to 200,000¹¹ after 2006 and now it is about 330,000¹². Although it can be thought that 300,000 refugees per year cannot threaten the very existence of the European states, this issue appears repeatedly on the agenda of security. Instead of the realist approach, this paper presumes that migrants and asylum-seekers are not security threats in themselves. Rather, the security character to this issue stems from the authorities' perceptions towards them.

At first I examine the general framework of security in academic literature, namely the innovation of Copenhagen School about securitization. After Waever introduced his new term 'securitization' to the academic literature at 1995, Buzan, Waever and de Wilde published their well-known book 'Security: A New Framework for Analysis' at 1998 and introduced a new perspective known as the Copenhagen School. *Securitization* means, that "security has become a pervasive discourse of governments to frame and give priority to public policy targeting existential threats".¹³ Secondly, I will examine the innovations of critical migration studies and critical border security studies to give a flavor of range and diversity of thought under consideration. Thus, many scholars applied Waever's concept¹⁴, on their own research field and established their own research programs.¹⁵

How to turn migration a security issue?

The framework of Buzan, Waever and de Wilde articulates three necessary elements of the securitization process, which can explain the main theoretical question of this article. The 'speech acts' and 'accepting audience' were correlating after 2001 and 2012 and 'extraordinary measures' were implemented in both cases after that. However, asylum-policy is an issue of law and politics, traditionally. In the 1950s, there was a clear consensus among a large number of states (the 144 signatory of the Refugee Convention)¹⁶ about the necessity to protect refugees. Moreover in

extreme cases, academic literature refers to them as a public good, strengthening the discourse about the need for international protection.¹⁷ After 9/11, many new premises have appeared in the literature and the academic discourse. One of them is that destruction of twin-towers has an enormous impact on the *securitization of migration* globally and regionally, definitely in the U.S. and Australia¹⁸ or in Europe after 2004 terror attacks in Madrid and London³ as well. After 2012, the issue of extraterritorial immigration control appears daily in the media throughout Europe. The image of people hanging on the tuna nets floating in the Mediterranean is well-known among Europeans in the period of 2012–2014. This extraterritorial approach of defense fulfills the criteria of an extraordinary measure. On the other hand, it is a clear symptom of the phenomenon of the porous borders: it does not matter anymore, how high the fences are and how advanced the surveillance system is, “undocumented migrants somehow manage to get through.”¹⁹

This second observation supports the applicability of the concept of critical border security studies, which focuses on the transforming nature of borders. Critical border studies examines the traditional assumption stemming from academic literature that globalization is a process nullifying the relevance of borders. Maarten den Heijer opines that “relocating border controls and shifting responsibilities for border controls have drastically changed the nature of the border.”²⁰ The essence of the new borders is articulated through the notion of institutions, which separates *us* from *them*. Various forms of institutions of detention like closed reception centers fulfill this criterion, as we will see in the case study.

Methodology

A long period of time passed since the first assumptions of the theory of securitization have been articulated, such as the role of perceptions in the securitization process, or the criticism towards the realist approaches of geopolitics. Critical scholars are rethinking the application of former theoretical assumptions and a constant debate is forming about the nature

³ As Vékony argued in this volume “The terrorist attacks on Madrid and London in 2004 and 2005 led to a turning point for Western European societies and countries in regards to Muslim minority affairs. It became clear that the events of 9/11 were not isolated to the United States alone, and Western Europe also became a target to Islamic terrorism as well.”

of borders' existence and contribution of discourse analysis in security studies.

Expressions carrying negative connotations can be one of the most important factors of securitization process, which necessarily leads to restrictive measures. While several media fora and strategic documents use the term "illegal migration" instead of "irregular" the article can observe how many times did these expressions occur and what is the significance of them? The first wave of critical security theorists preferred to use such discourse analysis in the field of security politics. However, it is the very nature of critical approaches to rethink former arguments about theories and methodology. Thus, certain scholars argue that the possible contribution of discourse analysis in security issues, e.g. speech acts on migration policies (the usage xenophobic terms) are not as much essential as we thought earlier.⁴ Instead of speech acts, the examination of practice is more important as far as the reasons of securitization are concerned. Some scholars presume that certain tools of border control such as the FRONTEX are not the result of the securitization, but the main facilitator of it.²¹ As Léonard argues, the *speech-acts* have done by representatives of member-states do not indicate any security measures in itself, but the practices and activities of these institutions do so.²² Although the original goal of the creation of FRONTEX was only the cooperation and harmonization of activities in the fields of maritime safety, refugee protection, and border control, nowadays a significant loss of this humanitarian perspective can be observed: surveillance control maintained by military equipment, thermal cameras, patrol vessels or the search and rescue operations led by semi-military border patrol troops shows the clear security character of this institution.

Summarizing the three concept mentioned in the previous section we can state that the tragic events of 9/11 and the terrorist attacks in Madrid and London established a constant discourse about aliens, who must be under control and be deterred from our territory. The critical approach traditionally uses a post-modern method of analysis, such as discourse analysis to explain this issue, if we accept that speech acts about migrants really matters. On the other hand, the functioning of certain institutions

⁴ One of the most famous "speech acts" was Enoch Powell's "Rivers of Blood" speech, given to the General Meeting of the West Midlands Area Conservative Political Centre on 20 April 1968, was a speech criticizing Commonwealth immigration, and anti-discrimination legislation that had been proposed in the United Kingdom.

such as FRONTEX can deepen and widen the securitization process not because of discourses but through the empirical investigation into its practical activity. The image of porous border in the globalized world has transformed the concept of geopolitics to *biopolitics*, which is blurring the differences between the notions of refugees, asylum-seekers, irregular, illegal or economic migrants, simplifying the discourse to two types of persons, the one who is very welcomed in Europe and the one who must be deterred.

As some scholars²³ emphasized, not just illegal migration was *securitized*, but asylum-seekers and the refugee protection system as well. We can state, that the CEAS—created by several directives and regulations²⁴—should rule the fair and just conditions of refugee status determination, if the legislation is based on the logic of protecting refugees. On the other hand, the legislation is often based on the Fortress Europe concept, which prefers the aim of the deterrence of newcomers. This paper presumes that the legislative acts in Europe and in the member-states enable the deterrence-based approach for the countries, the main goal of which is to control and reduce the number of migrants and refugees. It is a clear marker of securitization, when authorities start to use certain tools, as the detention of asylum-seekers to discourage people from leaving their country of origin even if they have well-founded fear from persecution. If we want examine this phenomena of *securitization* of asylum-policy in Europe we shall have a closer look to common asylum policy, which is a relatively new common policy within the Union.

CASE STUDY: THE RECENT DEVELOPMENT OF CEAS AND DETENTION OF ASYLUM-SEEKERS IN HUNGARY

The history of CEAS

The principle of free movement is fundamental to the establishment of the single market of the European Union and the EU citizenship. Thus, it is enshrined in Articles 21 and 45 of the Treaty on the Functioning of the European Union²⁵ and also in EU directives and regulations. Still, it seems that Europeans accept foreign capital, goods and services in their economics, but accepting foreign workers has been a politically volatile proposition. In the early 2000s, many European member-states had to face

anti-immigrant voters opposing the transfer of immigration control and asylum-policy to the European level. After 1985, when the member-states signed the Schengen Agreement that established common rules regarding visas, the right to asylum and checks at external borders, a larger number of governments were negotiating a Convention naming a single country as responsible for the handling of an asylum application. The goal of this Convention, which was signed in 1990 entered into force in 1997 was to prevent the phenomenon of ‘asylum shopping’, whereby asylum seekers made multiple application claims in different Member States following their rejection in another state. It was the precursor of the current ‘Dublin II’ Regulation.”²⁶ The link between immigration control and security was clearly articulated in the five-year long Hague Program²⁷ for EU Justice and Home Affairs agreed by the European Council in 2004.⁵

The first phase of the CEAS was completed in 2006 under the Hague Program (2004–2009) and included three directives and one regulation. These instruments were under review and the European Commission has proposed improvements and modifications in four “recast proposals” that have been agreed by 2012.²⁸ The Commission Action Plan on the implementation of the Stockholm Program envisaged the tabling of legislative proposals setting up an Entry Exit System and a Registered Traveler Program in 2011. The Stockholm Program has been completed by 2014. This phase have seen the scope of the CEAS broaden and incorporated issues such as access to the territory of the EU, the resettlement and integration of refugees, external processing of asylum claims, regional protection programs and responsibility sharing mechanisms between EU Member States. A new EU agency called the European Asylum Support Office based in Malta has also been established.²⁹

Asylum protection by constitutions and international law

It should be noted that the European legal hierarchy places EU directives above national laws. Thus, the development of new asylum directives at the EU level is of utmost importance to actors seeking to influence national law and policies, because the “*acquis communautaire*” definitely influences the

⁵ The management of migration flows, including the fight against illegal immigration should be strengthened by establishing a continuum of security measures that effectively links visa application procedures and entry and exit procedures at external border crossings. Such measures are also of importance for the prevention and control of crime, in particular terrorism. In order to achieve this, a coherent approach and harmonized solutions in the EU on biometric identifiers and data are necessary.

constitutional guarantee systems of the member-states. Certain constitutions traditionally ensure human rights and legal guarantees for asylum-seekers in a broader sense, sometimes more extensively than international legal norms do that. Most countries provide asylum through domestic legislation, e.g. by creating a statute which incorporates the Refugee Convention. France, Italy, and Germany stand out as three of the very few European countries which specifically grant a right of asylum in their national Constitutions.³⁰ The constitutional guarantee system ensures access to legal assistance, effective remedy while the lawfulness of institutional actions are supervised by domestic and European courts, the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (hereinafter: ECtHR), also. National guarantee systems define and supervise obligations for their authorities directly and also bear the effective support of the international and regional courts. On the other hand, the legislative acts created on EU level are supervised only by the CJEU or in rare cases by the ECtHR, but nothing else. The following case study will examine the impact of the upcoming EU Directives (e.g. the recast Reception Conditions Directive) in connection with the detention of asylum-seekers in Hungary.

The purpose of detention: the flaws of the deterrence-based approach

It is widely believed that detention serves the interest of all EU member-states, because it reduces the chance of secondary migration and stops asylum-shopping, which is the original goal of the Dublin Convention itself. On the other hand, there is no evidence that detention would have a deterrent effect on irregular migration and as emphasized by UNHCR, “regardless of any such effect, detention policies aimed at deterrence are generally unlawful under international human rights law as they are not based on an individual assessment as to the necessity to detain”.³¹

If the authorities have a well-founded suspicion that the applicant will escape or travel abroad during the status-determination process, they have the right to hold the asylum-seeker in detention. However, detention has an *ultima ratio* character, because of the negative effects on applicants whose protection is the obligation of the state. There are several negative aspects of detention, because it creates hardship for those involved and undermines the operation of fair asylum procedure. The detainees often

lack legal assistance and suffer psychological impacts, which undermine trust in the asylum system.³²

Although detention has several negative effects on the asylum system from the humanitarian point of view, states prefer to use it regardless of individual circumstances. Constitutional guarantees could maintain the lawfulness of its application. However, vague international legal regulations which enable national legislators and authorities interpreting its expressions arbitrarily can cause serious problems. In the following section, this paper examines the recent development of EU legislation in the field of CEAS, which is in connection with detention practice from several aspects.

The recent development of CEAS

At first, I will focus on the reforms of Asylum Procedure Directive. The official text about the goals of the Directive states:

„The revised [...] Directive aims at fairer, quicker and better quality asylum decisions. Asylum seekers with special needs will receive the necessary support to explain their claim and in particular there will be greater protection of unaccompanied minors and victims of torture.”³³

Article 46 of the Asylum Procedures Directive ensures the access to an effective remedy, which is a fundamental safeguard to ensure protection from *refoulement*.³⁴ Thus, it is an inherent part of a fair and efficient asylum procedure. “The recast Directive explicitly requires the possibility of a remedy that provides for a full and *ex nunc* examination of both facts and points of law at least in appeals procedures before a Court or tribunal of first instance”.³⁵ Still, the practical application of the directive is burdened by several problems. One of these problems is that Article 46 leaves too much room for interpretation. States and authorities—who *constructed* irregular migration and asylum as a security threat—constantly, tend to incorporate the directive in a restrictive manner, as we will see in the case study.

The Reception Conditions Directive is another result of the second phase of CEAS. The following quotation shows the original goal of the new legislative act.

„The revised Reception Conditions Directive ensures that there are humane material reception conditions (such as housing) for asylum seekers across the EU and that the fundamental rights of the concerned persons are fully respected. It also ensures that detention is only applied as a measure of last resort.”³⁶

Although the aim of the directive was to ensure better reception conditions and warns the member-states to use it as a last resort, no clear obligations were created, which determines the detailed ruling of the *ultima ratio* character or the quality of housing.

The Dublin Regulation which states the requirements of refugee status determination has been revised, too.

„The revised Dublin Regulation enhances the protection of asylum seekers during the process of establishing the State responsible for examining the application, and clarifies the rules governing the relations between states. It creates a system to detect early problems in national asylum or reception systems, and address their root causes before they develop into fully fledged crises.”³⁷

Basically, the member-states are fully responsible for examining whether the asylum application is compatible with the principle of individual refugee status determination (hereinafter: RSD). Refugees may be recognized either on a group basis (*prima facie*) or individually. Although the vast majority of the world's refugees are recognized by way of a *prima facie* group determination, individual RSD is used primarily in situations of mixed flows, when it is necessary to distinguish refugees from other migrants. The inflow of asylum-seekers and migrants to Europe mostly belongs to the second case. Hence, the member-states of the EU have to fulfill the requirements of fair RSD process in this regard. However, we can see in the case study that automatic mechanisms can be established by state-authorities which do not respect the principle of individual status determination.

The discourse about migration in Hungary

Hungary adopted two national security strategies after the collapse of the Soviet Union. The 2002 National Security Strategy mentioned the term migration 19 times and not only with negative connotation or as a threat.

The Strategy highlighted that carefully designed migration policy could be an opportunity:

*'This negative process [economic crisis] may be reversed through an increasing role of self-care and through a carefully designed demographic and immigration policy.'*³⁸

The next two phrases refers to migration as a phenomenon derived from other security threats like terrorism and failed states, which should be avoided:

'Acts of terrorism may contribute also to the emergence of other global—political, economic, commercial, migration- and health-related—crises.' [and]

*'failed states may easily turn into hotbeds of cross-border organized crime and offer safe havens for terrorist organizations, and may increase the challenges of migration and the dangers of arms and drug trafficking.'*³⁹

The paragraph about 'illegal migration' speaks the most about the possible challenges, which Hungary can predict in the field of migration after the 2004 EU accession. The document highlighted that tackling these security risks is not just European, but national interest, as well.⁴⁰ Both documents strengthened Hungary's commitment to international cooperation in this field:

*[we] handle security issues related to migration—including illegal migration—in the framework of international co-operation'*⁴¹

*'Security issues in this context are therefore dealt with by Hungary in the framework of international cooperation.'*⁴²

and recognized migration as a complex phenomenon bringing advantages and risks:

*'We consider migration as a natural but complex phenomenon, presenting possible economic and demographic advantages as well as carrying security risks.'*⁴³

*'Migration is treated as a natural and at the same time complex phenomenon, bringing economic and demographic advantages and, at the same time, carrying public and national security risks.'*⁴⁴

The 2012 National Security Strategy predicts increasing burdens as far as illegal migration is concerned, uses stronger expressions like combat against security threats instead of tackling risks.

‘Without ensuring the necessary national and international support, authorities concerned cannot be expected to be able to combat the different forms of illegal migration effectively.’

On the one hand, the quotation above shows that the perception of illegal migration is definitely a hardcore security threat, which should be dealt with. On the other hand the conditions of an efficient battle depend on the international—mostly European—support. None of the two high-level strategic documents contain any reference to asylum-seekers and refugees, indirectly we can believe that the forced migration mentioned as a consequence of act of terrorism reflect to this problem. We can conclude that Hungary or probably any European country is more interested in the tools of European cooperation if it helps to solve one of its securitized problems concerned to national security.

European migration policy is not a common policy yet, but the formulating CEAS gives respectable financial support for the member-states. The EU supports everything which helps the common and harmonized asylum policy, especially in the border countries. Obviously, the littoral states like Italy and Spain need the most financial support for border patrol vehicles and devices and Eastern European countries like Hungary are often resourceless, as far as institutional costs are concerned. The recent development in Hungary shows that new detention facilities and reception centers can be opened by EU financial support in the last two years. The following section will describe the claims and conditions of detention and the functioning of the various forms of facilities.

Detention in Hungary—Institutions and legal background

Six claims of detention for asylum-seekers can be identified on the basis of the Hungarian Asylum Act such as the unclear identity of the asylum-seeker, evasion from authorities, real and present danger of escape, threat to national security, the applying for refugee status at the airport and denying of the orders of authorities or blocking the Dublin RSD process.⁴⁵

Three kind of reception centers are functioning in Hungary:

1. Closed Reception Centers in Békéscsaba, Nyírbátor, Debrecen
2. Reception Centers in Bicske, Debrecen, Vámosszabadi
3. Community Shelter in Balassagyarmat

The Closed Reception Center has the most rigorous circumstances for detainees. Detainees are not accepted to leave without permission because reception center has to 'ensure the availability of third country applicants through implementing asylum detention during the asylum procedure.' The obligations derived from basic rights as health screening, leisure activities, free practice of religion is ensured. The center 'cooperates with the national and international government, local government and civil agencies, organizations' first and foremost with the law enforcement agencies and the national security services in order to perform. The Closed Reception Center 'promotes voluntary repatriation or departure to third countries.'⁴⁶

Reception Center provides accommodation and services for applicants for refugee, subsidiary or temporary protected status. Reception Center ensures the rights of people being accommodated at the center, ensures the appropriate circumstances, cooperate with the councils of the community, society organizations and churches participating in the refugee provision, and in addition to the above mentioned organizations, with the law enforcement agencies and the national security services in order to perform its tasks specified in the legislation. It organizes health screening and provides primary health care, organize programs for the inhabitants in order to spend the leisure time efficiently and promote voluntary repatriation or departure to third countries.⁴⁷

The Community Shelter in Balassagyarmat consists of an organizational unit with customer service tasks and an organizational unit to accommodating foreigners who are under aliens policing procedure, both of them operated by the Office of Immigration and Nationality. In 2013 more than 700 foreign nationals were accommodated into this institution. The authority could order people under alien police procedure in the following cases: the expulsion of third-country national could not be ordered or implemented due to Hungary's obligation in international agreement; minor and custody shall be ordered against him/her; custody shall be ordered against him/her and in case of ordering custody his/her minor child, staying in the territory of Hungary with him/her, would be without supervision; the deadline of custody has expired, but the reason of ordering

custody is still exists; the third-country national has humanitarian residence permit; the third-country national is under the force of expulsion and he/she does not meet the necessary financial and accommodation requirements for living; it shall be ordered aliens policing custody against him/her and the custody would mean disproportionately disadvantage for him/her, having regard especially his/her health status, age.⁴⁸

In these cases persons in concern have residence in the Community Shelter for 2 months at most, after that, if the conditions still exist, they have to be transferred to another designated place. On the other hand they can leave the Shelter between 6 and 22 o'clock during the 2 month, have 3 meals a day and family doctor service and psycho-sociologic help, if they need it.

UNHCR and NGOs like the Hungarian Helsinki Committee (*hhc*) constantly criticized the Hungarian detention practice after the Hungarian Asylum Act incorporated the recast Reception Conditions Directive. One of the serious concerns voiced by the HHC was that a series of unlawful actions may occur, because there is too much room for interpretation and a chance that Hungarian authorities like the Office for Immigration and Nationality (hereinafter: OIN) will apply a quasi-automatic detention practice. Although the applications have to be evaluated individually in each case, the decisions of the authorities eventually lack the subjective character of the evaluation. As the report states: "It happens often that the documentation contains false data about citizenship, the legal assistance of the asylum-seekers is passive, and a contradiction can be observed between the statement of facts and legal conclusions."⁴⁹ Summarizing the above mentioned observations of the HHC, we can conclude that the circumstances do not fulfill the requirements of the UNHCR Guideline about Detention (hereinafter: Guideline).⁵⁰ The Guideline contains the following points:

- 1. The right to seek asylum must be respected.*
- 2. The rights to liberty and security of person and to freedom of movement apply to asylum-seekers.*
- 3. Detention must be in accordance with and authorized by law.*
- 4. Detention must not be arbitrary and any decision to detain must be based on an assessment of the individual's particular circumstances.*
- 5. Detention must not be discriminatory.*
- 6. Indefinite detention is arbitrary and maximum limits on detention should be established in law.*
- 7. Decisions to detain or to extend detention must be subject to minimum procedural safeguards.*
- 8. Conditions of detention must be humane and dignified.*
- 9. The special circumstances*

and needs of particular asylum-seekers must be taken into account.

10. Detention should be subject to independent monitoring and inspection.

It shall be mentioned that these guidelines do not have a legal binding force for the states, but the European Convention on Human Rights (hereinafter: ECHR) does so. The Article 5 of the ECHR provides that “everyone has the right to liberty and security of person.”⁵¹ If the restriction of this right is arbitrary or the detention is not reasonable any more, the detainee must be released immediately. It is respectable fact from human law perspective, that Hungarian limit of detention for first time asylum-seekers is maximized in 6 month and in 12 month if the application is subsequent, although detention e.g. in the UK is applicable for unlimited period of time. Still, serious fears were tangible in Strasbourg as far as the quasi-automatic practice of extension of the time of detention was concerned.

The courts have to revise the lawfulness of the decisions of OIN after a certain period this is 60 day at now and district courts used to fail to examine the individual circumstances of the case. However, Article 6 of ECHR provides, that “everyone is entitled to a fair and public hearing within a *reasonable time* by an independent and impartial tribunal established by law.”⁵² The right to effective remedy and fair trial derived from Article 6 is questionable in certain cases. Asylum-seekers can be detained for 6 months due to decision of OIN and they can apply for judicial review only in 2 months.

Hungary has some bad experiences with the ECtHR so far. In the case of Lokpo and Touré vs. Hungary⁵³, the ECtHR decided that the detention of Ivorian nationals was arbitrary and they should have been released after they applied for asylum. Hungary breached the obligations of Article 5 of ECHR and a more than 10,000 Euros compensation fee had to be paid for the applicants in respect of their non-pecuniary damage.

CONCLUSION

After examining the case study about the detention of asylum-seekers in Hungary, we can answer the theoretical questions raised in the first section. This paper presumes that the notion of securitization introduced by Buzan, Waever and de Wilde shapes the decision-making process in the field of asylum policy as well. The content of legal documents establishing

CEAS and the two National Security Strategies of Hungary can be considered as a certain kind of speech acts. After the examination of these documents, we can conclude that they are in accordance with international law, containing words assuring the protection-based logic of asylum-policy. However, the discourse reflected in the examined documents expresses fear about several possible security threats, such as terrorism or transnational crime connected to the phenomenon of migration. The use of terms like 'combat' against migration indicates the security character of the issue.

The further examination of institutions beyond speech acts and the existence of detention practices show a different image from the practical side. The original aim of Reception Centers is to provide sufficient food and shelter for refugees temporarily. From another perspective, the other forms of reception centers like the Closed Reception Center and Community Shelter fulfill the criterion of the last bastions of the Fortress Europe, if the aliens passed through the outer ring of defense, which is established by extraterritorial immigration control measures.

Constitutional protection systems ensure the protection of refugees generally, but even if they fail, the ECtHR or the CJEU ensure the right to effective remedy and give a pressure to the certain state to function in accordance with the international and regional legal obligations. On the other hand, if the European Council has the consensus to adopt Janus-faced directives which are *prima facie* promising and extensive, but leaves too much room for interpretation, the institution will encourage the adoption of restrictive and security measures indirectly.

¹ IOM (2014), Database of the International Organization of Migration. Accessed July 9, 2014. www.iom.int/cms/en/sites/iom/home.html.

² The number of international migrants worldwide reaches 232 million (2013), Population Facts, United Nations Department of Economic and Social Affairs. Accessed June 8, 2014. http://esa.un.org/unmigration/documents/The_number_of_international_migrants.pdf.

³ Eurostat (2013), Asylum and new asylum applicants by citizenship, age and sex – Annual aggregated data, August 27. 2013. Accessed July 9, 2014. <http://epp.eurostat.ec.europa.eu>.

⁴ IOM (2014) Key Migration Terms, Accessed June 8, 2014. <http://www.iom.int/cms/en/sites/iom/home/about-migration/key-migration-terms-1.html>.

⁵ Ibid.

⁶ Ibid.

⁷ UN General Assembly (1951), *Convention Relating to the Status of Refugees*, July 28, 1951. United Nations, Treaty Series, Vol. 189. Accessed June 8, 2014. <http://www.refworld.org/docid/3be01b964.html>, 137.

⁸ Council of Europe (1950), *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, November 4, 1950. ETS 5. Accessed 8 June 2014. <http://www.refworld.org/docid/3ae6b3b04.html>.

⁹ European Union (2012), *Charter of Fundamental Rights of the European Union*, October 26, 2012, 2012/C 326/02, Accessed June 8, 2014. <http://www.refworld.org/docid/3ae6b3b70.html>.

¹⁰ POLLET Kris, Soupios — DAVID, H  l  ne — TEFFERA, Almaz (2012), “Not There Yet: An NGO Perspective on Challenges to a Fair and Effective Common European Asylum,” *Annual Report 2012/2013*, AIDA Information Database, 12.

¹¹ Ibid. 13.

¹² Ibid. 13.

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ESSAY

POTENTIAL THREATS OF SECURITISATION OF MUSLIM MINORITY POLITICS IN WESTERN EUROPE

Dániel VÉKONY

ABSTRACT

Through dealing with the run-up and aftermath of the terrorist attack of Madrid and London in 2004 and 2005, this article explores the problems of the identities of the majority societies in Western Europe and Muslim minorities living there. The article deals with the effects of weakening national identities of majority societies and it also covers challenges of national and religious identity of Muslim minorities living in these states. It tries to demonstrate that due to pressures on identities of both groups, these societies face a certain kind of security dilemma where both groups feel threatened in their identity. Majority groups in Western European societies feel that their national identities are under threat, whereas Muslim minority groups feel threatened through their religious identity. As the acts of these groups to strengthen their identity results in further sense of threat on the other side, these societies risk facing a security dilemma and an ensuing vicious circle that may cause further alienation on both sides instead of peaceful co-existence.

KEYWORDS

Securitization, Islam in Europe, Islamophobia, migration, multiculturalism

INTRODUCTION

The terrorist attacks on Madrid and London in 2004 and 2005 led to a turning point for Western European societies and countries in regards to Muslim minority affairs. It became clear that the events of 9/11 were not isolated to the United States alone, and Western Europe became a target to Islamic terrorism as well. Before 2004 still many journalists and indeed many people thought that what happened in the US could not happen in Europe¹. Causes, such as the arrogance of the US paired up with its biased foreign policy were brought up. As a result, only a very small emphasis was given to the fact that many of the perpetrators of the US attacks were living and possibly planning their attacks in Germany.² In this sense, Western Europe already played a tangible part in the American terror attacks, but many people chose to look the other way.

This false feeling of safety was crushed with the Madrid and then with the London bombings only a year later, complemented by the murder of Theo Van Gogh in Amsterdam. Indeed, the years 2004 and 2005 meant a watershed for European Muslim minority affairs. Suddenly, it became clear that the presence of Muslim communities in Western European countries pose not only social challenges, but also security ones. For those, whom the causes of these events were not clear, the letter left by Mohammed Bouyeri on the corps of Theo van Gogh made it clear that these acts have their root not only in foreign policy like the war in Iraq, but also in a clash of values between radical Muslims and the societies where they live.³

This article focuses on two questions. Firstly, it will attempt to uncover why Western European societies and governments ignored the threat posed by radical Islamic groups until 2004 and 2005. Secondly, it will shed light on some consequences of the events by using the idea of societal security and securitisation. But before dealing with these issues, the article will deal with some theoretical elements that enable us to better understand the subjects in question. The main goal of the article is to reveal some identity-related challenges that are behind the securitisation of policies regarding Muslim minorities in Western European countries and how these challenges affected politics before and after 2004 and 2005.

SOURCES OF EUROPEAN INSECURITY

Before we deal with our first question, we need to take a closer look at the social environment in Western Europe in order to better understand the subjects the article deals with.

Due to mass immigration after the Second World War, Western European countries have become multicultural societies.⁴ Because of the fact that most immigrants came from Muslim countries, in many Western European states Islam has become the second most prevalent religion after Christianity.⁵ This spectacularly rapid change in the composition of traditionally Christian societies has been exerting a significant pressure to the identity of the populations. Besides, the continuous erosion of the classic nation-state due to globalization and the European integration exposed the national identities of Western European countries to pressures from within and without their borders.

The constructivist approach to identity emphasises the fact that the identity of an individual is “constructed” by many, sometimes rivalling identities.⁶ One can be a woman, live in a city, be a member of a trade union, belong to an ethnic minority and be a citizen of a country at the same time. Various identities exist side-by-side within an individual. Belonging to any group with an identity means that the members of the group are able to define themselves as “we”, as opposed to “them”, those outside the group. Indeed, the very essence of the idea of identity is that it is a necessarily exclusivist notion. In order to be able to define “us”, we need to be able to make a distinction between “us” and “them”. Identities are undergoing slow, but nevertheless constant change. As people live in communities and the members of the communities are in constant interaction with each other and the other communities of the “outside world”, identities transform steadily. However, since these changes happen relatively slowly, we tend to experience identities as something permanent.

The identities relevant to the subject of the article are the religious identity, national identity and European identity.

Religious identity is characterised by the belonging to a certain faith group. However, the importance of certain identities to individuals can vary widely. One can have a Christian identity meaning that he regularly goes to church and subordinates his way of life to religious rules. Yet, religious identity, as the example of steadily dwindling church attendance in Europe

clearly demonstrates, can also mean a loose connection to a certain faith group through heritage or upbringing. The same could be applied to the Muslim communities of Western Europe. On the one hand, there are those people, for whom Islam is only present as a heritage from their parents or grandparents, with religion only playing a marginal part in their lives. On the other hand, there are also many Muslims whose religious identity is the main element of their personality overtaking other identity elements such as national identity.

National identity might be a bit more straightforward notion. This is the sense of belonging to a nation. However, upon speaking about nation it is vital to define what we mean by the term. As Roe points out, 'nation' could refer to an ethnic, cultural or political group.⁷ Thus, a national identity can represent belonging to a certain polity, a given cultural group, or a particular ethnic group as well.⁸

European identity may be the hardest to define. If we ask a Bavarian Catholic about European identity, it is very likely that we would get an answer that would differ in many ways from one we would get from a British Muslim living in London. As this article investigates the relationship between Muslims and the majority societies of Western Europe from a theoretical perspective, let us see some relevant points that shaped contemporary European identity.

According to Henri Pirenne, Europe (or the European identity) was born when the Muslim armies conquered the Southern side of the Mediterranean Basin including much of the Iberian Peninsula in the 7th and 8th century AD.⁹ From the 8th century onwards, European territories have been cut off from former Christian lands on the Southern shores of the Mediterranean Sea, and also from Constantinople.¹⁰ This separation was not only cultural, but also economic and political as well. The influence of the former Christian lands and Constantinople disappeared or became marginalised, due to the fact that the Mediterranean Sea that used to unite the region and its former Christian states became a battleground and a porous border that divided the realm of Islam and the lands of Christianity. Thus, according to Pirenne, Muslim conquests were vital for the emergence of a European identity.¹¹ Consequently, the emerging European identity was defined *vis-à-vis* Islam and Muslims. In essence, for centuries the history of Europe was constantly linked to Islam and Islamic states of the Middle

East and North Africa. Hence, the European identity owes its existence to the military security threat posed by the expanding.

According to Bassam Tibi, this relationship was characterised by animosity and cooperation throughout the centuries.¹² On the one hand, trade was flourishing until the great geographical discoveries by European kingdoms. On the other hand, the Crusades, the Ottoman expansion and Western colonisation, among others, are obvious examples of conflict. By this, I would like to demonstrate that the historical heritage of Europe and Islam are closely connected. This ambivalent relationship is marred by conflicts, but also by mutually beneficial trade, and as a side effect, the transition of knowledge.

Thanks to the Renaissance, the Enlightenment¹³ and the subsequent Industrial revolution, European colonization lead to the domination of most of the Islamic lands by European powers by the end of the First World War. The sense of the superiority of the modern European identity that helped ideologically underpin the colonizing efforts, faded after the Second World War and the subsequent decolonization. Today's reality is a post-modern secularised Europe that is very well aware of its difficult and malicious colonial past. Most Europeans accepted the fact that the formerly emphasized sense of superiority resulted in colonial exploitation and not in the civilising mission, in the name of which European countries expanded their territories. Thus, as European societies took on the post-modern thought, new 'values' emerged. According to Paul Scheffer, confronting the racist colonial past leads to the rise of relativism and so-called cultural relativism.¹⁴ According to this latter idea, different cultures cannot be compared as better or worse ones. Thus, one cannot judge other cultures to be better or worse than their own culture. At a glance, this is not something difficult to absorb. But it could lead to the questioning of the heritage of national and European identities and a feeling of insecurity.

After the Second World War, immigrants started to arrive *en masse* in Western European countries.¹⁵ This continuous immigration changed the composition of Western European societies. As mentioned above, Islam, a previously distant religion and culture has become part of the everyday life in towns and cities of Western Europe. This influx of Muslim immigrants went parallel to the European integration. Both of these phenomena are still on-going realities. Rescuing migrants from the Mediterranean Sea has become a constant part of the news bulletins of our times. Besides, the aging

population of these societies should result in immigration if these countries want to sustain their economic performance in the future. On the other hand, the process of European integration got a further boost after the Great Recession and the ensuing European debt crisis, making nation states delegate even further powers to EU bodies instead of keeping them at the national level.

As a result, the nation-state seems to be weakening. Moreover, the identity connected to the nation-state is going through a crisis. The traditional national identities are being questioned from different angles from the inside and outside as well. As we mentioned before, the post-modern thought meant that the historical and colonial heritage of these countries are under scrutiny. Thus, a new more critical light is thrown upon the glorious past of these states, when these countries flourished and competed for domination in and outside Europe. This alone would lead to the teetering of the national identity. Secularisation further changed the way these states define themselves. Moreover, the many-decade-long presence of Muslim communities in these countries mean that the significant Other, against which European societies used to define themselves, are now within their borders and constitute an integral part of these societies. It has become very hard for many Western Europeans to define their own national identity. It is common knowledge that many people of these countries feel alien when they walk down in some parts of their big cities. Indeed, for many it can be hard to digest the rapid changes on the ground against a perception of a so far perennial-looking national identity.

The Copenhagen School of Security Studies deals with this question extensively. Roe and the main theorists of the Copenhagen School such as Buzan, Waever and de Wilde consider the nation-state as the biggest social unit with an identity. According to their views, this national identity is attached to a given territory through historical roots.¹⁶ When this relationship is disputed, and national identity is questioned, members of the society will lose their sense of security.¹⁷

The secular identities of Western-European countries are challenged by the presence of Islam and Muslims. Debates have been going on ever since controversies began surrounding Salman Rushdie and his book, the *Satanic Verses* in 1989. The more recent events surrounding the Danish cartoons are a further example of the clash of values within Western European societies. Finally, the debate on the wearing of religious symbols such as

the veil worn by many Muslim women has been a reoccurring issue in many European countries.

However, there are other causes of this feeling of insecurity in Western European societies. Tzvetan Todorov groups the countries of the globe in four simplified categories.¹⁸ The first group is characterised by appetite, meaning those countries and societies who demand a bigger share of the global wealth¹⁹. Japan used to be a good example prior WWII, now China is the ideal one. The second group is defined by resentment, meaning these countries feel malice towards their former colonial rulers because of their painful colonial past and the resulting difficult economic and social conditions they still need to endure.²⁰ The third group is dominated by fear and consists of Western countries, which are afraid of members of the two previous groups.²¹ The fourth group is typified by indecision and is not relevant to the subject of this article.²² From Todorov's typology, it becomes clear that with the rise of some major emerging economies and the increasing demographic pressure from the countries in the first two groups further leaves European societies feeling insecure. Moreover, this typology is further complicated by the fact that the descendants of the countries from the group of resentment now constitute integral parts of European societies. Thus, fear from members of an outside group that is characterised by bitterness is augmented by fear from the descendants of these communities within the borders of these countries.

It is no surprise that religion has returned to the spotlight in recent years. For many people in Western European societies, national identity and belonging to a nation is a more important factor of their sets of identities than religion. This is not unexpected in the secular setting of 21th century Europe. The problem with Islam and Muslim societies from a Western secular perspective is that they never went through a similar period of Enlightenment and secularisation that European societies did. Thus, the question of prioritisation between religious or national belonging could be highly problematic. A study by the Pew Research Center describes this problem very well. According to this survey, the majority of German, Spanish, French and British Muslims believe that there is a conflict between being a devout Muslim and living in a modern society.²³ The opinion of the majority societies of these countries is somewhat more favourable: with the exception of France, the majority of the above societies does not see a conflict, nevertheless there is a tangible minority who does.²⁴ From another survey by the Pew Research Center, it seems that for the

majority of Western European Muslims, Islamic identity is of bigger importance than national belonging, while the opposite is true of Christians in these countries.²⁵ The article will deal with the possible consequences of this later.

As mentioned above, a further challenge to societal security comes from above the European states. Namely, the fact that more and more decisions are taken by often unelected European officials gives a further sense of loss of power and control for national societies. The erosion of the nation-states as far as political power and values are concerned gives way to a further feeling of insecurity for many people. The recent European elections in May 2014 and the further rise of far-right and euro-sceptic parties indicate that a tangible share of European voters feel insecure in their current situation and thus turn to parties that offer them solutions based on national self-interest. Most of these parties are not only anti-EU, but also anti-immigration and many times anti-Muslim as well. Many times, the anti-Muslim agenda is disguised as anti-Islamist or anti-Extremist, but nevertheless, these parties tend to capitalise on the insecurity felt by many European voters, who are losers of globalisation, post-industrial European economies.

As some sources of the feeling of insecurity were taken into account let us see why Western European societies ignored the threat from radical Muslims until 2004 and 2005.

IN THE TRAP OF POLITICAL CORRECTNESS

After the European terror attacks, many people started to look for answers and possible causes. Many books were written on this issue, and there are some commonalities among them.²⁶ One of the main points these authors mention is the lack of debate in society during the 1990s and early 2000s.²⁷ They complain of the suffocating atmosphere of political correctness. Indeed, during these years those, who dared to raise these issues in public, were quickly considered racist and xenophobic. This is the time when the Runnymede Trust introduced the notion of Islamophobia in 1997 into public discourse²⁸. Down to their colonial past and the prevailing cultural relativism, these states and governments chose to ignore the signs of growing pressure between the majority and Muslim minorities in Western European societies. The above-mentioned Rushdie affair could have kick-

started a debate at the beginning of the 1990s. Sadly this chance was missed.

This is the epoch when London was labelled Londonistan, since radical Islamist groups from all over the globe were allowed to operate in the City, and London was only the tip of the iceberg.²⁹ In hindsight, this politics would seem utterly irrational for security experts. But at that time, it seemed reasonable. European countries did not have the ideological basis for ousting these individuals, since they were refugees fleeing oppressive regimes down to their political views. Consequently, it was the obligation of European governments to give asylum to many of these people, since most of them were persecuted in their home country. They were wanted by authoritarian governments that otherwise had normal relationship with Western European countries. These radical activist were using the Western European territories as hinterlands for their struggle in their homeland, thus they seemed to pose little threat to domestic societies at the time. In a way, national politics and public discourse was a prisoner of cultural relativism and the post-colonial sense of guilt paired up with international humanitarian regimes created with the agreement of Western governments.

It is also worth pointing out that Western European countries had a stable export market for their manufactured goods in these countries. Besides, after the Iranian revolution, Western European governments dreaded the possibility of Muslim countries dominated by radical Islamist parties in the region. As the civil war in Algeria turned ever bloodier, this policy received further justification during the 1990s. A wide-ranging debate in Western European societies could have exposed all these “dirty laundry” to the wider public. In a time, when national identities of Western Europe were already under pressure, the elites chose to look the other way and have opted for *modus vivendi*, which meant granting asylum and a hinterland to radical Islamists in the name of humanitarian values, and have a correct relationship with authoritarian Muslim countries in the meantime.

But this lack of debate was extremely harmful, since in this climate neither the concerns of the majority societies nor the exclusive attitude of the majority societies towards Muslims were addressed.

What only few people saw coming, were the new social dynamics created by a new generation of Muslims who were born and grew up in these countries by the early 1990s. As Olivier Roy pointed out, as far as their identity is

concerned, these young Muslims fell between two stools.³⁰ They were neither part of their parents' national and cultural identity anymore, nor were they admitted fully to the majority societies that looked at them with suspicion.³¹ Not being able to belong fully to any national identity, Islam became an obvious choice for many of these frustrated young Muslims. Papers and analyses, such as the above-mentioned Runnymede Trust report further highlighted the problems between Muslim communities and the majority society.³² These frustrated young individuals were easy targets for radical Islamists that could spread their message unhindered in the open societies of Western Europe. Thus, what we see is not only a crisis of national identities, but also a crisis of the identities of minority Muslim communities. As Roy points out, the blurring of limits between cultures in big cities also challenges the identities of Muslim groups in an environment where they are a minority under constant pressure from the majority.³³ As we will see it later, this pressure has a major effect on how different identity elements are prioritised within and individual.

It is now clear that European countries were not prepared and for some time were unaware of the challenges Muslim minorities posed. When the problems came to the surface, like what we saw with the Rushdie affair, the hard questions were shrugged off for reasons also mentioned above. Bawer points out that the elites of these Western European societies lost contact with the rest of the society.³⁴ Many Europeans at that time were clearly frustrated about the failure of integrating Muslims into society, but did not dare to raise their concerns in public in fear of being stigmatized. The steady strengthening of the far-right movements of the time was dismissed as a marginal problem caused by globalization and the resulting economic insecurity.

When Pim Fortuyn first raised the issue of failed Muslim minority politics as early as 1997 he was immediately dismissed as a racist.³⁵ The novelty of Fortuyn's set of arguments was that he attacked Muslims and Muslim minority politics using contemporary and post-modern set of values. He was one of the few politicians who addressed the feeling of insecurity of the Dutch society, hence his success. Fortuyn touched on what Barry Buzan considers a threat for societal security.³⁶ That is an existential threat to a society due to a lack of cohesion within a given society.³⁷ Roe uses the notion of societal security in relation to the European integration and its effect of weakening the national identity as it was also mentioned above. I would like to argue that the notion should be used on an intra-state level in

relation to Muslim minority politics as well. As mentioned earlier, Fortuyn attacked the tolerant minority politics of his country from a clearly post-modern direction. Being openly gay, and having a Moroccan partner, he was a clear product of a post-religious globalised Europe. According to Ian Buruma, he became so popular before his tragic death, because he was anti-establishment, anti-immigration and eventually offered Dutch society a dream of returning to the old days, when Holland was not yet a multicultural society.³⁸ He was exploiting the very feeling of insecurity felt by many Western Europeans, as their national identities were increasingly questioned from underneath and above the state level. We will never know, what kind of political programme he would have realised, since he was killed by a white Dutch person before the parliamentary elections in 2002. Nevertheless, the spectacular rise of Fortuyn and other far-right parties in Western Europe bespeak of the need of re-empowering the national identity.

EFFECTS OF THE EVENTS OF 2004 AND 2005

After the aggressive acts mentioned earlier, it seemed that the old hostility between Islam and Europe is reemerging and the frontline is now within the borders of Europe. In order to better understand changes in policy, the idea of securitisation needs to be dealt with. The notion of securitization was also developed by the Copenhagen School of Security Studies. According to this idea, a certain issue within (or without) a society can reach a point where the political system needs to deal with it through certain extraordinary measures. When a problem becomes so grave that it threatens the society's existence, it can be raised to special importance and get a special place in ordinary politics, or it might even be placed above the latter.³⁹ Thus, it is not surprising that the securitization of politics regarding Muslim minorities took a huge leap after 2005. On the one hand, with the act of securitisation special resources could be allocated to certain policies.⁴⁰ On the other hand, this reallocation of resources could siphon off funds from those social entities which dealt with the problem from another approach before. As Sue Kenny described, funds from NGOs dealing with the amelioration of Muslim minority affairs were diverted to cover the extra costs of the security agencies.⁴¹

Securitization seems to be the obvious answer for majority societies regarding the European terror attacks. By the demonstration of force from

the governments' side, members of the society could regain some of their confidence in the state that was further damaged before by the fact that it could not prevent the people of resentment from committing such atrocities. In this way, people living in fear could feel a bit safer after extraordinary measures are taken. For governments of those countries that did not suffer from terrorist attacks themselves, similar measures are also on the agenda, in order to make sure their voters about their safety. Sue Kenny applies Ulrich Beck's idea of Risk Society on Muslim minority politics.⁴² This concept is very close to the idea of securitisation. The main idea of risk society is that government policy is designed in a way to avoid future threats and possible catastrophes to society. In this case Islamic terrorism is the obvious risk. Thus the target of such policies based on the idea of risk society are Muslim communities. It would be an obvious choice to put Muslims and Islam back to the place of the significant Other, where they have been many times ever since Charles Martells defeated the Muslim armies in the battle of Tours-Poitiers in 732. But this fails to shed light on the shortcomings of the majority society, and thus it would prevent societies from the much needed self-reflection.

What we can see is a sense of mutual threat. On the one hand, majority societies are afraid that their traditional way of life and values are threatened by Muslims who fail to fit into the framework of the traditional national identity. This was given a further boost by the above-mentioned aggressive acts by Muslim terrorists. On the other hand, there is fear among Muslims as well, that despite the slogans of cultural relativism, the secular majority societies of Western Europe threaten their cultural and religious identities, thus the survival of their community. This sense of threat on the side of Muslims is furthered by the increasing securitisation process and the measures linked to it.

In case of such societal threats, radical ideas and answers seem to gain acceptance. According to Fekete, the far-right parties of Western Europe in the last couple of decades managed to address those people who traditionally supported leftist movements.⁴³ It seems that parties on the left could not deal with the needs of marginalised communities, neither on the majority societies' side nor on the Muslims communities' one. In search for regaining the lost strength of national identities, the former increasingly turned towards far-right movements. Besides, as according to Roy, a similar process took place among the Muslim communities, namely the rise of neofundamentalist Islamist movements.⁴⁴ Feeling rejected by the

majority society, many Muslims first sought refuge by social democratic movements. The inability of these parties to protect the interest of Muslims, coupled with the lack of belonging to any national identity and the subsequent rediscovering of the Islamic religious identity, pushed many Muslims towards Islamist movements and a few in the hands of extremist groups.

When an individual is targeted on the basis of one of their identity elements, that element tends to grow stronger. Thus, terrorist attacks by radical Muslims, targeting the Western countries' individuals and values can push further people from the majority societies to the far right—towards movements that try to capitalise on the strengthening of national identity and on targeting the identity of Muslims living in these societies. Consequently, as the ever stronger far-right movements target Muslims, the Muslim religious identity comes under attack. This could result in the strengthening of this religious identity element even in those individuals, for whom religion used to be a marginal issue. Besides, this could lead to the further strengthening of radical Islamist movements.

In this respect, sustaining the sense of threat from radical Islamists is in the interest of both sides—the radical Islamists and far-right movements. As long as both community feels threatened by each other, more and more people can be radicalised by the feeling of threat to their identity and eventually to their existence.

CONCLUSION

What we are seeing is a form of a societal security dilemma introduced by the Copenhagen School.⁴⁵ As both sides are feeling threatened in their societal existence, they will take steps to re-affirm their respective identities. But these very steps from the tow communities could act as further threats on the groups on the other side, and thus further steps will be urged to reassert the identity under threat.

As a result, Muslims would feel that they are excluded from society and their identity is further threatened by the possible policies of securitisation and assimilation. This would not only bring religious identity to the foreground for many Muslims, but it could also push many members of the Muslim communities in the hands of radical groups, which would be seen as further threats to the society from the aspect of the majority.

Respectively, many from the majority society, in search for safety in their national identities, would turn towards far-right movements, which would act as a further menace to Muslims. As a result, the pressure would mount on Muslims even with a marginal religious identity, pushing this identity to the foreground. Therefore, further steps would be taken to reassure this identity, which the majority society could classify as a pressure on their national identity.

What could governments do in such situations? A tempting choice would be to go down the road of securitisation and become an actor in the security dilemma. If a government would like to get re-elected, it needs to protect its society both physically and identity-wise as well. Thus, the seemingly obvious choice would be to securitise Muslim minority politics and to deal with the ailing of national identity with assimilationist policies. However, this would risk further alienation and radicalisation of Muslims.

Maybe Western European societies should rediscover their past relations to Islam and Muslims. As mentioned above, according to Pirenne, the birth of European identity is closely linked to Islam and Muslims. Reconstituting European identity and national identities with Islam having an integral part in them could strengthen them and could also create a social environment in which radical ideas will not have fertile soil to flourish. Sadly, as identities tend to change very slowly, this could mean a hard and long road to walk down on.

¹ PLUDOWSKI, Tomasz (ed.) (2007), *How the World's News Media Reacted to 9/11: Essays from Around the Globe*. Spokane, Washington: Marquette Books LLC.

² Ibid.

³ BOUYERI, Mohammed (2004), *Open letter to Hirsi Ali*. Accessed May 22, 2014. <http://balder.org/articles/Theo-van-Gogh-Murder-Open-Letter-To-Hirsi-Ali.php>.

⁴ This does not mean that multiculturalism dominated these societies, only that so far quasi homogenous nation-states have become highly heterogeneous societies with a number of ethnic and religious groups living together side-by-side mainly in big cities.

⁵ For information on individual countries see: NIELSEN, Jørgen S. (ed.) (2010), *Yearbook of Muslims in Europe Vol. 2*. Leiden: Brill.

⁶ FEISCHMIDT, Margit (1997), Multikulturalizmus: Kultúra, identitás, és politika új diskurzusa [Multiculturalism: A New Discourse of Culture, Identity and Politics]. In *Multikulturalizmus [Multiculturalism]*, ed. Feischmidt, Margit 29–38. Budapest: Osiris Kiadó.

⁷ ROE, Paul (2007), Societal Security. In: *Contemporary Security Studies*, ed. Collins, Alan 164–181. Oxford: Oxford University Press.

- ⁸ Some well-known examples are being French, German and Scottish.
- ⁹ PIRENNE, Henri (1959), *Mohammed and Charlemagne*. New York: Meridian Books.
- ¹⁰ Ibid.
- ¹¹ Ibid.
- ¹² TIBI, Bassam (2003), *Keresztsháború és dzsihad*. Budapest, Corvina Kiadó.
- ¹³ Tibi also describes how Muslims helped safeguard and further develop the antique philosophical heritage which was adopted and „rediscovered” during the Renaissance and later was used during the Enlightenment by European thinkers. See: Ibid.
- ¹⁴ SCHEFFER, Paul (2011), *Immigrant Nations*, Cambridge, UK: Polity Press.
- ¹⁵ For more insight about the post-WWII immigration to Western Europe see: Scheffer 2011; HASAN, Romy. 2010 *Multiculturalism Some Inconvenient Truths*, London, UK: Politico’s Publishing; and Bowen, JOHN R. 2007 *Why the French Don't Like Headscarves?* Princeton, USA: Princeton University Press.
- ¹⁶ This theory could also be used to the European identity, but as of today, European identity is too weak to mobilize large masses.
- ¹⁷ Roe (2007).
- ¹⁸ TODOROV, Tzvetan (2010), *The Fear of Barbarians: Beyond the Clash of Civilizations*. Chicago: University of Chicago.
- ¹⁹ Ibid.
- ²⁰ Ibid.
- ²¹ Ibid.
- ²² Ibid.
- ²³ PEW Research Center (2006), *The Great Divide: How Westerners and Muslims View Each Other*. Accessed February 21, 2011. <http://www.pewglobal.org/2006/06/22/the-great-divide-how-westerners-and-muslims-view-each-other/>.
- ²⁴ Ibid.
- ²⁵ PEW Research Center (2006), *Muslims in Europe: Economic Worries Top Concerns About Religious and Cultural Identity*. Accessed April 29, 2011. www.pewglobal.org/files/pdf/7-6-06.pdf.
- ²⁶ For more reading on this see: BAWER, Bruce (2006), *While Europe Slept – How Radical Islam Is Destroying the West From Within*. New York: Doubleday; BURUMA, Ian (2007), *Murder in Amsterdam*, London, UK: Atlantic Books; and TIBI, Bassam (2008), *Political Islam, World Politics and Europe – Democratic Peace and Euro-Islam versus Global Jihad*. Abingdon, UK: Routledge.
- ²⁷ Ibid.
- ²⁸ The Runnymede Trust (1997), *Islamophobia: A Challenge for us All*. UK: The Runnymede Trust.
- ²⁹ KEPEL, Gilles (2004), *The War for Muslim Minds*. Cambridge, MA, USA: The Belknap Press of Harvard University Press.
- ³⁰ ROY, Olivier (2004), *Globalized Islam – The Search of a New Ummah*. New York: Columbia University Press.

- ³¹ Ibid.
- ³² Runnymede Trust (1997).
- ³³ Roy (2004).
- ³⁴ Bawer (2006).
- ³⁵ Ibid.
- ³⁶ Roe (2007).
- ³⁷ Ibid.
- ³⁸ Buruma (2007).
- ³⁹ EMMERS, Ralf (2007), Securitization. In: *Contemporary Security Studies*, ed. Collins, Alan 109–126. Oxford: Oxford University Press.
- ⁴⁰ Ibid.
- ⁴¹ KENNY, Sue (2010), Risk Society and the Islamic Other. In: *Islam and Political Violence – Muslim Diaspora and Radicalism in the West*, ed. AKBARZADEH, Shahram — MANSOURI, Fethi 87–106. London: I. B. Tauris.
- ⁴² Ibid.
- ⁴³ FEKETE, Liz (2009), *A Suitable Enemy - Racism, Migration and Islamophobia in Europe*. New York: Pluto Press.
- ⁴⁴ Roy (2004).
- ⁴⁵ Roe (2007).

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