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When an emergency has come to stay – The birth of the refugee administration in 1988–1989

According to the research hypothesis, there is a clear continuum in refugee administration and regulation in the 20th and 21st centuries: Displaced persons or refugees arrive in waves, most often on grounds of kin-minority ties; public administrators have no time to wait for the passage of adequate regulation because they are under political and public pressure that legitimise emergency; and ad hoc actions are taken in the absence of cost-benefit analysis and a long-term migration or integration policy. When the waves flatten out, the consolidation of and daily administrative routine to support migrants' social and economic integration, resettlement, or peaceful return disintegrates, and political attention lulls until the next mass influx.

Parallel events

After analysing the legal framework in 1988–89 and studying the letters circulated in public administration on refuge issues in that same time period, a general lesson can be drawn from the mass influx of GDR (German Democratic Republic) and Romanian citizens. Namely, the management of migrants' arrival and settlement did not become a regulated task of the consolidated public administration apparatus, but rather remained a policy-driven emergency situation led by law enforcement

in stronger or weaker cooperation with NGOs and churches¹ in Hungary. The controversial, continuously transitional actions of the migration administration are reflected in two citations:

1) “*Our forced adherence to principles has become our tragedy*”: a complaint expressed by Transylvanian refugees to the Hungarian consul in Austria regarding Hungary’s reluctance in the 1980’s to open its door to kin-minorities in the spirit of socialist internationalism and brotherhood.²

2) “*We have had a fluid, general political intention by government to put it into administrative practice immediately, but without experience or proper regulation*”: a summary by the local council chair in Debrecen in May 1988.³ At the gate of rule-of-law and democratic changes, there was only limited publicity of both administrative actions and respect for non-discrimination and human rights.

However, public administration managed (ethnic-based) mass influx more in the 20th century than in subsequent eras. Between 1919 and 1930 the total number of displaced persons and forced immigrants coming to Hungary from successor states was 504,000 (including 106,000 persons from the North, 193,000 from Transylvania, 74,000 from the South). These mainly ethnic Hungarian newcomers significantly contributed to the public administration and justice system workforce as lawyers, bookkeepers, and clerks (for instance, 43 percent of judges were foreign born at that time).⁴ During that emergency the Prime Minister issued a decree setting up the National Refugee Office in order to provide a unified administration of refugee issues (e.g., furnishing them with identity documents and providing shelter, schooling and health care) in daily cooperation with relevant ministries. Its task was supported by the Refugee Board involving civic organisations and experienced functionaries nominated by the Prime Minister. The Office, divided into three regional branches, operated under the auspices

¹ Sik, E. and Tóth, J.: The Role of GOs and NGOs in the Refugee Issues. In: Adelman-Sik-Tessényi (eds.): *Genesis of a Refugee Regime, The Case of Hungary*. York Lane Press, Toronto, 1994, pp.65–72.

² Forró Tamás – Havas Henrik: *A léger. Traikirchen*. [The refugee camp in Traikirchen] Háttér Könyvkiadó és Szolgáltató Kft. Budapest, 1988.

³ Interview with Ferenc Debreczeni in: Székegyházi Ágoston: *Debreceni napló Erdélyről. Két hazra között*. [Diary in Debrecen being between home and homeland] Csokonai Kiadó, Debrecen, 1989

⁴ Szarka László: A békétárgyalások és a kisebbségek ügye. *História*, 2008/6–7:8–12.

of the Peace Preparatory Bureau “B”⁵. After World War I and the partitioning of the monarchy, this rapid administrative reaction and budgetary decision indicated a high degree of professionalism.

Sixty-some years later, the arrival of about 30,000 refugees from Romania and the temporary appearance of up to 160,000 GDR citizens in Hungary led to social panic (only 5,000 of the latter were accommodated by the Red Cross). “*We cannot accommodate the settlement of a mass of GDR citizens in addition to the number of refugees from Romania here. In the absence of an interstate agreement and normal conditions, we might attract Soviet or Czechoslovakian newcomers who would settle down in our country. We definitively reject Hungary’s becoming a refugee camp,*” stated Hungarian Foreign Affairs Minister Horn at the meeting of the Central Bureau (Hungarian Socialist Workers Party) on 2 September 1989.⁶

Moreover, the political reaction of public and civil organisations also reflected a reluctance stemming from the hypocritical ethnic and minority policy within the Warsaw Pact. Romania’s plan on destroying ethnic communities as part of its “modernisation project” was not put on the bilateral or wider political agenda, nor did Hungary raise the issue of the visibly deteriorating minority institutions in Czechoslovakia. As a result, 200 ethnic Hungarian elementary and secondary schools were closed, and Czechoslovakia also restricted pedagogic education, language use, use of bilingual names for settlements, cultural institutions, and the ministry responsible for minority affairs, despite the Constitutional norms that were in effect for two decades in Czechoslovakia. Nevertheless, the Committee of Hungarian Minority Rights Protection in Czechoslovakia praised Czechoslovakian minority policy in a surprise letter to the Hungarian government.⁷

While Hungary continued to admit protection-seeking Romanian citizens and temporarily tolerate GDR citizens, Hungarian citizens sought

⁵ A magyar királyi miniszterelnök 3.240.számú rendelete az Országos Menekültügyi Hivatal szervezéséről [PM Decree No.3.240 on Central Refugee Office] *Budapesti Közlöny*, 1920.április 21-i szám.

⁶ Horváth István és Németh István: *...és a falak leomlanak. Magyarország és a német egység. (1945–1990)* [And walls are flowing. Hungary and the German unification, 1945–1990] Magvető Kiadó, Budapest, 1999.

⁷ A Csehszlovákiai Magyar Kisebbség Jogvédő Bizottságának levele a Magyar Népköztársaság kormányához. [letter to the Government of the Hungarian People Republic from the Committee of Hungarian Minority Rights Protection in Czechoslovakia] *Kapu* 1988. szeptember pp.21–22

asylum in Austria. Two-hundred inns accommodated Hungarian asylum seekers, including 349 persons in 1987 and 690 persons in early 1988.⁸ Although new passport rules were introduced on 1 January 1988, and Hungarian citizens could travel without prior authorisation, they were considered “deviant” if they resided abroad for more than 90 days. Upon their return, they faced a minor offence proceeding with the police. The police had wide discretionary powers ranging from imposing a fine of up to 10,000 HUF to confiscating passports in cases of more severe unlawful activity. According to Police headquarters, the annual number of Hungarian citizens not returning to Hungary was stable in previous decades.⁹ Thus, irregular emigration of citizens from Hungary and the immigration of ethnic Hungarians to Hungary could be observed in parallel. Perhaps ethnic Hungarians from Romania shared rooms with dissident Hungarian citizens in the Austrian refugee camp in 1988.

At the end of this period, another change was coming: The refugee status of Hungarian citizens who had left the country in past would be revised taking into account democratization and, perhaps, refugee acceptance. For instance, the Refugee Office in Switzerland announced possible revisions to its definition of refugee status. The revisions would apply to refugees of Polish, Czechoslovakian and Hungarian national origin whose home countries had drastically changed their persecutorial guidelines. This would provide the legal basis for the withdrawal of these people’s refugee status, or even their expulsion.¹⁰

Distinctions in actions and statements

According to bilateral agreements, foreigners crossing the borders as well as aliens whose visas expired had to be removed by sending them back to the country of their citizenship. This practice was partly accomplished with Romanian citizens in 1988–89. The statistics of newcomers proves it. However, the criteria of “*public order screening*” were

⁸ World News, 27 March 1988, *Free Europe Radio*

⁹ Before 1980 it was 2500–3000 persons per annum, in 1980: 4560, in 1981: 4100, in 1982: 2600, in 1983: 2200, in 1984: 2100, in 1985: 2500, in 1986: 3200 persons. Citation from Forró Tamás – Havas Henrik: *A láger. Traikirchen*. [The refugee camp in Traikirchen] Háttér Könyvkiadó és Szolgáltató Kft. Budapest, 1988

¹⁰ Telefax from the Embassy of Hungarian Republic, Bern, 28 December 1989, No.564

neither published nor reviewed by independent organisations. Consequently, the condemned practice of the rejection and removal of false or genuine protection seekers has remained a sensitive issue in immigration policy for years, even in liberal democratic regimes. After 1990 the newly concluded readmission agreements provided the legal foundation for refusing passage to immigrants at borders and international transit zones, while at the same time the publicity called for by the new alternative civil organisations superseded the formal provisions on how potential immigrants would be screened out for security reasons.¹¹

Table 1 shows that the ratio of rejected persons at borders was 8–35 percent in 1988–89. The reasons for rejection were in accordance with¹² the “*central decisions but contrary to the law*”.¹³ Those are as follows:¹⁴

- the migrant’s destination is a western country (and not Hungary);
- s/he is involved in court proceedings;
- s/he is a minor;
- s/he is an alcoholic;
- s/he owes a public debt;
- s/he is a vagrant;
- s/he is an alleged agent, spy or other member of the secret services;
- s/he is fleeing family conflicts;
- s/he is a non-Hungarian or s/he has no personal, family contacts in Hungary;
- other non-respectable reasons for refusal (e.g. unemployment, seeking better living standards).

¹¹ Tóth, Judith: Who are the Desirable Immigrants in Hungary under the Newly Adopted Laws? In: Fullerton – Sik –Tóth (eds.): *Refugees and Migrants: Hungary at a Crossroads - Yearbook of the Research Group on the International Migration*, Inst. for Political Science of HAS, Budapest, 1995, pp.57–68; Tóth, Judit: Humanitarian Security and Involuntary Migration in Europe. In: Dunay – Kardos – Williams (eds.) *New Forms of Security – Views from Central, Eastern and Western Europe*, Dartmouth Publishing Company, 1995, pp.150–165.

¹² HQ of Border Guard, Ministry of the Interior, Report to the Administrative Division in Central Bureau of HSWP, July 1988. 79/00827/1988.

¹³ J. Székely, chief commander of the HQ of the Border Guard, Ministry of the Interior, Report on border events (1988/05.01.-05.31)

¹⁴ Belügyminiszter irányelve a Magyar Népköztársaság területén tartózkodó román állampolgárok ügyeinek rendőrségi és határőrizeti szerveinél történő rendezésére, valamint a letelepedési kérelmek elbírálására [Guidelines on policing and border guard decision concerning entry and refusal of Romanian citizens] BM 50–589/1988.

Table 1. Registered Romanian citizens escaping in 1988–89¹⁵

	<i>Ethnic Hungarian</i>	<i>Saxon (German)</i>	<i>Romanian</i>	<i>Total</i>
1988				
January – June	1394	55	234	1683
<i>From them refused at the border and returned to Romania</i>				592
July	875	73	142	1 090
August	1 009	131	251	1 391
September	1 592	155	261	2 008
October	1 416	94	226	1 736
November	770	100	133	1 003
December	624	98	110	832
Persons registered in 1988				15 400
<i>From them refused at the border and returned to Romania</i>	950	67	564 + 71 others	1 652
<i>Persons leaving lawfully to a third country</i>	235	338	167	740
1989				
January	371	55	94	520
February	324	24	96	444
March	408	30	122	560
April	580	121	285	986
May	562	136	395	1 093
June	478	96	270	844
July	874	95	346	1 315
September	1 659	254	705	2 618
Issued (temporary) residence permit (on 31 st July 1989)		19 381		

¹⁵ Data are based on compiled documents, announcement by the Ministry of the Interior.

	<i>Ethnic Hungarian</i>	<i>Saxon (German)</i>	<i>Romanian</i>	<i>Total</i>
<i>From them leaving to a third country</i>		204		
<i>Returned home</i>		37		
<i>Persons residing in the country</i>		16 971		
Persons residing in the country (19 th August 1989)	15 102	646	2 315	18 063
Persons residing in the country (30 th September 1989)	16 805	1 144	3 097	21 046
		1988–89		
Registered persons between Jan. 1988 – September 1989		26 132		
<i>From them refused at the bor- der and returned to Romania</i>		2 221		
<i>Issued (temporary) residence permits</i>		23 911		
<i>Left to third country</i>		2 357		
<i>Waiting for visa to a third country</i>		2 600		
<i>Returned home</i>		508		
Registered persons between Jan. 1988 – Dec. 1989		34 275		
<i>From them issued residence permits</i>		31 005		
<i>From them left to third country</i>		3 025		
<i>Returned home</i>		689		
<i>Intended to leave the country illegally (to AT, YU) but apprehended by border guards</i>		2 800		
Persons residing in the country (31 December 1989)	18 865	1 600	5 690	26 155

	<i>Ethnic Hungarian</i>	<i>Saxon (German)</i>	<i>Romanian</i>	<i>Total</i>
<i>From them temporary permit holders</i>		30 630		
<i>Applicants for temporary permit</i>		7 190		
<i>Waiting for re-settlement</i>		2 853		
<i>Permanent residence permit holders</i>		2 840		
<i>Asylum applicants</i>		705		
<i>Recognised refugees</i>		320		
<i>Waiting to return to home country</i>		1 146		

As the list indicates, arbitrary decisions could not be prevented on these grounds, even while the Hungarian border guards were aware of the torture of refused persons by the Romanian border guards, or were witness to physical violence by the Romanian Party¹⁶.

The “*public order screening*” raised at least two overlapping types of concerns: the efficacy of law enforcement, and the credibility of the public statements of the government. In brief, the secrecy of law enforcement (and intelligence) often masked the absence of professionalism by the police, border guards or state secret service from their own leadership as well as public opinion. However, the acceptance of immigrants for humanitarian, kin-state reasons could hardly fit with an arbitrary security rationale in an environment where the rule-of-law had not yet been introduced. What were the major explanations for rejecting certain Romanian citizens or, more generally, certain protection seekers?¹⁷

- It was unclear what the lawful exceptions were to non-refoulement on the basis of the 1951 Geneva Convention and its corollaries, along with case law of the United Nations (UN) Convention on the Prohibition on Torture of the 1966 UN Covenant. These human rights obligations were interpreted as severe

¹⁶ HQ of Border Guard, Ministry of the Interior, Report to the Administrative Division in Central Bureau of HSWP, 46–28/1988.

¹⁷ For instance, Memo of the meeting held in the Ministry of the Interior, 8 November 1989; Memo of the meeting of the IMC, 6 November 1989

limitations on state sovereignty because those rights determine which foreigners would be allowed to enter and reside in the country regardless of their ethnicity, race or living habits. The binding individualisation of the applicants' cases; reasoning; and the preconditions for rejection as defined in laws were considered inapplicable situations of mass influx. Thus, accession to the 1951 Convention was opposed until the last moment¹⁸, and perhaps the geographical reservations made to the Convention were also founded in a fear of a burden of accepting an increasing number of non-European immigrants.

- Management of security screening at border zones could not be solved due to inadequacies in infrastructure, skilled staff and co-operation among police, border guards and state security services.
- Preventing the influx of transit persons who do not intend to settle down in Hungary was considered to be crime prevention. Migrants in transit meant a contribution to crime, because, for instance, migrants had no regular contact with authorities and no intention of being employed. They also had attempted illegal border crossings into their destination country. How many times should a person in possession of a temporary residence permit be tolerated if s/he unlawfully intends to cross the western border? The third attempt was grounds for removal and eviction to the country of origin. The alternative solution to initiate criminal/minor offence proceedings for illegal border crossing, man-smuggling, and falsification of documents was finally adopted.
- Informal, fast removal to Romania in accordance with bilateral agreement occurred outside the public eye. Even in the period of inter-state conflicts, the joint Hungarian and Romanian committee of border protection occasionally met behind closed doors to discuss co-operation on re-admission.
- More time was favoured for the improvement of visa procedures. These involved the non-existent management of the acceptance,

¹⁸ Görög János: A menekültek helyzetéről szóló 1951.évi genfi konvencióhoz és annak 1967.évi kiegészítő jegyzőkönyvéhez való csatlakozás kérdése. [Accession to the 1951 Geneva Convention and 1967 Protocol] In: Timoránszky Péter (ed.): *A nemzeti kisebbségek és a menekültek jogai, I. kötet*. MTA Államtudományi Kutatószek Programirodája, Budapest, 1989. 39–47.

expulsion or accommodation of forced migrants and displaced persons from more distant regions.

There were more and more stories¹⁹ available on hardships in border crossing; rejected persons; violence and torture of readmitted or apprehended persons; and crimes committed by the border guards in the border zone in Romania. At first, these actions were officially denied or marginalized. For instance, the Hungarian deputy minister of the interior said, “*We can hear about more cases of the Hungarian authority returning refugees [to Romania]. Is it true? Yes, there were some cases. Why? Because some people who cross the border illegally do not have a clean criminal record. There are drug abusers, psychologically ill people, or minors crossing without their parents’ consent. In these cases, the rejection is decided by a three-party committee.*”²⁰ The highest commander of the Border Guard Headquarters (HQ) announced the same: “*There are an increasing number of reports on trespassing refugees being rejected and sent back to Romania. Is it right? First, their acceptance would contravene certain agreements. In fact, together with the police and local council we are screening out unwanted persons, such as felons, profligates or reckless teenagers. How many persons were extradited this year? About 1,400,*”²¹ he said in an interview.

These comments represent the embarrassment of the Hungarian public administration with respect to bilateral border agreements and the shifting priority of human rights and kin-state policy. The former would prevent entry of (un)wanted persons, the latter excludes arbitrary rejection of protection seekers without formal legal provisions and procedure. Who are the members of the three-party body? Who delegates them? The Inter-Ministerial Committee (IMC) confirmed the establishment of this body in the border zone county police station. There the state security service and border guards were involved in making individual decisions on acceptance or rejection without formal decision and remedy. Moreover, there were no regular and skilled interpreters available, and the requirements for interpretation (qualification, impartiality, fairness) were not defined at all. For instance, two eyewitnesses

¹⁹ *Kapu*, September 16, 1988, *Beszélő* 1989/1 (26) *Románia dosszié* [Romania file] on refused refugees made by the Refugee Committee (Fényi T.) – it published individual cases of injured, beaten, died persons as apprehended by the Romanian authority.

²⁰ Gál, Zoltán deputy minister, Ministry of the Interior, interview. *Magyar Hírlap*, 19 December 1988

²¹ Székely, János leader of the Headquarter of the Border Guards, *Népszabadság*, 28 December 1988

told a story of a Romanian dancer escaping across the border who was rejected in March 1988 without reason. She was pregnant, beaten by the Romanian authority, and imprisoned. Her second attempt to move to Hungary was successful, and the policeman who remembered her case apologised for the first almost fatal decision. “*But we did not have good interpreters, only a refugee who arrived some days before, so we could not understand clearly what she said,*” summarised the policeman in May 1988.²²

On the other hand, the *kin-state policy was not considered in the authorisation of lawful emigration*. There were not only low statistics on the number of authorised applicants, but also political and administrative ambivalence toward influencing the Romanian Party to provide less bureaucracy or arbitrariness in issuing emigration permits. Rather, it reflected a covert ethnic preference made by law enforcement authorities. Due to this ambivalent practice, lawful immigration could not remain in the mainstream of migration in late 1980s. *Table 2* shows the high ratio of rejected applications and the low level of immigrants per year who obtained the Romanian permit as a precondition to receiving a settlement visa to Hungary.

*Table 2. Lawful immigration to Hungary from Romania*²³

<i>Year</i>	<i>Application for immigration</i>	<i>Rejected applications</i>	<i>Received applications</i>	<i>Issued immigrant visa holders</i>
1984	1446	654	792	n.d.
1985	1709	511	1198	403
1986	3284	951	2333	932
1987	6499	1570	4929	821
1988	5432	550	4882	1 936
Jan-Febr 1989	1091	23	1068 including 321 family members for unification	528
September 1989	7500	n.d.	n.d.	3 200

²² *Beszélő*, 1989 September 27.

²³ Alien Policing (KEOKH) data provided to IMC in different reports in 1988–89.

In order to see the structure of immigrants, the Central Statistics Office²⁴ summarized the following data on refugees (including all foreign persons who obtained a residence permit while seeking asylum): between January 1988 and February 1990 (26 months) the total number was 31,310 persons in the alien patrol registry. Of these, 11% was in the 0–14 age group, 50% in the 15–29, and 26% in the 30–39, showing that most newcomers belonged to the young generation. Their arrival ratio (31,310 = 100%) was growing; it was 42% in 1988, 55.7% in 1989 and 2.2% in the first two months of 1990. Their self-declared ethnic origin (31,310 = 100%) was 74% Hungarian, 21.4% Romanian, 0.3% Roma, 3.5% German. Of the refugees, 8.2% wanted to settle in a different country. From the active age categories, 87.5% were blue collar and 12.5% were white collar workers. These figures are embarrassing because they are lower than those in *Table 1*. Both, however, refer to the Alien Police HQ as their source.

The other root of the ambivalence of kin-state policy was that Hungary encountered emigrants (mostly ethnic Hungarians) *escaping from a hostile and oppressive country*. For this reason, the full political participation of the emigrants and their supporters was not desired. The rate of non-ethnic Hungarians was higher among rejected persons as well as persons whose temporary residence permit was withdrawn. In addition to this *ethnic mistrust*, the political activity of refugees or immigrants was also forbidden. Members of opposition emigrant groups (Romania Libera) faced an imminent danger of expulsion or removal. For instance, Virgil Pavlu and Dracea Dan²⁵ were forced by the alien patrol to cease joint demonstration against Romania (15 November 1988) and/or face resettlement to a different country. Their affiliation with Romania Libera was never cited as the cause for the revoking of their residence permits, but their expulsion was impeded only by the publicity their case received. However, the handing over of two ethnic Hungarian youngsters to the Romanian border authority (2 January 1989) was also disclosed, yet only the outcry by civil (opposition, human rights)

²⁴ A Magyarországra menekülők főbb demográfiai és foglalkozási adatai (1988–1990. május 31.) [The major demographic and labour data of refugees to Hungary] KSH, Budapest, 1990.

²⁵ *Beszélő*, 1989/1. (26)

organisations and ministerial intervention saved their fate. It proved that secrecy and the patrol mentality were stronger than ethnic preference.²⁶

This reaction is well known internationally among receiving states: *subversive behaviour of refugees and accepted immigrants*²⁷ is neither defined (what is prohibited) nor tolerated in order to maintain diplomatic relations with all states (including the pursuer, neighbouring) state. “*It would make it clear for persons coming from Romania and settling in Hungary that political activity and political assembly by foreigners is not allowed.*”²⁸ However, this restrictive statement had to be revised some months later²⁹. This “softening” of the HSWP (and public administration) was encouraged by the activities of the immigrants themselves and their supporters.

For instance, the Intellectual Club of Transylvanians called for not only the clarification of the legal status of refugees, including a transparent support system for their integration and family unification, but also representation of the refugees in the IMC.³⁰ When this association submitted its application for incorporation to the Ministry of Health and Social Affairs, the Ministry of Foreign Affairs consented that it be granted corporate status with certain restrictions based on the legal authority of the central administration³¹ as well as Central Political Bureau of the HSWP decision on “political abstention”. The authorization letter from the Ministry of Foreign Affairs (MFA) emphasizes the following: “*Refugee support is excessively emphasized among the goals of the association.*”

²⁶ Kőszeg Ferenc: Csacsi öreg belügyünk [Old state agents of secrecy] *Beszélő*, 1990/1.

²⁷ For instance, in Art III (1) of the OAU Convention governing the specific aspects of refugee problems in Africa: Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any member states of the OAU. In (2) it is more concrete: states undertake to prohibit refugees residing in their respective territories from attracting any state member of the OAU, by any activity likely to cause tensions between member states, and in particular by use of arms, through press or by radio.

²⁸ Central Political Bureau of HSWP decision adopted on 8 September 1988

²⁹ Central Political Bureau of HSWP decision adopted on 9 February 1989

³⁰ *Erdélyi Magyar Értelmiségi Klub*, Programtervezet é.n. Budapest

³¹ Law-Decree No.35 of 1970 (modified in 1981 and 1983) was in force up to 23 January 1989. Accordingly, organising a civil right personality had to be reported to the competent ministry in order to authorize it. If the ministry refused permission the organising work is ban, if it was supported even with some restrictions the organisation could be established and registered as legal personality.

Considering the number of lawful immigrants from Romania (4091 persons through 30 June 1988), this category shall be included in the scope of supported members. Furthermore, the number of naturalised persons absolved from Romanian citizenship by the State Council of Romania from January 1985 to 1 May 1988 includes 1059 persons, also a relevant group for the association. Refugees from Romania (about 11,000 persons) do not only come from Transylvania; it is important to also include non-Transylvanians. At the same time, the MFA discourages use of the flag of Transylvania (by the association) [...] that would cause harsh Romanian protest, and it would be used to prove nationalism and alleged chauvinism [in Hungary]. It is reasonable to refer to the Constitution [in the statute of the association] because the association's activity falls under the propaganda framework."³² The Association could be authorized "under the legal control of the Ministry of Health Care and Social Affairs, [...] and continuous financial review of the economic activity of the association".³³ The catch was that while the Association intended to represent the interests of Transylvanian refugees, it was brought under the politically less predisposed ministry. Thus, officially the Association was viewed as representing the social and economic integration interests of the refugees without the political, legal, and cultural components. (See *Appendix*.)

We have to add that some social initiatives were openly tagged to the social uncertainty of refugees. Some of these initiatives urged immediate changes in housing regulation (e.g. Transylvanian refugees would become tenants in state or local council-owned apartments despite being foreigners), housing credit (e.g. refugees would restore uninhabited community buildings and thereby acquire the property or rental rights),³⁴ and family unification. However, these primarily socially oriented initiatives raised the hard-core political issues of equal rights and representation of refugees, and transparency of aid distribution. This artificially-maintained distance from (party) politics was soon replaced by the Act on the Right to Association,³⁵ which introduced classical liberal laws in the establishment of civil organisations. Ideological control by

³² KüM titkársága, 9242/1988, 1988. november 8.

³³ Erdélyi Magyarok Egyesületének, Szociális és Egészségügyi Minisztérium, 40.040/1/1989, 1989. január 11.

³⁴ E.g. the letter of Erdélyi Menekültek Demokratikus Tanácsa, /Intézőbizottság to the minister of Health Care and Social Affairs Csehák, Judit (9 August 1988) and to the deputy-minister of the Interior, Gál, Zoltán (25 May 1988). This formation was established on 14 July 1988 (without legal personality).

³⁵ Act II of 1989, it entered into force on 24 January 1989

the ministry was replaced by court records. Thus, the government and the HSWP could no longer implement the prior “politically abstinent civil and refugee organisation policy”. Civil organizations increased their demands in two areas in particular. First, the reception of and support for refugees signified a nation-building and trans-border ethnic policy. In this context, the protection of Transylvanian refugees actually meant protection of only *ethnic Hungarians for whom quasi citizenship status was required*. For instance, the Alliance of Transylvanians mentioned unity of Hungarian nation as the basis for “monitoring minority rights and the reason for defection of Transylvanian Hungarians”.³⁶ It also required “*responsible refugee and minority policy. The Government shall stand for protection of ethnic Hungarian minorities at international fora. Arbitrary distinction of and an alien patrolling approach towards Romanian refugees shall cease,*” as demanded by the Bajcsy-Zsilinszky Committee and other organisers of the peaceful remembrance and demonstration on 15 March.³⁷

Second, the practice and principles of Hungarian ethnic preferences in refugee treatment was challenged. The Menedék Committee demanded³⁸ equal administrative treatment for all refugees, for instance regarding free travel to destination countries (foreign travel of ethnic Romanians is supported either tacitly or by providing them documents or funds, while Hungarians are hindered); legal status and provision of proper documentation (asylum law must be applied to provide protection against refoulement); lawful deportation that shall be regulated and reviewed by the court; family unification in accordance with UN CPR Covenant; and accommodation at temporary shelters. This equality can be financed from the Settlement Fund and shall be monitored publicly if refugee and migration statistics and finance data are transparent. It is evident that the civil sector was divided on refugee issues: some organisations claimed that the refugee domain is a humanitarian issue (Liberals, Young Democrats, Democratic Trade Union of Academics, Menedék Committee) while others (majority) approached it based on ethnicity. “*In favour of the refugees, we have to criticise the ruling power, and for the*

³⁶ Statute of Erdélyi Szövetség, 3.§, the original version was outlined on 8 December 1988 but its adoption happened after the Act II of 1989 entered into force.

³⁷ What demands the Hungarian nation. *Beszélő*, 1989/1 (26)

³⁸ Bossányi Katalin: *Szólampróba. Beszélgetések az alternatív mozgalmakról*. Láng Kiadó, Budapest, 1989.

benefit of formal cooperation among NGOs,³⁹ we cannot tolerate the ruling power capitalizing on assistance to refugees fleeing a suppressed state. We have to urge democratization in Romania, but the government has an advantage in the refugee wave by being able to take people's minds off key questions through nationalism and anti-Romanian sentiments."⁴⁰ This dividing line has been maintained by ambivalent government policy on human rights commitments and ethnic preferences since 1988.

Beyond the disclosed cases of rejection, ethnic preferences and numerous ad hoc actions regarding GDR citizens raised the issue of the *trustworthiness of the government refugee policy*, in particular after ratification of the 1951 Geneva Convention. Why did Igor and 17 other Czechoslovakian citizens (some ethnic Hungarians) have to stop at the borders as they moved west? Why would one be frightened to be sent back to Czechoslovakia by the Alien Police because "there is no reason to emigrate"?⁴¹ And why are GDR citizens endangering order along the western borders of the Warsaw Treaty area?⁴² How can authorities balance suspending implementation of bilateral treaty agreements to extradite friendly states' citizens, provisions of non-refoulement, and individual evaluation of migrants in need of protection avoiding without Hungary becoming a massive emigrant transit zone? The reluctant period seeking answers these burning questions forced a lot of migrants to become irregular or illegal aliens in Hungary, however supporting to preserve the law enforcement and emergency driven approach to migratory movement and "*always unexpected refugees*".

³⁹ She mentioned as example why co-operation is not possible with Reformed Church in Rákosszentmihály and Németh, Géza: for a registry of refugees introduced that is based on „voluntarily” given personal data on ethnic origin, motivation of escape, family and sensitive personal background of applicant but without it nobody is assisted. This screening method is argued that Church has to co-operate with law enforcement, and discrimination between Hungarians and Romanians in supports is put into practice.

⁴⁰ Lengyel Gabriella in Bossányi Katalin: *Szólampróba. Beszélgetések az alternatív mozgalmakról*. Láng Kiadó, Budapest, 1989.

⁴¹ *Beszélő*, 1989. October 23. Fényi Tibor: Déja vu

⁴² *Beszélő*, 1989. September 27. Fényi Tibor: Ki falazott?

The Inter-Ministerial Committee as quasi governance

The public administration system in 1988–89 was structurally and politically well-developed due to strong traditions of statism and centralisation. At first glance it is not self-evident why the whole refugee administration was so surprising and unusual beyond the political context. Since 1950, public administration was comprised of different levels of state administration under the direction of a one-party system. As Kádár, the infamous party leader, summarized the core of the functioning system: “*The [Communist] Party directs but does not command, it governs but does not reign.*”⁴³ At that time, this was applicable to the central state administration as well as to local and county councils. Council direction by the Party was outlined in the Act on Councils.⁴⁴ According to this, there was no legal hierarchy between the directing and directed units, but the Party’s own policies prevailed through legally non-binding directives, consultations, personal influence and party members, all of which *blurred responsibility and liability for political and administrative decisions*. A Party structure was fitted parallel to the local and internal (functional) structure of the state administration (i.e., a party committee, executive committee, and party units were analogous to existing administrative functions), and people with dual roles (e.g., the leader of the Municipal Council was also a member of Municipal Party Committee) ensured tight co-ordination. According to Hungarian traditions of power- and resource-sharing, the national and county levels of the administration have been dominant and, consequently, refugee issues were tagged onto those institutions.

Councils managing the public services at the local level consisted of the following components: a representative body (councillors) led by elected leaders; committees; an executive board led by the clerk secretary; administrative departments; and public institutions (e.g. schools, nurseries, museums) and companies established by the council. The system was completely centralised, and the state controlled all elements of the apparatus. The ministries were in a direct, chain-like link with the county executive committees and the district or municipal executive

⁴³ 12th Congress of the HSWP, 24–27 March 1980

⁴⁴ Act I of 1971, it was modified by the Law-Decree No.26 of 1983 and Act IV of 1985. Its provisions were replaced by the Act LXV of 1990 on Local Self-governments.

committees. In addition, the Party's analogous organization also had a non-negligible influence.⁴⁵

Despite the dual control of the higher council and administrative units in this "centralised democracy", the 2,000 local and county councils had a wide jurisdiction as follows: regulative power (adoption of decrees on local relevance); statement on national public policy issues; establishment and re-organisation of internal units, public institutions and companies; horizontal co-operation with other councils and political organizations; adoption of the annual budget; co-operation with sister cities/settlements and international partners; urban and regional planning and development; state administration and registry (birth, death, marriage); authorisation of trade, industry and agricultural issues; traffic and public transport; local taxation and duties; employment; health care; building authorisation and housing; public education, culture and sports; and social affairs and guardianship.

Establishment of the Inter-Ministerial Committee in early 1988⁴⁶ was a coherent reaction by the public administration to the "unexpected refugee affairs" and followed three principles:

- It was established without a time frame, and thus was intended to provide horizontal co-operation among the competent central administrative and governmental organizations as well as an indirect vertical co-operation (with the county level) through their influence within the lower echelons of the state administration. It was headed by the deputy-minister of the Interior and included high functionaries of the Ministries of Justice, Foreign Affairs, Finance, and Health Care and Social Affairs; the Labour Office; the Office for Church Control; the HQ of the Police and Border Guards. The Intelligence Services were not represented directly, but maintained a presence through the Ministry of the Interior and the Police. Due to the short time in which it was established, the Committee's operations were flexible without firm procedures, and its legal foundation reflected the transience

⁴⁵ Antal, Tamás: *A tanácsrendszer és jogintézményei Szegeden (1950–1990)*. Szeged, Csongrád Megyei Levéltár, 2009.

⁴⁶ Government Resolution No. 3046 of 1988, February 25 on establishing the inter-ministerial committee dealing with issues of foreigners residing in Hungary. It was distributed for government members and head of units of the Central Bureau of HSWP, Red Cross, deputy minister of the Interior

and emergency nature of the entire refugee issue. It was required to submit a report to the government, following its first five months of operation.⁴⁷

- The involvement of well-established non-state actors (Patriotic Front, National Council of Trade Unions, Red Cross, churches) meant a sharing (and blurring) of responsibility, while the Party's leadership in public administration remained unchanged. Moreover, the representative of the Central Bureau of the HSWP was formally invited, while representatives from alternative civil organisations were not. Their activities were expected to be channelled through their members.
- Finally, this committee would provide limited publicity through horizontal, vertical and non-state actor co-operation. But the fact that its charter was not published in the Official Gazette and was available only to specific addressees demonstrates its limited scope.

Nevertheless, the Government provided the IMC with the following instructions:

- to ensure that the support it provides for foreign citizens residing in Hungary conforms to the capacity of the budget and the state;
- provided assistance cannot encourage potential emigrants to leave their homeland;
- relief management and support have to be within the existing legal framework applicable to 10–20,000 emigrants, thus avoiding the necessity for new regulation;
- coordination between the capital city and counties must focus on employment, job opportunities, temporary shelters, and accommodation of residing migrants; and
- aid expenses shall be covered by the Settlement Fund (reimbursement).

The major governing actors can be seen in *Table 3*. For instance, the Capital Coordination Committee was led by the secretary of the Council's executive committee and included representatives from the Capital Police Station (Alien Policing unit); the social, health care, labour, and administrative departments of the Council; the Red Cross; the Patriotic Front; the Reformed Church; the Catholic Church; political opponents;

⁴⁷ It was submitted to and adopted by the Government on 16 June 1988

and the Association of Transylvanian Hungarians.⁴⁸ However, other alternative, spontaneous civil associations, NGOs and international partners remained at the sidelines and gradually appeared in government rhetoric.

Table 3. Public administration structure under Party direction (1988–89)

<i>Public administration</i>	<i>Party's units</i>	<i>Refugee management</i>
Parliament (regulative power and finance, e.g. Settlement Fund)	Congress of the HSWP	---
Presidential Council of the People's Republic (substitute of the parliament, constitutional control on councils)	Presidency and Central Bureau of the HSWP	---
Council of Ministers --- Office for Local Councils (legal control on councils, co-ordination, supervisory power, annulations of unlawful decrees)	Departments of the Central Bureau	International organisations
Ministries (regulative, direction and supervision on the given branch of state administration)	(e.g. on Economic Policy, on State Administration), Party committee in each working place (at public administration units, Police...)	Inter-Ministerial Committee (exchange of information, good practice and adoption circulation letters)
Central offices (regulative, directing and supervisory power on lower units inside the given branch of state administration), e.g. HQ of the Police, Border Guards, Security services (military hierarchy)		
National Council of Trade Unions (directing the social insurance network)		
Sub-national levels		

⁴⁸ Dobó István: *A romániai áttelepülők (menekültek) jogi helyzete, ügyeinek intézése a fővárosi menekülügyi koordinációs bizottság irodája tevékenységének tükrében.* [Legal status of immigrants from Romania and management of their issues in the Capital Co-ordination Committee and at its office] Államigazgatási Főiskola, 1990.

<i>Public administration</i>	<i>Party's units</i>	<i>Refugee management</i>
Police, Border Guards and Security service units at county level (stations, patrolling districts)	Party committee in each working place (at police, border guard units)	County Committees (5–7 as mirror of IMC at county level for exchange of information and good practice, execution of circulation letters)
Police, Border Guards and Security service units at city/town level		
Metropolitan Council	Capital Party Committee	
District Councils (inside the capital)	District Party Committee	
County Councils (19)	County Party Committee	
City Councils and District Offices (25)	City Party Committee	Civil organisations
Town Councils (150)	Town Party Committee	
Village Councils (2000)	Village Party Committee	

Soon after it was established, in 1988–89 the IMC issued circulars or handouts to the central and local units of public administration on the topics listed below. These documents are rife with confusing terminology (e.g., ethnic Hungarians living across the borders, Romanian citizens, foreign nationals, settlers),⁴⁹ and all of them avoid encouraging emigration:

(a) Immigrants entering without a visa and a settlement permit shall be questioned regarding their personal situation and asked to provide a reasonable motivation for leaving their country (“*clarification of circumstances*”). Based on the responses, the county/capital police station may issue a temporary but renewable residence permit. Its length varied between 1–6 months or up to two years, and it was the basis for lawful employment. This authorization was completely *contra legem* (alien policing rules and bilateral agreements), thus a “stealth regulation” without formal legal entitlement. Holders of residence permits valid for two

⁴⁹ For instance, 14 April 1988, Ministry of the Interior, IMC Information Sheet

years were furnished with an immigrant identity card and special travel documents for visiting abroad.

(b) Councils may assist immigrants in possession of temporary residence or settlement permits, in particular those seeking jobs, accommodation and housing, because *“provision of support to establish proper living conditions belongs primarily to the state and council”*. This statement is vague regarding whether the duties of the state and council are synonymous, whether provision is the duty solely of the state administration, or whether local communities are to be the enthusiasts of refugee relief.

(c) The Labour department of the capital/county council may issue a labour permit (for instance, in 1989 15,859 Romanian citizens were employed through a permit⁵⁰), and its local unit provides an employment log and proper documents free of charge. As a result of this provision, immigrant workers without proper documentation and without an authorized employment record, skills or exams were considered suspicious, in particular those who provided false information at a labour registry or job interview. Self-employed persons had to take an exam at vocational training centres. Equal treatment was provided in publicly-financed “community work”, re-training and job training courses, and labour exchange services. The labour information centres gathered information on job vacancies and offers for workers’ shelters *“if possible in the countryside, where housing conditions are better”*. However, the majority of immigrants were moving to Budapest, Debrecen or Győr (close to the eastern or western borders) despite the severe shortage of (cheap, available) apartments. Nevertheless, there were opponents to this liberal employment regime among the kin-minority.⁵¹

(d) The address on the temporary residence permit was considered to be the holder’s permanent address for the discharge of certain welfare, social insurance, and schooling services.

(e) *“Housing conditions [for immigrants] shall not violate the interests of Hungarian citizens”*, thus, workers’ shelters, subletting, alimony contracts

⁵⁰ Országos Munkaerőpiaci Központ: *Külföldi munkavállalók Magyarországon* (Lezárva 1990. július 31-én)

⁵¹ „We demand to Hungarian Government immediately suspend the authorization of employment and settlement of migrants from Romania. They are not persecuted and homeland will be Hungarian-free and free from Hungarian intelligentsia”. Letter to the Hungarian Council of Ministers on behalf of MDSZ units in Kolozsvár, Marosvásárhely, Temesvár, Arad, Nagyvárád (February 1989)

with the elderly, students' dormitories, reconstruction of uninhabited public buildings by the migrant family, or council rent subsidies were approved mostly by local refugee management administrators.

(f) Emergency health care (first aid, life saving) shall be provided for all people, but other health care available free of charge to Hungarian nationals is also available free of charge only to residence permit holders. This means that non-donations were financed from the budget (or reimbursed from the Settlement Fund).

(g) Social assistance was equally available for temporary permit holders as for nationals at the local councils. *“Immigrant adults and minors in need and without a residence permit may be supported in exceptional cases (e.g. education assistance, free meals at school, elderly-home accommodation)”*. However, eligibility requirements were less stringent than for nationals. For instance, free dormitory accommodation, free nursery meals, and temporary accommodation in a children's home were available without the normal residency requirements and were grounded in the “persons in need” presumption due to emigration. Furthermore, fast cash support was also introduced for immigrants, while nationals had to complete a background check.

(h) Social (public) insurance was available for immigrants taking into account their prior work history (in Romania). Thus, family and child care, sickness allowance, maternity support, and *“in exceptional cases and where there is an absence of employment in Hungary, the county boards of social insurance may approve financial assistance for immigrants in need”*. This special treatment applied also to nationals, but in limited number only, while the presence of immigrants in some parts of the country meant a massive group of applicants in those localities. Moreover, bilateral agreements concluded with Romania required lawful emigration and immigrant authorisation as preconditions of equal treatment in social insurance (and labour law), so this measure was *contra legem*.

(i) Public education services available to nationals—such as certificate issuance, obligatory school attendance for certain age groups, and access to scholarships—were also equally available for resident permit holders. Furthermore, *“voluntarily organised, supplementary catch-up courses for non-Hungarian speaking pupils may be offered unless the pupils have access to minority schools”*. The whole education (and refugee support) system was based on ethnic Hungarians, so speakers of other languages were considered exceptions or deviances. Supplementary courses for all children unfavourable

miliar with the Hungarian school curricula and regardless of native language were not developed. This remained an isolated, local problem for teachers. Access to higher education was diverse, so the Ministry of Culture passed a Guideline for Romanian citizens residing in Hungary for university and college studies.⁵² According to the Guideline, the Ministry of Culture may exempt students from submitting their high school graduation exam documents normally required for application, while universities may accept “*any documents that can prove the completed curricula and studies of a student who wants to continue or finish higher education in Hungary*”. A similar proposal was supported on how to recognize Romanian diplomas that lacked a proper appendix on curricula content, although universities or colleges “*are entitled to determine whether or not the holder possesses the knowledge of the respective profession*”. These instructions were mandated outside of the laws in force and applicable to non-immigrant inhabitants.

(j) Some components of the relief measures cannot be compared to the (equal) rights of Hungarian nationals because they are unique to the immigrants’ conditions:

- councils were expected to monitor the life and working conditions of immigrants in companies that employed foreigners in great numbers. This would normally be done by trade unions, but those had been silenced and at most were active locally in the recruitment of new members;
- central and eastern counties were offered a special adviser or public servant to deal with immigrants;
- certified translations of official documents (e.g. diplomas) cost a lot of money and may be subsidized by the councils or provided for a reduced price upon request;
- the National Railway Company provided free tickets to immigrants moving from their temporary residence to their final destination;
- H. Insurance Co. (state owned) offered immigrants one year of free accident, student, and non-real property insurance;
- the Red Cross was to encourage solidarity by coordinating donations to refugees from civic organizations and churches.

⁵² Irányelv a felsőoktatásra vonatkozó jogszabályoknak a Magyarországon tartózkodó román állampolgárok ügyeiben való alkalmazásáról [Guideline on applicability of laws on higher education to Romanian citizens residing in Hungary], Művelődési Minisztérium, 1989. január 5. 49.035/1989.

Despite strong pressure from the refugees and civic organisations, the IMC was almost passive regarding two topics: support for family unification at international and bilateral fora, and assistance in obtaining lost or abandoned official documents (e.g., through consular offices or popular diplomacy).

The other complex and nearly hopeless issue during and after this entire period was immigrant housing. Although the Hungarian population had faced a severe housing shortage, the refugee influx was unable to trigger the launch of housing programmes either centrally or at the council level. Supply remained limited, so while efforts were under way to provide easier access to loans or non-repayable contributions needed to purchase apartments or construct or reconstruct family homes, temporary solutions (offered shelters, dormitory capacity) and rent subsidies were gradually phased out. Loans were made available for resident permit holders seeking a 10–20 year mortgage, as opposed to defectors holding only a temporary permit. Furthermore, foreign nationals had to obtain currency authorisation, a real estate purchase permit, permission for access to a guaranteed state loan, and exemption from the residency requirement in cities (e.g. the capital). This involved four different authorities,⁵³ making it expensive—in addition to high-risk—for refugee families. *Table 4* illustrates the limited capacity of temporary shelters for 20–30,000 persons.

These efforts led to “*debt slavery*” in certain refugee families, while the use of state subsidies (Settlement Fund) was also disproportionate as indicated by some figures in *Table 5*. A small part of all refugees could obtain support while the others (perhaps non-ethnic Hungarians⁵⁴) have remained out of housing benefits.

⁵³ Útmutató a tanácsok és a pénzintézetek számára a Romániából menekültek lakáshoz jutásának elősegítéséhez. A Magyarországon tartózkodó külföldi állampolgárok ügyeivel foglalkozó állami tárcaközi bizottság, 219–70/16/89. [Guideline on refugees’ housing management for councils and financial institutes by the IMC]

⁵⁴ The Guideline on refugees’ housing management for councils and financial institutes by the IMC starts: “the overwhelming majority from the actual residing 15 000 refugees as ethnic Hungarians intend to settle in Hungary...”

Table 4. Temporary shelters in 1988–89*

<i>Place</i>	<i>Capacity</i>	<i>Expenses</i>	<i>Other information</i>
Pécs	33 persons	354 HUF accommodation and meal per capita per day	
Kecskemét	260 persons	300 HUF accommodation and meal per capita per day	Youth camp of the Agricultural Co-op.
Kecskemét	5 persons	260 HUF accommodation per capita per day	Accommodations provided in a flat
Mezőkovács-háza	120 persons	350 HUF accommodation and meal per capita per day	Youth camp, medical service is available
Békéscsaba	100 persons	No data	Accommodation, meal and medical care is available
Békéscsaba	150 persons	333 HUF accommodation and meal per capita per day	Youth camp, medical service is available
Szeged Algyő	300 persons	69 HUF accommodation per capita per day	Poor conditions
Szeged	30 persons	305 HUF accommodation and meal per capita per day	Youth camp
Szeged	21 persons	225–545 HUF accommodation per capita per day	Motel
Szeged	25 persons	240 HUF accommodation per capita per day	Hotel Royal
Bicske	220 persons	No data	Accommodation, meals are available
Székesfehérvár	14 persons	441 HUF accommodation per capita per day	
Győr	26 persons	100 HUF accommodation per capita per day	Workers' hotel

* Data are based and compiled with document by the Ministry of the Interior on the ground of Local Council information

<i>Place</i>	<i>Capacity</i>	<i>Expenses</i>	<i>Other information</i>
Novákpuzsta	82 persons	320 HUF accommodation and meal per capita per day	The facility is a former training centre
Debrecen	50 persons	84 HUF accommodation and meal per capita per day	Meal is partly provided by donations
Leányfalu	200 persons	300 HUF accommodation and meal per capita per day	Medical care is available in the hotel
Verőcemaros	45 persons	300 HUF accommodation and meal per capita per day	Medical care is available, operated by the Red Cross
Nyírszöllős	20 persons	135–428 HUF accommodation and meal per capita per day	
Nyírbátor	10 persons	230 HUF accommodation and meal per capita per day	
Kállósemjén	15 persons	145 HUF accommodation and meal per capita per day	
Nyíregyháza - Sóstó	80 persons	200 HUF accommodation and meal per capita per day	Youth camp
Öcsöd	8 persons	50 HUF accommodation per capita per day	
Várdomb	40 persons	Self-subsistence for families	
Nagykanizsa	29 persons	No data	Accommodation
Budapest 9 th District	62 persons	36 HUF accommodation per capita per day	Developing to a capacity of up to 120 persons
Budapest 12 th District	130 persons	320 HUF accommodation and meal per capita per day	Youth camp, medical service is available

Table 5. Financial burden of the central budget
for received Romanian citizens

	<i>Per capita from the Sett- lement Fund (average)</i>	<i>Per capita for health care (average)</i>	<i>Per capita for reception centre (average)</i>	<i>Per family for apartment purchase (average)</i>
August, 1989	18 000 HUF	20 000 HUF	10 000 HUF	300 000 HUF
1989	Apartment purchase support for 1092 families in 223.5 million HUF			204 700 HUF ⁵⁵
	For 1043 persons housing support in the amount of 7 million HUF			
	Housing renovation cost for 1368 persons in the amount of 63,8 million HUF			

The Capital City Coordination Committee and its Service Office operated in accordance with IMC instructions⁵⁶ alongside their own administrative and financial statutes. The main tasks focused on employment, social affairs, temporary accommodation and other administrative issues. The following include problems it frequently faced in its operations:⁵⁷

- Lawful employment in health care required original and recognized certificates or diplomas that were missing in numerous cases. Highly qualified persons thus were unable to gain employment in health care.
- Non-Hungarian speaking workers were not (easily) employed, and there were no interim measures or assistance/training available to them.

⁵⁵ *Útjelző* (Information sheet of the MI Refugee Office) June, 1990. p.3.

⁵⁶ Állami Tárcaközi Bizottság 1901–6/1988. BM sz. Tájékoztató a tartózkodási engedéllyel rendelkező román állampolgárok főbb jogosítványairól, kötelezettségeiről, ügyeik intézésének szabályairól [Guidelines on administration, rights and obligations of Romanian citizens in possession of residence permit by the IMC]

⁵⁷ Dobó István: *A romániai áttelepülők (menekültek) jogi helyzete, ügyeinek intézése a fővárosi menekültügyi koordinációs bizottság irodája tevékenységének tükrében.* [Legal status of immigrants from Romania and management of their issues in the Capital Co-ordination Committee and at its office] Államigazgatási Főiskola, 1990

- It was almost impossible to offer both housing and employment in the same settlement, especially in the absence of up-to-date data and aligned databases. Inexpensive rent or real estate was available in depressed border zones that lacked employment opportunities.
- Refugees attended schools in a system in which vocational training was underpaid. As a result, the Hungarian labour market refused to accommodate their inadequate knowledge in numerous blue-collar occupations (9–10th class).
- The Council and Service Office was unable to control the employment and living conditions offered by companies or entrepreneurs, although refugee exploitation and abusive job conditions would be screened out by a broader office capacity.
- The Red Cross, churches and the Office provided uncoordinated financial aid even for persons without temporary resident permits (immediate aid). Within one year, the Office developed some preventive measures against abuse; however, the system based on obligatory notice of all supports noticed on the residence permit was imperfect.
- A joint committee of the council, Red Cross and churches was set up to make well-founded decisions on settlement financial aid for refugees.
- Temporary accommodation run by the Council (in the 9th District) was managed for up to a maximum of 8 nights for refugees in need of shelter.
- The increasing number of minors (teenagers) unaccompanied by family members had to be accommodated in youth homes with appointed guardianship. But frozen contacts with the Romanian guardian authority hindered the exchange of information on missing minors.
- An increasing number of refugee families had no credit capacity, and the Office (or Council) was nominated as a credit insurer. However, the Council had no real budget from which to pay the debts, so this insurance was only a façade.

The county-based coordination committees faced similar problems, but their leaders expressed those in a sophisticated way. For instance, *“we really want to assist, but we have to remain inside the legal provisions and the legal system. Furthermore, immigrants from Romania cannot be considered traditional political refugees; we believe in normalization in Romania, soon after*

which they can return home without a scratch,” said dr. Virágh, chairman of the Hajdú-Bihar County Coordination Committee.⁵⁸ The dilemma of how to effectively manage the refugee influx in the eastern county, and how to respect both basic human needs and the legal order was the main concern. Illegal immigrants were continuously arriving, and law enforcement at the border zone was unable to perform scrutiny and security checks that would result in well-founded decisions of acceptance or rejection when “*per capita, there is no more than 15 minutes time for each hearing*”. Moreover, persons without documents as client in emergency relief were outside of ordinary praxis in state administration. “*A general political intention [on acceptance] has to be put into administrative practice in expeditious procedure without prior experiences and perfect regulation*”,⁵⁹ summarized Dr. Ferenc Debreczeni, deputy council leader in Debrecen.

In a local scandal related to the confiscation and ban (by the pressure of the County Party Committee) of copies of *Debrecen* that criticized delays in council and co-ordination committee management of refugee issues proved the fragile publicity of refugee emergency regime. The newspaper (4 March 1988) demanded transparency and publicity regarding refugee issues. Dr. Debreczeni evaluated the ban as an excessive and old communist reaction; however, “*acceptance of defecting citizens from an alliance state, despite agreements, caused international tensions. But we have to explain this political motivation connected to Hungarians. Explanations would mean publicity, open discussions and solidarity. But state loyalty could not be replaced by those, and council leaders had to struggle for this under-regulated political intention with administrators who strongly protected the interests and benefits of public institutions against newcomers’ claims.*”⁶⁰

In reaction to a proposal by six deputies, the Parliament decided to establish a fund that would provide aid to foreigners settling in Hungary. The Government accepted this proposal and reallocated 300 million HUF from the central budget for this purpose. It was not made public that in January 1988, the secretary of the Central Bureau of the HSWP, Miklós Németh (future Prime Minister), visited the Federal Republic of Germany (FRG) to discuss a one billion DM credit to Hungary. His intention was to isolate 200 million DM of it in stock to finance the

⁵⁸ Kaufmann, Sylvie *Le Monde*, 27 April 1988

⁵⁹ Székegyházi, Ágoston: *Debreceni napló Erdélyről. Két haza között*. [Diary from Debrecen – in between homeland and kin-state] Csokonai Kiadó, Debrecen, 1989.

⁶⁰ Op.cit. p.105–106.

costs related to the growing mass of refugees from Romania. Németh's discussion of this issue with high-ranking German officials demonstrated the intolerable conditions of minorities in Romania and the tensions inside the alliance created by Hungary's acceptance of refugees. At that time, the German press started to criticize Romania's policy of demolishing villages and settlements as a tool of "modernization".⁶¹ However, the resource of refugee management was not disclosed.

The Settlement Fund was established with 12 opposing MP votes on 17 March 1988.⁶² In the absence of detailed regulation, the Government passed a decree on major expenses and payment method.⁶³ Accordingly, the Fund could cover costs related to equal treatment in the public services sector in addition to temporary shelters, settlement and housing allowances, and additional administrative expenditures. For instance, a one-time financial aid payment to refugees starting a new life in Hungary was introduced (its maximum amount was 600% of the regular livelihood support per capita per month), to be managed by local councils. Neither the parliament nor the government clearly defined reimbursement deadlines, registration, the prevention of dual claims, book-keeping, and financial control. These shortcomings in regulation caused troubles. Finally, the Minister of the Interior issued a retroactive order—in a confidential letter.⁶⁴ Although quarterly the claims for reimbursement of charges coming from councils,⁶⁵ state administration and civil organisations, the Ministry of the Interior were collected and verified by the IMC, finally, the deputy minister accepted the requested claims and instructed the financial transfer to the addressees. Fifteen copies of this order were distributed internally.⁶⁶ Consequently, transparency of the Fund even within the existing law enforcement routine was fragmented, and information on its implementation procedures was left out. At the same time, the Fund welcomed and urged private donations. The

⁶¹ Horváth István és Németh István: *...és a falak leomlanak. Magyarország és a német egység. (1945–1990)* [...and walls are decaying – Hungary and the German unification] Magvető Kiadó, Budapest, 1999.

⁶² Kende, Péter: *Erdélyből jöttek.* [Coming from Transylvania] Ifjúsági Lap-és Könyvkiadó, 1988.

⁶³ Government Decree No.49 of 1988, June 28.

⁶⁴ Ministerial order No.20 of 1988, July 25 that had to be implemented since 1 January 1988.

⁶⁵ BM 67–6/12/1988. TÜK számú VB titkári tájékoztató.

⁶⁶ Only for internal using, 10–21/20/1988. Printed in 15 copies.

figures in *Table 6* show that in 1988 the Fund used only 60 million HUF, private donations were limited, and the role of UNHCR became significant after 1989.

Table 6. Financial burden from central budget on received Romanian citizens (1 January – 11 December 1989)⁶⁷

<i>Expenditure</i>	<i>HUF (million)</i>	<i>Incomes</i>	<i>HUF (million)</i>	<i>Total balance in HUF (million)</i>
Maintenance of temporary shelters (contributions)	4.45	Settlement Fund from the yearly budget	242.1	
Contribution to nursery and elementary schooling costs	0.33	Bank commission	5.8	
Health care expenditures	2.29	Donations	0.9	
Allowances in cash	10.10	Redemptions	0.4	
Immediate support in cash	12.44	Extra support by the parliament	100.0	
Contribution to apartment purchase	10.01		349.2	
Administrative costs including translation	12.02			
Total at the end of April	51.64			297.56
Contribution to apartment purchase	54.5			
Setting up/reconstruction of reception centres	107.0			
Others	70.4			
Total at the end of August	231.9			117.3

⁶⁷ MI, Planning and Finance HQ and Refugee Office: Report to the Minister, August 1989

<i>Expenditure</i>	<i>HUF (million)</i>	<i>Incomes</i>	<i>HUF (million)</i>	<i>Total balance in HUF (million)</i>
Administrative costs of formal refugee procedure (e.g. 30 new staff members)	45.3		59.02	
Maintaining of temporary shelters	117.65	UNHCR contribution		
Contribution to nursery and elementary schooling costs	1.2			
Health care expenditures	9.52			
Allowances in cash	35.47			
Immediate support in cash	47.90			
Contribution to apartment purchase ⁶⁸	134.58			
Administrative costs including translation	9.6			
Total in mid-December ⁶⁹	401.30			408.22

However, the Ministry of the Interior recognized the need for regular control of reimbursements from the Settlement Fund, in particular apartment purchases, renovation, and housing support, which represented the highest rates. But that could not prevail⁷⁰ due to new coopera-

⁶⁸ This type of expenditures was gradually growing as the IMC issued more and more sophisticated instructions on administration and equal treatment in benefited credit, contribution to purchase and own building of apartments. For instance, Memo of the IMC meeting (25 May 1989)

⁶⁹ Memo on IMC meeting (26 October 1989) explains that these figures refer on paid expenses but in fact the costs size is higher due to pending reimbursements claim. Accordingly deficit of the Settlement Fund in mid-October 1989 was 11 million HUF.

⁷⁰ Javaslat a Letelepdesi Alap terhere torteno tanacsi kiadasok ellenorzese, (Recommendation for regular control of reimbursements from the Settlement Fund) BM 1989. januar 16.

tion with the UNHCR that required specific efforts in planning, instalment management and programme evaluation.

Institution-building through temporary measures and limitations in transparency and publicity were at the core of the main disfunctionality of the refugee administration. Since the first moment of refugee acceptance, this impotency was attacked by articles and civil initiatives urging, at a minimum, public discourse on security and solidarity. For instance, *“the refugee issue, in particular family unification, has been placed on the agenda of international fora such as the UN and the CSCE meeting in Vienna [...] we would accept Hungarians but not criminals, while priests, teachers, and physicians have to be sent back to the minority communities in need. We have to provide assistance—through visa procedures and diaspora contacts—to Romanians and Saxons travelling to a destination country. Refugees and applicants for lawful immigration shall be allowed to stay in Hungary; however, the receiving capacity of this country will be defined by the authorities taking into account the number of immigrants and emigrants. No refugees are forced to return to Romania that shall be controlled by civil organisations, and settlement shall be allowed only for ethnic Hungarians and their family members [...] they can enjoy scholarships from company donations and tax deductions in constructing their own homes.”*⁷¹ These fragments indicate how incoherent and selective the demands to the IMC were.

While during the prior refugee influxes of Greeks and Chileans there was no state security concern raised in Hungary due to their limited number, the increasing number of immigrants from Romanian did pose a concern *“because the balance between humanitarian principles and illegality had not been established.”* For example, among immigrants, *“there was an increase in the activity of Romanian state security services, although the associated agencies did not utilize intelligence agents or informants. About one quarter of apprehended males can provide information on the actions and operations of the intelligence agency. This increase in intelligence activity is facilitated by the growing number of unidentified foreigners, underdeveloped security check methods, slack control of residence permit issuance (e.g. some DDR citizens introduce themselves as Romanian refugees), increase in cases of marriage of convenience, illegally transported family members, illegal border crossings, and exiting Hungary without proper documents. Moreover, law enforcement’s lack of a coherent legal process also may encourage further illegality. The legal status of newcomers is uncertain,*

⁷¹ Protocol made on Meeting in Szilasliget, 4 April 1988. In: Franka Tibor: *Most jöttem Erdélyből* [I have just arrived from Transylvania] Láng Kiadó, 1988.

and their equal treatment may spawn prejudices in an atmosphere of fragmented security controls".⁷² This summary was provided in an expert paper on law enforcement's dilemmas at that time. Furthermore, a deputy was required to stop the refoulement, deportation and non-acceptation of Transylvanian refugees who intended to settle down in Hungary (4 January 1989). The Minister of the Interior, in an answer to an interpolation, asked for patience while Hungary prepared to ratify the 1951 Geneva Convention. He also called for the adoption of administrative measures for the admission of Transylvanian immigrants to western countries.⁷³

As the key instruction toolkit, the guideline was not very effective in avoiding discrepancies in administrative practice, even though law enforcement traditionally was—and has been—a hierarchical, militant structure. The deputy minister (Ministry of the Interior) issued a circular but confidential letter⁷⁴ to all county police captains in which he forcefully drew their attention to the following:

- prior guidelines on selection principles for entry and residence⁷⁵ shall be executed accurately because, "*in the recent past, an absence of proper deliberation has been observed, which led to the rejection of immigrants who are eligible for residence in Hungary*";
- a unified and tight process is necessary regarding authorization of entry and residence, "taking into account equity and the individual conditions of the concerned persons";
- only the captains (leaders of county police stations) personally shall make decisions on the denial or admission of illegal immigrants, and this entitlement must not be delegated to other colleagues;
- before deciding, the captain must consult with the head of the immigrant policing HQ of the Police;
- decision shall be made without delay.

This under-regulated and semi-public mechanism changed only after ratification of the 1951 Geneva Convention, but not immedia-

⁷² Horváth Zoltán: A letelepedni szándékozó külföldi állampolgárokkal összefüggő biztonsági és rendészeti kérdések. [Security and law enforcement issues concerning immigrants] In: Timoránszky Péter (ed.) *A nemzeti kisebbségek és a menekültek jogai, I. kötet*. MTA Államtudományi Kutatások Programirodája, Budapest, 1989. 233–242.

⁷³ Földes, György: *Magyarország, Románia és a nemzeti kérdés 1956–1989* [Hungarian and Romanian relations and nationalism] Napvilág Kiadó, 2007. pp.453.

⁷⁴ Ladvánszky Károly, BM SZT 50–15/1/1989. 1989. január 4.

⁷⁵ See upper as BM 50–589/1988.

tely and automatically. The key message of the 1951 Convention did not require a profound legal knowledge to be well-understood by all: namely, that it forbids the deportation of protection seekers. After March 1989, the first step was to prohibit border guards from firing a weapon against anyone illegally crossing the border except in cases of warranted self-defence. The second was to respect the universal ban on refoulement. However, the concept of refugee has not been trivial, so implementation of non-refoulement – in law enforcement practice – depends on *who the subject of immigration is*. In the case of GDR citizens apprehended at Hungary's western borders, a narrow interpretation was applied until 31 July 1989: they were considered subjects under the bilateral agreement between Hungary and the GDR, so they were discharged to the GDR (state security) authority. Only in early August 1989 did the Chief Prosecutor issue an order instructing public prosecutors⁷⁶ what to do in case of illegal border crossings. Accordingly, GDR citizens were not to be subjected to expulsion or deportation for (attempted) illegal border crossing to the west – neglecting the bilateral agreement – but they are to be treated as nationals (in minor offence or criminal liability laws), depending on committed act. But the fate of Romanian immigrants was determined by circular letters and guidelines – also bypassing the bilateral agreements – until the procedural decrees of 1951 Geneva Convention were applied in mid-October 1989. Furthermore, a confidential order of the HQ of the Border Guard issued on 8 September 1989 that gave instructions on how to open up the western borders reinforced the following: unhindered departure (without visa) for Germany via Austria would be applied “*exclusively for GDR citizens, while other foreigners (Romanians, Turkish, etc.) have to abide by the existing bilateral rules*”.⁷⁷

Summing up, the IMC operation was considered as successful according to its Report submitted to the Government. Accepting the Report (16 June 1988), the IMC chair was obliged to “*prepare alternative solution on how to cope issues of a possible great mass of refugees coming to Hungary*”.⁷⁸ It meant that Government under the migration pressure of DDR and Romanian citizens projected a possibility of further migratory movements

⁷⁶ Oplatka András: *Egy döntés története. Magyar határnyitás 1989. szeptember 11. nulla óra.* [History of opening borders for DDR citizens] Helikon Kiadóm Budapest, 2008.

⁷⁷ A határnyitás 20 éve [Opening the borders – 20th anniversary] (1989–2009) Magyar Nemzeti Múzeum kiállítása (1–26 April 2009)

⁷⁸ Raft Miklós, MT Hivatala, 1988. június 21.

as a short-term, emergency situation and tailor-made solutions to each migrant population (GDR, Romanian) and not as a standard task for public administration. Naturally, this evaluation did not reflect on critics, e.g. a refugee office had to be set up, IMC instructions could not substitute formal regulation on asylum and refugees, Geneva Convention would not be applicable for ethnic Hungarians for whom benefited naturalisation and legal remedy against refusal shall be immediately accepted.⁷⁹

The 1951 Geneva Convention and institutionalisation

Parallel to the ratification of the 1951 Geneva Convention, the IMC began management of GDR and Romanian immigrants. This institution-building period took some months from March to mid-October 1989. At the end of this period the National Roundtable negotiated the content of the constitutional reform that was passed by the Parliament on 23 October 1989.⁸⁰ The main principles and work phases of these months were approved by the Central Political Bureau of the HSWP as follows:⁸¹

- a) Without encouraging immigrants from leaving their home country, Hungary has to make an international effort to obtain support for the admission and status consolidation of “*persons residing in the country who refused to return home as quasi refugees*”. Accession to the Geneva Convention provided a good basis for these efforts.
- b) The main task of the Border Guards (18,500 persons) is to control (legal and illegal) human and vehicle traffic at borders with better infrastructure. Due to free travel rights (since January 1988),⁸² the electronic signal transfer, pursuit trail, as well as restrictions on certain activities at the Austrian and Yugoslavian borders must cease

⁷⁹ See the statement of Minority Protection Association formed by academics (16 February 1989)

⁸⁰ Act XXXI of 1989 amended the Act XX of 1989 on the Constitution of Hungary

⁸¹ Report on Government session (22 February 1989) to the CPB of HSWP 00140/TÜK/1989, and Report on Government session (16 May 1989) to the CPB of HSWP 00390/TÜK/1989.

⁸² HQ of the Border Guard prohibited for border patrols to use fire arms against escaping persons across the borders, illegal migrants. Other so called preventive measures were ceased at the Romanian border zone, so illegal border crossing cases were increasing since 1987. Kórműves, József – Nagy, György – Ravasz, István: *Határőrségben. A Magyar határőrizet és határvédelem szerveinek története a modern korban*. Hadtörténelmi Intézet és Múzeum, Budapest, 2008.

- (by 31 July 1989), and draft legislation on the state border and its management shall be prepared (by 31 December 1989). Long-term administrative changes (e.g., reduction of staff, replacement of persons on duty by professional law enforcement public servants) shall be decided by the end of June 1989.⁸³
- c) Although refugee governance stands the test, the politically significant role and oversight of the parliament has to be strengthened (e.g., “*we can be considered as under-informed in refugee issues,*” summarized the parliamentary committee.)⁸⁴
 - d) The Ministry of the Interior established the new Office for Refugee Affairs in April 1989. In the beginning, it had a staff of five.⁸⁵ Its formally approved tasks⁸⁶ by the IMC were as follows: support for refugee placement and integration, assistance with secretarial work for the IMC, preparing use of the Settlement Fund, direction of refugee camps, and co-operation with NGOs and churches in refugee relief affairs.
 - e) Refugees basically have to become self-sufficient through paid work, so their employment is a key topic, even as the ratio of unskilled migrants increased. The criteria for refugee recognition, the legal status of refugees, and exceptional conditions of refoulement were to be regulated. Due to the high number of refugees, stable regulation of admittance was required, while research on newcomers’ sociological characteristics was also conducted. The IMC also ordered a mass survey of social institutions and public opinion on refugee acceptance.⁸⁷ These results would show support for better administration and regulation by July–September 1989. There was a feeble initiative that combined refugee housing with entrepreneurship: Settlement Fund support would be available for cooperatives, small entrepreneurs, and companies that employ refugees to build and furnish apartments.⁸⁸

⁸³ In accordance with the Government Resolution on Border Guards’ tasks No.3141 of 1989, May 18

⁸⁴ Memo of the joint meeting of the Foreign Affairs and Defence Committees of the Parliament discussed the report of the Government on 1 March 1989.

⁸⁵ Feljegyzés a Hivatal felszereléséhez, 1989. április 24. Belügyminisztérium (*Protocol made on 24. April 1989.*)

⁸⁶ Memo of IMC meeting (25 May 1989)

⁸⁷ Contract with Tárki. 8. December 1988.

⁸⁸ Memo of National Association of Entrepreneurs meeting (30 March 1989)

f) Immigrants and applicants shall be accommodated and monitored in sanitary and secure refugee camps. An ad hoc body of high-ranking public officials was established in February 1989 to identify suitable locations⁸⁹ in adherence to regulations adopted by similar institutions in other convention countries (e.g., what is the optimal length of accommodation in camps, and how to manage cooperation with local NGOs).⁹⁰ Projecting an increase of refugees (in the preceding 13 months residence permits were obtained by 13,719 persons, 88% of whom were ethnic Hungarian), about 3–4 camps would be established as part of refugee management efforts, and they would be reported on by the government to the parliament in its forthcoming session (March 1989).⁹¹ However, the acquisition of camp buildings was time and money consuming (purchase in Békéscsaba and Bicske, and lease in Hajdúszoboszló). Until the arrival of UNHCR financial aid, the Settlement Fund covers all expenditures. It is important to operate the camps as law enforcement institutions under the direction of the Refugee Office and in light of refugee law. The security, finance and human resource tasks shall fall under the redefined mandates of their respective ministerial units.⁹² The construction and operation of refugee camp services is subject to VAT. Consequently, only a small number of exemptions would be provided through international agreement (with UNHCR), and the Settlement Fund is responsible for the VAT until the UNHCR support agreement enters into force. If refugee camps would be established as apartments, VAT law would allow for an exemption.⁹³ However, the UNHCR delegation in June 1989 requested a clear exemption from VAT in all renovations,

⁸⁹ Vaja, Nyíregyháza, Dánfork, Bicske, Hajdúszoboszló, Budapest XVII.ker., Békéscsaba was selected taking into account how the local population was refusing the project.

⁹⁰ Memo of refugee camp preparatory ad hoc committee activities, 7–8 March 1989

⁹¹ The joint meeting of the Foreign Affairs and Defence Committees of the Parliament discussed the report of the Government on 1 March 1989.

⁹² BM Államtitkár: Feljegyzés a menekülteket befogadó állomásokkal kapcsolatos feladatok BM-en belüli meghatározásáról és összehangolásáról. 1989. május 30. (*Protocol made on 30. May 1989*)

⁹³ PM Államtitkár, dr. Kunos Péter levele dr.Gál Zoltánhoz, 14.638/1989., 1989. július 18. (*Letter to dr. Gál Zoltán*)

operations, and furnishings of refugee camps and supplies, otherwise donor countries would refuse their promised contribution to Hungary. Thus, necessary measures need to be taken by the responsible ministry.⁹⁴

- g) Although family reunification was the central concern, and parliament pressured government to act, frozen bilateral relations paralyzed negotiations. The Hungarian Red Cross collected completed questionnaires and forwarded them to the Romanian Red Cross, petitioning support in vain. Non-involvement in family relations and a non-active assistance policy has remained a peculiarity of refugee law. A survey on refugee assistance also identified this as a government weakness.⁹⁵
- h) Establishing connections with the UNHCR was urgent for at least three reasons: this organisation would provide financial support for refugee admissions; it would assist with legal and administrative preparations (e.g., setting up refugee camps); and it would extend the international political space for manoeuvring for the Hungarian government in transition. „*At the invitation of the Hungarian government, a UNHCR delegation visited Hungary to negotiate on cooperation with participation of church representatives and the Hungarian Red Cross. Within one year, 13,179 resident permits were issued for asylum seekers from Romania. Representatives of the Hungarian authorities expressed their intention to sign the 1951 Geneva Convention*”.⁹⁶ Consultations and visits were organised (e.g., by representatives of the Ministry of the Interior to the Belgrade Branch Office and refugee camps in April 1989,⁹⁷ and a visit by the High Commissioner to Hajdúszoboszló and Debrecen on 31 October 1989⁹⁸).

The UNHCR branch office was established in Budapest, and its tasks, immunities and privileges were included in an agreement that came into

⁹⁴ BM államtitkár Dr.Gál Zoltán levele dr. Békesi László pénzügyminiszterhez 1989.június 21. (*Letter to dr. Békesi László*)

⁹⁵ MSZMP KB Társadalomtudományi Intézete: *A menekültekkel foglalkozó szociális intézményrendszer szerkezete és működése. Zárótanulmány*, 1989. október 5.

⁹⁶ *Refugees* 1989/3: 8–9.

⁹⁷ BM titkárság nemzetközi kapcsolatok osztálya, 1989. márc.14.

⁹⁸ Delegation of UNHCR led by J.P.Hocke (M.Capelli, G.Arnaut, H.Hszi-Ven and K.Laukó from the BO) visiting health care institutions, temporary shelter and refugee camp

force on 4 October 1989. The partners⁹⁹ (MFA, MI and UNHCR) cooperate in the protection of refugees and other persons within the scope of the UNHCR to implement the rules of Convention, Protocol and EXCOM resolutions. The agreement includes consultation on and control of refugee aid programmes contracted with the UNHCR. The government shall provide access to state officials, NGOs, refugees and other persons within the jurisdiction of the UNHCR, and free entry into all refugee institutions that oversee the fair implementation of contracts and agreements in each phase. The first refugee relief agreement¹⁰⁰ in 1989 provided for the co-financing of expenditures related to setting up camps in Bicske, Békéscsaba and Hajdúszoboszló, including its information systems, the social care of applicants and refugee families, health screening, housing, and public schooling of 4.94 million USD.

After ratification of the 1951 Geneva Convention,¹⁰¹ its advantages and duties were discussed within the state administration.¹⁰²

- a) Bilateral agreements concluded with Socialist States on consular assistance, prosecutorial issues, border control and legal aid shall be modified (to include non-refoulement) or implementation of certain provisions shall be suspended (partial suspension) if Hungary will admit refugees from these states. Cooperation with Socialist States' law enforcement shall be also be modified.
- b) It is necessary to regulate both the criteria for refugee status and procedural rules. Even if regulation involves actions or entitlements by parliamentary decree, it must be more swift under the busy schedule of parliament. Retroactive regulations shall be applied to refugees residing in Hungary at the time of passage (for 15,000 persons within a short period).
- c) It must be resolved how to determine the treatment of applicants and refugees, before they seek asylum, who attempt illegal border crossing to the West. The issue is whether to disqualify from

⁹⁹ Government Decree No 23 of 1990, 7 February publishing the Agreement concluded between the Government of Hungary and UNHCR on 4th October 1989. This Decree shall be implemented since 4th October 1989 and minister of foreign affairs in consent with other responsible ministers shall execute its provisions.

¹⁰⁰ *Magyar Közlöny*, 1989/76: 1274–1281

¹⁰¹ It was promulgated and published by Law-Decree No.15 of 1989, August 25 and proposal was made to the Presidential Council by the Government Resolution No. 2010 of 1989.(HT.3.) MT határozat

¹⁰² Memo of the BM meeting made on 22. June 1989. (dr.Gál Zoltán)

refugee status immigrants who request refugee protection from the border guard and illegally leave for Austria. In all cases, screening methods (visa procedures, state security checks) shall be restricted in due time, and GDR citizens shall leave the country if they are apprehended at western borders, but without forced deportation (quasi voluntary departure). GDR authorities shall be notified of this change (no further deportation to the GDR). However, undesirable persons shall be deported outside the scope of the Convention.

- d) Should ethnic Hungarians be treated as other applicants that seek refugee recognition, or should they be offered an alternative status (e.g., preferences in settlement authorisation or in acquisition of Hungarian citizenship), particularly given the low recognition rate of ethnic Hungarian applicants. This involves the bilateral agreement between Hungary and Romania, which avoid the topic of dual citizenship. Perhaps its termination is necessary.
- e) Geographical caveats require a solution for illegal Turkish immigrants and protection seekers.
- f) Passports would be issued to refugees regulated in the Convention. However, *“it is not an aim to scatter Hungarians throughout the world, but we have to respect freedom of residence, and travel to destination states is on the rise. 700 persons have left, and 1000 are waiting for visas”* – without real chance for reception in desired destination countries.¹⁰³
- g) Correct implementation of refugee rights in the Convention without more favourable position for recognized refugees.

Beyond these issues, the points of view expressed by the ministers raised further normative questions¹⁰⁴ that shed light on the core of admission policy:

- a) The timeframe of the refugee admission procedure involving security forces and the immigrant police would not be so short (15–45 days). On the other hand, the deadline for the submission of applications will be short due to the high rate of illegally arriving applicants.

¹⁰³ See the Memo of the joint meeting of the Foreign Affairs and Defence Committees of the Parliament discussed the report of the Government on 1 March 1989.

¹⁰⁴ Jegyzőkönyv miniszteri értekezletről (Memo of the ministerial meeting), 1989. június 26. BM Titkársága, 10–52/12/1989.

- b) The first step in the refugee recognition procedure would involve the jurisdiction of the captain or head of immigrant police at the county level, while legal recourse is provided by the Office for Refugee Affairs, which underlies the immigrant policing appeal system. On the one hand, the specialized nature of refugee law explains why it pertains to the Office for Refugee Affairs. On the other hand, evaluation of the illegal entry of potential applicants, their illegal border crossing at western borders, and settlement authorisation overlap and belong to the jurisdiction of the Immigrant Police. The question is whether a new branch of the Ministry of the Interior with a distinct mandate would be established, or the Office for Refugee Affairs would manage the light tasks of coordination, accommodation and public relations. Finally, the first step was designed to screen and not to protect (e.g., the staff authorized to perform criminal and security background checks of applicants would be recruited from the state security and police organizations, and their communication with other law enforcement units will remain confidential)¹⁰⁵.
- c) It must be determined how to reject the applications of citizens from other socialist states if submitted on Convention grounds. Perhaps an asylum law or decree implementing only Convention provisions will be issued that contains an alternative status (B status, humanitarian status). However, Convention rules for ethnic Hungarians would be inadequate without a provision for an individual's (fear of) persecution, so parliamentary support at least at the committee level shall be obtained in the absence of full consensus.

The Government passed the joint proposal of the Ministry of the Interior, Foreign Affairs and Justice on the process for refugee recognition and approved the submission of a law-decree proposal to the Presidential Council of the State on the legal status of recognized refugees on 31 August 1989. The codes of the legal and administrative system of refugee affairs are as follows:

- a) Despite a government resolution¹⁰⁶ on the passage of legislation on refugee status and procedures, the Government issued a temporary decree taking into account the approximately 17,000

¹⁰⁵ BM ORFK III/2. osztály, 302/902. sz. Jelentése 1989. augusztus 21. dr. Nagy Károly

¹⁰⁶ Government Resolution 2010/1989. (HT.3.) MT határozat

refugees from Romania residing in the country. Moreover, Act XI of 1987 also called for further legislation. But “*due to time-consuming political negotiations, the 1951 Geneva Convention and its Protocol must take effect without delay*”, thus, refugee status will be regulated by a Law-Decree,¹⁰⁷ and procedural issues will be regulated by a Government decree published in September¹⁰⁸ and entered in to force on 15 October.¹⁰⁹ Nevertheless, it was noted that “*this regulation is temporary and cannot be take the place of the law and political debates on asylum. Thus, based on experience, the three responsible ministers shall submit a Bill in the 3rd quarter of 1990*”.

- b) The definition of refugee shall be narrowly interpreted and implemented to prevent persecution of non-European persons (geographical caveat to the Convention) and on the grounds of public health, state security, and risk to public order. The presence of any of these would provide sufficient cause to terminate the process or withdraw the status. Another restriction is that the deadline to submit recognition is more curtailed than in other administrative proceedings, while a decision to deport a (potential) refugee may be taken in the absence of a merited decision on recognition. “*We would recognise persons in limited number*”. Re-application is also denied. All immigrants whose applications for protection are rejected either formally or with merit, as well as those whose protected status is terminated shall be subject to alien policing rules. This means that ethnic Hungarians “whose admission is based on Convention responsibilities” would be allowed to reside in Hungary with a settlement permit and without charges of harsh violation of public order, or would be guaranteed favorable future access to Hungarian citizenship in accordance with the termination or modification of the bilateral agreement with Romania. Non-Hungarian applicants would be furnished with temporary residence permits until their resettlement or travel to a destination country in accordance with the modification of bilateral agreements with other Socialist countries (e.g., in special

¹⁰⁷ Law-Decree No. 19 of 1989 on legal status of recognized refugees

¹⁰⁸ Government Decree No. 101 of 1989, September 28

¹⁰⁹ In fact period of non-applicability rules of Convention and Protocol took seven months.

- cases Hungarian authorities may extend the geographical scope of an immigrant's passport).
- c) The Bill will contain alternative status to the Conventional refugee, *“that would attract citizens of Socialist States to Hungary, resulting a growth of their illegal border crossing to the West”*. However, illegal leaving (its attempt) for West means the applicant's removal to the country of origin.
 - d) There will be differences in the implementation of the Code on Administrative Procedure with regard to refugee affairs (e.g., the questionnaire shall be completed by the applicant providing personal data including the applicant's financial situation and reasons for defection; the shall be conclusive evidence of the probability of persecution upon return; a representative of the UNHCR shall be present during the process and personal hearing; and unaccompanied minors must be appointed a guardian by the authorities).
 - e) Refugee camps would be obligated to provide shelter and accommodation, as well as health and security screening. Residents will be furnished with a policy card to be used for short term employment within the camps.
 - f) Initial decisions on refugee issues will be made by the Office for Refugee Affairs, and appeals will be handled by the Office's new organisation under the auspices of the Ministry of the Interior. Judicial redress will be ensured at the county or capital city court authorized to annul or alter the administrative decision, but the non-litigious proceedings will be decided on documents. In order to fulfil personnel requirements, 25 extra staff members at administration level and 5 additional staff members at judiciary were allocated by and financed from the Settlement Fund (it was calculated to cost 45 million HUF per year with an annual caseload of 15,000, unless the Ministry of Finance finds an alternate source).

The fact that the status of the recognized refugees was relatively liberally defined compensated somewhat for the restrictions: the legal status of an admitted refugee was extended to his/her spouse and minors, and their rights were the same as those of nationals—with some exceptions. Namely, their identity card was a different colour and contained different personal data; they did not have voting rights; they were not allowed to be employed as public servants and officers, they did not possess a Hungarian passport. The absence of horizontal and vertical

co-operation between the camp staff and county police station, public administration, local councils, NGOs or the Office for Refugee Affairs was really painful for refugees, in particular in restricted movement and daily routine of life.

The IMC meeting illustrates the results and drawbacks of institutionalisation.¹¹⁰ "The refugee administration and its institutional and legal infrastructure have been formed," said the IMC president in a brief statement. These efforts

- a) led to a deficit in the Settlement Fund (11 million HUF), so an extra contribution from the state budget was requested while waiting for the delayed UNHCR contribution;
- b) required harmonization of bilateral agreements with the 1951 Convention as noted by the ministries;
- c) urged measures regarding family unification. A total of 4,489 claims were forwarded to the Romanian authorities to no avail, while approximately 1,000 individuals obtained passports and permits to leave Romania. The Red Cross provided international documents as final solutions for resettlement. However, unaccompanied minors arrived in growing numbers, and their acceptance to Hungarian youth and children's homes have been problematic without the proper documentation, exchange of information, and cooperation with Romanian authorities.¹¹¹ Furthermore, reimbursement of significant costs to youth and children's homes was not planned for in the Settlement Fund;
- d) imposed certain changes in refugee policy that would increase its professionalism. "*Numerous signs indicate that refugee affairs have to be considered as long-term issues*". For this reason, "refugees cannot be targeted by political contests, and national accountability and consensus are required." For instance, benefits resulting from the acquisition of Hungarian citizenship may be provided on grounds of sovereignty (modifying or terminating the bilateral citizenship agreement soon). This cannot isolate Hungary, but must support our international alliances. Moreover, the self-subsistence of refugee families (employment, housing improvement by

¹¹⁰ Memo of the IMC meeting, 26 October 1989 (6 November 1989) and Press Release

¹¹¹ Ministry of Social Affairs and Health Care, 5th National Conference on Children and Youth Protection, 28 October 1989

credit) has to be supported instead of being exposed to scattered social assistance. In this context, the role of refugee camps has to be re-defined (e.g., temporary accommodation for lawful immigrants and protection seekers versus social housing service). The admission of immigrants must be better regulated (reasons; screening criteria; unrestricted settlement versus designated settlement locations or quotas), and the competencies and work among governmental agencies and authorities must also be better regulated. The Office for Refugee Affairs is a first step in this direction, but the IMC operation has to be stabilized and improved (e.g. passing the rules of its procedure). Geographical reservation to the 1951 Convention has been held back at least until an impact assessment of the social, economic, demographic and diplomatic effects of immigration supports its termination. For these purposes, asylum legislation shall be prepared to expand public discourse on immigration, admission and refugees.

Taking into account these considerations, the Ministry of the Interior in October 1989¹¹² conceptualized how to map the ramifications of refugee movements and the Convention through different ministries. Accordingly, social and economic impact assessment will establish the public administration tasks and operational programmes until autumn 1990. For instance, a screening method for undesirable immigrants (for the visa and entry process) and a method to cope with transit, non-European or non-Hungarian (at that time about 5,500) immigrants shall be developed “*protecting us from state and public security dangers due to illegal travel to Austria and Yugoslavia (Romanian) by migrants*”.¹¹³ In parallel, academic background papers were also planned on key topics¹¹⁴ such as health care, social services, labour force forecasting, demography, public education and migratory movements and normative requirements. But a further emergency of Romanian “manipulated revolution¹¹⁵” and the

¹¹² Memo of the meeting made on 8 November 1989

¹¹³ Memo of the meeting of state secretary with law enforcement leaders in the Ministry of the Interior, 8 November 1989 kept up the tripartite committee making decision on refoulement of migrants endangering public or state security until adoption of high level regulation.

¹¹⁴ Javaslat a menekült-kérdéssel kapcsolatos törvénykezési koncepció előkészítésére + melléklete, 1989. szeptember

¹¹⁵ Mandics, György: *A manipulált forradalom*. Concord Media Jelen, Arad, 2009

bloody events of the collapsing dictatorship in December 1989, as well as and subsequent minority clashes, launched new mass influxes...

Balance sheet and conclusions

The two years analysed in this paper illustrate the difficulty in understanding, in an ideology-led state, that human rights commitments precede state sovereignty even in a non-independent, non-sovereign country. “Socialist legality” became anachronistic by 1988–89, and the question was raised whether respect for human rights would disguise prior practices in order to obtain visa facilitation and visa-free travel, or whether rule-of-law can penetrate the whole public administration and legislation. We have to add that in law enforcement documents, references to old obligations from UN Covenants and UN Conventions were missing, thus the changing rhetoric on the Geneva Convention served more to cope with the emergency situation with the assistance of international and civil organisations. They and their standards could balance the one-sided international relations system of law enforcement (e.g. participation in the work of Council of Europe,¹¹⁶ Humanitarian Law Institutions, IOM¹¹⁷), and financial and experimental support of the UNHCR provided a relevant impetus to the increased professionalism of officials (e.g., how to plan budgets and international programmes, competency building, foreign contacts). The role of the UNHCR was outstanding in training in and monitoring the implementation of refugee law as actor in the asylum procedure as defined by the Government Decree and it was as well as protector of non-European applicants.

Hungary as a newborn rule-of-law state (even after the reform of the Constitution) was ambivalent regarding how to surrender its existing bilateral agreements and internal provisions protecting (or at least intending to protect) public order yet not in conformity with human rights and 1951 Convention requirements; how to compensate for missing regulations on immigrants, asylum seekers and refugees; and how to benefit ethnic Hungarians from the immigration and naturalisation

¹¹⁶ Refugee and Demographic Committee of the CoE visited Hungary including the Red Cross, Reform Church Refugee Service, IMC and minority organisations. 30 October – 1 November 1989.

¹¹⁷ BM Menekültügyi Hivatal: A menekültügy nemzetközi kötelezettségei és kapcsolattrendszere. 1990. augusztus 8.

regime of the 1951 Convention while implementing it without discrimination. These three overlapping issues have been neither fairly answered, nor critically evaluated internally. This was particularly obvious in the informal practice of rejection at the borders and in the consequences of immigrants illegally crossing the Austrian (Yugoslavian) borders. Even today, publicity has remained a sensitive issue in law enforcement. But during that period, the state's responsibility for the acceptance and support of immigrants was, in fact, divided among churches, civil initiatives and alternative organisations. The incoherent terminology (refugees, residing foreigners, immigrants, Romanian citizens, Transylvanian refugees)¹¹⁸ easily proves the ambivalent policy, fear of public discourse, and sharing of secrecy and administrative work with non-officers.

What is the legacy of 1988–89 in refugee affairs?

The Office for Refugee Affairs as “youngest brother” was absorbed by law enforcement. Today, immigration and citizenship affairs are considered to be law enforcement issues,¹¹⁹ and the name of Office for Immigration and Nationality (OIN) neither refers to inter-alia managed refugee and asylum issues, nor do its regional units have separate refugee divisions. In the meantime, the border guards were absorbed into the police force.

Through the prism of the refugee story, we can see the absence of a system-based, horizontal, cross-cutting and long-term approach in public administration. Although it was often debated whether a refugee and immigration commissioner, a secretariat, or a ministry would be the best governing agency, that task has belonged to the Ministry of the Interior and its successor Ministry of Justice and Law Enforcement. Public order legislation and weak co-ordination in the administration explains why certain ideas such as complex authorisation (e.g., issuing visas, residence and labour permits in one step) or centrally organised nourishment and simple family apartments with numerous social workers (instead of refugee camps) remained futuristic.

¹¹⁸ Tóth Judit – Kolláth György: A menekült-kérdés néhány főbb szociális, szervezeti, jogi és tartalmi problémája. In: Timoránszky Péter (ed.) *A nemzeti kisebbségek és a menekültek jogai, I. kötet.* MTA Államtudományi Kutatások Programirodája, Budapest, 1989. 177–232.

¹¹⁹ See the www.irm.hu

The IMC as the main co-ordinating agency was formally established with a new form as the Inter-Ministerial Refugee Committee between August 1991 and July 2001.¹²⁰ Its main tasks were to advise the government concerning refugees, protected immigrants, settled and rejected migrants, and migrant workers and how they can be integrated into society, returned home or resettled in other countries. Reconciliation with stakeholders, horizontal and territorial co-ordination, monitoring public finance efficiency as well as legislation were all part of its work led by a minister without portfolio. However, its secretariat was operated by the Ministry of the Interior. Today, universal law enforcement has made this type of organisation unnecessary.

Temporary refugee regulations remained in effect for a decade. The promised Asylum Act was adopted in 1997, and the Government Decree procedure was replaced only in 1998.¹²¹ Despite available surveys¹²² on the socio-demographic parameters of immigrants, the level of prejudice towards refugees in public opinion, and public evaluation of refugee management by the administration, the “*emergency approaches*” to refugee measures and immigration legislation has come to stay, in conformity with the European security rationale and further influxes of Romanians, Yugoslavians and non-Europeans...

¹²⁰ Governmental Resolution No.1037 of 1991, August 6

¹²¹ Act CXXXIX of 1997 on Asylum, Government Decree No. 24 of 1998, February 18 on procedural rules of refugee recognition and on documents issued for applicants, temporary protected and tolerated migrants

¹²² TÁRKI: *Jelentés az erdélyi menekültekről*. 1989. július., TÁRKI: *Az erdélyi menekültek. Erdély – vizsgálat*, Budapest, 1989; MTA Földrajztudományi Intézet: *Területi letelepítési alternatívák*, 1989.