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THE SECOND REVIVAL?

THE VISEGRÁD GROUP AND THE EUROPEAN MIGRANT CRISIS IN 2015-2017

The aim of this article is to present the Visegrád Group’s position towards the contemporary European migrant crisis. The author seeks to answer two main questions: what is the degree of coherence of the Group’s position and what are the internal factors of the V4’s stance towards the crisis? The article analyses the political situation in the Group’s member states, the V4’s stance towards the earliest propositions concerning the migrant crisis, its fight against the implementation of the mandatory quotas, its stance towards the implementation of the EU’s decisions and internal factors of the V4’s policies. The author argues that although the members of the Group differ in their approach to many international issues, their attitude towards the crisis is very similar.

Key words: Visegrád Group, European migrant crisis, European Union, internal security, external security

INTRODUCTION

In February 2016, Visegrád Group (V4) celebrated the 25th anniversary of its formation. This informal collaboration between the Czech Republic, Hungary, Poland and Slovakia has had its ups and downs. In the first years after 1989, cooperation in the region was greeted with enthusiasm, which began to run out a decade later. In 2000, Polish Minister of Foreign Affairs stated that the V4 is not in bloom, but is not eligible for liquidation either. After 2004, when all four states had become members of the North

Atlantic Treaty Organization (NATO) and the European Union (EU), the importance of cooperation started to be questioned, as *the key objectives of the 1991 Visegrád Declaration were reached.* However, the Group has retained its potential as a platform for cooperation within the EU.

After a few years of stagnation, around 2010 the group *unexpectedly came to life*, as one Polish scholar put it. This was supported by the increasingly active International Visegrád Fund, established in 2000 and contributing to the development of cultural and scientific cooperation between the states. Most importantly, however, the V4 began to gain recognition as a forum for cooperation in the field of internal and external security. The V4 was noticed because of its contribution to the development of the new European Security Strategy, to the building of the EU Battlegroups (for example the establishment of the Visegrád Battlegroup) and the contribution to the Pooling & Sharing and NATO Smart Defence initiatives. In 2012 Polish Minister of Foreign Affairs talked about *building a brand* of the V4. The topic of the V4 became popular. However, the Group members significantly differ in their approach to many crucial is-

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sues such as energy security and relations with Russia.\footnote{P. Pieńkowski, “Europejskie społeczeństwo ryzyka wobec kryzysu na Ukrainie”, \textit{Władza Sądzzenia}, vol. 5 (2015), p. 57.} As for the current migration crisis, the literature suggests that the voice of the V4 is \textit{relatively consistent}.\footnote{A. Chojan, “Grupa Wyszehradzka w polityce zagranicznej Polski – między współpracą a rywalizacją”, \textit{Biuletyn Analiz i Opiniii Zakładu Europeistyki}, vol. 25, no. 4 (2016), p. 9.} The issue of migration even began to be perceived as the key binder of the Group.\footnote{In April 2016 Slovakian Institute for Public Affairs presented the results of a study on 25 years of the V4, as seen from the perspective of the public. One of the questions was: \textit{In your opinion, what are the most important areas of the Visegrád cooperation? Choose three that you find most important?} Surveys were conducted between May and July 2015, when the migration crisis has not been widely commented on. The authors concluded: \textit{At the time of data collection (spring of 2015), the migration crisis has not been the top priority yet, but one can assume that this topic would have had the influence on the prioritisation of cooperation areas} – O. Gyárfášová, G. Mesežníkov, \textit{25 Years of the V4 as Seen by the Public}, Bratislava 2016, p. 13.}

The aim of this article is to present the V4’s position towards the contemporary European migrant crisis and to test these statements. The author seeks to answer two questions: (i) what is the degree of coherence of the Group’s position? and (ii) what are the internal factors of the V4’s stance towards the migrant crisis? It is worth noting that this topic has not been thoroughly elaborated on so far\footnote{See one of the few articles elaborating on the issue: A. Potyrała, “Środkowoeuropejska koalicja niechętnych wobec kryzysu migracyjnego 2015-2016”, \textit{Środkowoeuropejskie Studia Polityczne}, vol. 1 (2016), at <http://dx.doi.org/10.14746/ssp.2016.1.2>.} even though the V4 is a popular subject of scientific inquiries.\footnote{See B. Dančák et al. (eds.), \textit{Two Decades of Visegrád Cooperation. Selected V4 Bibliography}, Bratislava 2011.} This article was created using a historical method. It covers the period from 2015, when the current European migrant crisis started,\footnote{An increasing flow of migration from the Middle East and North Africa to Europe has been visible since 2011-2012.} up to 26 September 2017, when the EU’s relocation scheme ended.\footnote{European Commission, \textit{Relocation – Sharing Responsibility}, 27 September 2017, at <https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20170927_factsheet_relocation_sharing_responsibility_en.pdf>, 25 November 2017.} The final version of the article was submitted in October 2017, shortly before Czech legislative election.

The most important part of the article’s literature is the official Group materials and documents of the EU institutions: the European Council, the European Parliament (the EP), the Council of the European Union (the Council), the European Commission (the EC) and the Court of Justice of the European Union (the CJEU). All the translations in this paper are the author’s unless otherwise indicated.

The article is divided into five parts. It analyses the political situation in the Group’s member states (part 1), the V4’s stance towards the earliest propositions concerning the migrant crisis (part 2), its fight against the implementation of the quotas (part 3), its stance towards the implementation of the two Council’s decisions, 1523 and 1601 (part 4), and internal factors of the V4’s stance towards the migrant crisis (part 5).
1. THE POLITICAL SITUATION IN THE V4 COUNTRIES

In three out of the four V4 member states, there has been no change of government during the period in question. In Hungary, the position of the Prime Minister has been occupied since 2010 by Viktor Orbán, the leader of Fidesz, which ruled alongside a small satellite party, the Christian Democratic People’s Party (KDNP). In 2012, János Áder representing Fidesz became the president of Hungary. In the Czech Republic, the coalition of three parties – the Czech Social Democratic Party (ČSSD), Czechoslovak People’s Party (Česká strana sociálně demokratická, ČDD) and the ANO 2011 (the acronym stands for Akce nespokojených občanů – the Action of Dissatisfied Citizens) – has been in power since 2014. The cabinet has been led by Bohuslav Sobotka (ČSSD). In the same year, Miloš Zeman, a former PM from ČSSD and at the time of the election representing the left-wing Left Party of Civic Rights (SPO), became president. Since 2012, the Slovak government has been led by Robert Fico from Direction – Social Democracy (Smer-sociálna demokracia, Smer-SD). It was the first one-party cabinet of the independent Slovakia. In 2014, the presidential election was won by a non-party candidate Andrej Kiska. After the 2016 parliamentary election, Fico remained in power, but the creation of the government required the establishment of a coalition (see section 4.1).

Conversely, a change of power took place in Poland. The beginning of the European migrant crisis coincided with the double elections in Poland: presidential in May and parliamentary in October 2015. While the EU struggled with heated disagreements concerning relocations of migrants, the eight-year rule of the coalition of Civic Platform (Platforma Obywatelska, PO) and Polish People’s Party (Polskie Stronnictwo Ludowe, PSL) was coming to a close. In the years 2007–2014, the coalition was led by Donald Tusk (PO). Then, after he assumed the office of the President of the European Council on December 1st 2014, he was replaced by Ewa Kopacz (PO). Law and Justice (Prawo i Sprawiedliwość, PiS), the main opposition party, was preparing to take power. The question of the scale of its victory remained open, as did the question as to whether it would succeed (along with two small ally parties) in gaining a majority of seats; still, the defeat of the PO-PSL coalition was considered to be a foregone conclusion. The May presidential election was won by Andrzej Duda (PiS), who defeated the incumbent Bronisław Komorowski (PO).

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2. THE VISEGRÁD GROUP’S STANCE ON THE FIRST PROPOSALS CONCERNING THE MIGRANT CRISIS

2.1. The V4 and the European Agenda on Migration

Although since 2014 a significantly greater inflow of foreigners has been visible,\(^{19}\) it was in 2015 when the issue of migration to Europe has become prominent. As the number of migrants and refugees crossing the Mediterranean Sea kept getting bigger, the word crisis became widely used. A few days after the Charlie Hebdo shooting of January 7\(^{th}\) 2015, Orbán firmly stated that as long as he is PM, Hungary would not accept any migrants.\(^{20}\) Shortly thereafter, Fico and Péter Szijjártó, Minister of Foreign Affairs and Trade, stated that the multiculturalism project had failed and that Slovakia was reluctant to see the arrival of large numbers of Muslims, the rise of mosques and changes in the culture of the country.\(^{21}\) Meanwhile, the Czech government decided to accept 15 Syrian families. At the same time, Milan Chovanec, Minister of Interior, insisted that the government was not interested in hosting large groups of migrants. President Zeman said that even though he supported humanitarian aid, it should be conducted in the affected countries. *Resettlement is not a happy solution, even for the refugees themselves* – he argued.\(^{22}\) In Poland, the discussion about migrants pertained rather to its eastern neighbours. At that time the media and the political elites did not pay much attention to the issue of the Mediterranean migration.

In February 2015, the V4 parliamentary foreign affairs committees issued a joint statement arguing that the efforts to deal with this humanitarian crisis have so far proven insufficient and inadequate. The governments were call to increase the support to sustain the needs of the refugees, internally displaced persons, as well as protect religious minorities, including Christians.\(^{23}\) Foreign ministers of the Visegrád, Nordic and Baltic States who met in March stated that the threat represented by ISIL/Daesh requires a systematic and comprehensive approach as well as long-term commitment covering various areas such as military means, fight against terrorism and radicalization, migration, stabilisation efforts as well as humanitarian assistance.\(^{24}\)


\(^{24}\) *Co-Chairs’ Statement Slovakia and Denmark*. 3\(^{rd}\) *Meeting of Foreign Ministers of the Visegrád, Nordic*
In spring 2015, information on the thousands of migrants entering Europe through the Mediterranean Sea and related tragedies became more apparent in the media. On March 4th, the EC started to work on a comprehensive European Agenda on Migration, as declared by its president, Jean-Claude Juncker. As a candidate for this office, he had argued in 2014 that the EU’s new policy on the issue was needed. The issue of migration was said to be one of the political priorities of Juncker’s Commission.

In April, after a shipwreck claiming the lives of several hundred people, the prime ministers of Malta and Italy called for an extraordinary summit of the European Council. On the next day, the EC presented a ten point action plan on migration prepared by Dimitris Avramopoulos, the European Commissioner for Migration, Home Affairs and Citizenship, at a joint meeting of Foreign Affairs Council (FAC) and Justice and Home Affairs Council (JHA). The sixth point of the document stated that it was necessary to consider options for an emergency relocation mechanism, and the seventh mentioned an EU-wide voluntary pilot project on resettlement. A special meeting of the European Council that took place on April 23rd 2015 confirmed these proposals. The EU member states committed themselves to action in four priority areas for action: fighting traffickers, strengthening the EU’s presence at sea, preventing illegal migration flows, and reinforcing internal solidarity and responsibility. In the last area, the states declared considering options for organising emergency relocation between all Member States on a voluntary basis and setting up the first voluntary pilot project on resettlement across

and Baltic States.


Juncker’s document stated: The recent terrible events in the Mediterranean have shown us that Europe needs to manage migration better, in all aspects. This is first of all a humanitarian imperative. I am convinced that we must work closely together in a spirit of solidarity […]. On the basis of our shared values, we need to protect those in need through a strong common asylum policy. […] I also intend to explore the possibility of using the European Asylum Support Office to assist third countries and Member States authorities in dealing with refugees and asylum requests in emergency situations, where appropriate on the ground in a third country that is particularly concerned – J.-C. Juncker, A New Start for Europe. My Agenda for Jobs, Growth, Fairness and Democratic Change. Political Guidelines for the next European Commission. Opening Statement in the European Parliament Plenary Session, Strasbourg 2014, pp. 9-10. See also idem, My Five Point-Plan on Immigration, Jean-Claude Juncker’s website, 23 April 2014, at <http://juncker.epp.eu/sites/default/files/attachments/nodes/en_02_immigration.pdf>, 10 May 20017.


It meant tripling the resources available to Joint Operation Triton which began on November 1st 2014.
The details were to be announced during the next meeting of the European Council, scheduled for May 13th.

2.2. The European People’s Party and the European Parliament resolution of April 29th 2015

The discussions on a solidary effort to relieve Italy and Greece from the migratory pressure had begun. Although some member states and, at the time, the European Council advocated voluntary approach to the issue, the mechanism of top-down imposed binding quotas had its prominent supporters. Apart from the prime minister of Italy, the country greatly affected by the migration crisis, it was backed by Angela Merkel, the chancellor of Germany, a country which was a very popular migration destination. That was also the position of Juncker, who perceived the outcome of the April special meeting of the European Council as a failure. The member states disagreed with the proposal of an experiment in burden-sharing, based on distributing five to ten thousand migrants; they also did not agree with the proposals of Merkel and Juncker to make the distribution compulsory. Merkel’s proposal was aimed at adopting an algorithm of relocation based on the country’s size and its relative wealth, as well as possibly factoring in unemployment rates and the size of ethnic minority communities. The idea was supported by the European People’s Party (EPP), the party of Merkel, Juncker, Avramopoulos and Tusk. EPP’s Group Bureau favoured binding solidarity mechanism, i.e. a quota for the distribution of asylum seekers once a clear threshold is surpassed. It should take into account the size and population of a country, its economic situation and the number of persons already enjoying protection in the Member State. It should be noted that at the time most of the V4 ruling parties belonged to the EPP: Hungarian Fidesz, both parties ruling in Poland (PO and PSL) and one of the three ruling parties in the Czech Republic (KDU-ČSL). The V4 countries, however, were determined, consistently advocating voluntary participation in the emergency relocation mechanism. Rafał Trzaskowski (PO), Polish Deputy Foreign Minister...


sponsible for European affairs, stated that Warsaw is of the opinion that the division of responsibility must be on a voluntary basis. Poland was in favour of solidarity, but not of decreed solidarity. He went on explaining: It is difficult to imagine any quotas and imposing such obligations on member states, whether on poorer-richer or smaller-larger basis. This issue must be left to the member states.  

On April 29th, the EP adopted a resolution on the latest tragedies in the Mediterranean and EU migration and asylum policies. Its content was a clear indication of the EP intentions. The authors of the document argued that a response to the latest tragedies in the Mediterranean was to be based on solidarity and fair sharing of responsibility. It was highlighted that the need for the EU to step up fair sharing of responsibility and solidarity towards Member States which receive the highest numbers of refugees and asylum seekers in either absolute or proportional terms. At the same time, the EP expressed regret over the lack of commitment from the European Council to setting up a credible EU-wide binding mechanism for solidarity. Although 66.8% of the MEPs supported the resolution, it did not raise enthusiasm among the politicians representing the V4 states.

It was viewed most enthusiastically by Slovaks – 10 out of 13 Slovakian MEPs (77%) supported it, including all four MEPs of the ruling SMER-SD. 10 out of 21 Czechs (48%) supported the resolution, including all three representatives of KDU-ČSL and all four representatives of ČSSD. All four MEPs of ANO 2011, the third coalition partner, voted against the resolution. Hungarian and Polish MEPs treated the resolution less favourably. Only 7 out of 21 Hungarian representatives voted for it (33%). MEPs of ruling Fidesz were divided: 9 abstained, one voted in favour, the other two were absent. The resolution found favour with only five out of 51 Polish MEPs (10%). Out of 23 MEPs of PO and PSL, who were members of EPP, 20 abstained, one voted for, one against, and one was absent. Only the MEPs of Great Britain were more reluctant to the resolution then the Poles.

It is worth noting that the vote on the previous resolution devoted to this issue (resolution on the situation in the Mediterranean and the need for a holistic EU approach to migration), which took place on December 17th 2014, just before the onset of the crisis, did not arouse similar controversy, even though the document contained a call for the EU to step up fair sharing of responsibility and solidarity towards Member States which receive the highest numbers of refugees and asylum seekers in either absolute or proportion-


36 European Parliament resolution of 29 April 2015 on the latest tragedies in the Mediterranean and EU migration and asylum policies, 2015/2660(RSP).

The resolution was then supported by 92% MEPs, including almost all V4 representatives: Slovaks (only one was not present, the rest voted for), Hungarians (one was not present, one did not vote), Czechs (two abstained, one voted against, one did not vote, one was not present) and Poles (5 MEPs representing far-right voted against, one did not vote, one was not present).

2.3. The introduction of the European Agenda on Migration

In May 2015, it was certain that the EU would attempt to introduce a quota mechanism concerning both relocation of migrants staying in Italy and Greece and resettlement of migrants outside of the EU (mainly Syrians staying in neighbouring countries, such as Jordan and Lebanon). As expected, A European Agenda on Migration prepared by the EC introduced the obligatory distribution key. It was based on four criteria: 1) the size of the population (40%), 2) total GDP (40%), 3) the average number of spontaneous asylum applications and the number of resettled refugees per 1 million inhabitants over the last years (10%), and 4) unemployment rate (10%). In 2016, the member states were to distribute among themselves 20,000 migrants in the resettlement procedure and an undetermined number in relocation.

According to the EC, the V4 states would be responsible for 10.5% of that number in resettlement and 11.6% in relocation procedures. In both cases, most of the migrants would be received by Poland and Czech Republic. The EC was to present detailed solutions by the end of May. On May 27th, the EC has adopted the first package of proposals following the Agenda. It upheld the number of 20,000 migrants in the resettlement procedure and established the number of 40,000 migrants in the relocation procedure (24,000 from Italy and 16,000 from Greece). The procedure would be conducted over two years. The division of migrants among the V4 states as proposed by the EC in May 2015 is shown in the table below.

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41 Ibid., pp. 19-22.
43 For detailed study on the distribution of migrants in years 2015-2016 see A. Adamczyk, “Kryzys imigracyjny w UE i sposoby jego rozwiązania”, Przegląd Polityczny, no. 3 (2016), at <http://dx.doi.org/10.14746/pp.2016.21.3.3>.
Tab. 1. The division of migrants among the V4 states as proposed by the EC on May 13th and May 27th 2015

<table>
<thead>
<tr>
<th></th>
<th>Relocation (number)</th>
<th>Relocation (% out of 40,000)</th>
<th>Resettlement (number)</th>
<th>Resettlement (% out of 20,000)</th>
<th>Relocation + Resettlement (number)</th>
<th>Relocation + Resettlement (% out of 60,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>2659</td>
<td>6.6</td>
<td>962</td>
<td>4.8</td>
<td>3621</td>
<td>6</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>1328</td>
<td>3.3</td>
<td>525</td>
<td>2.6</td>
<td>1853</td>
<td>3.1</td>
</tr>
<tr>
<td>Hungary</td>
<td>827</td>
<td>2.1</td>
<td>307</td>
<td>1.5</td>
<td>1134</td>
<td>1.9</td>
</tr>
<tr>
<td>Slovakia</td>
<td>785</td>
<td>2</td>
<td>319</td>
<td>1.6</td>
<td>1104</td>
<td>1.8</td>
</tr>
<tr>
<td>V4</td>
<td>5599</td>
<td>14</td>
<td>2113</td>
<td>10.5</td>
<td>7712</td>
<td>13</td>
</tr>
</tbody>
</table>


Although most of the EC propositions included in the Agenda and in the first implementation package such as the action plan concerning migrant smuggling, the obligation to take fingerprints, a public consultation on the future of the Blue Card Directive and the New Operational Plan for Operation Triton were supported by the V4 member states, the Group referred to the EC’s proposals negatively and held a common position until September: yes to help migrants outside the EU, no to distribution key and imposing top-down quotas. The Group consequently demanded that refugees and eco-

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nomic migrants would be distinguished and treated separately. Receiving the later was out of question. This stance of the V4 met with a cold reception from the EU leaders.

Particular indignation was caused by the construction of a fence on the Hungarian-Serbian border, which meant shutting the main route for migrants heading for Western Europe, announced by the Orbán government on June 17th 2015. Apart from that, a new law was introduced, making illegal crossing of the border fence and damaging or hindering its construction criminal offences. Three months later, the construction of the wall on the Hungarian-Croatian border started as well. On June 23rd, Budapest ordered an indefinite suspension of the acceptance of illegal migrants from the other EU member states under the Dublin Regulation. The government’s spokesperson stated clearly: We are full.

In June, the prime ministers of the V4 countries held a summit with the president of France. The sides agreed that the problem of migration can only be addressed comprehensively through the adoption of both short and long-term measures. The leaders of the five countries jointly stressed that although they welcomed the actions undertaken by the EU, they opposed the obligatory quotas. I do not think it is the right method, said François Hollande. They declared European solidarity and expressed high hopes for the forthcoming summit of the European Council scheduled for 25-26 June. Just before the summit, Fico pondered if a referendum would be needed to stop the quotas.

During the summit, the other states, for example France, Spain, United Kingdom, and Lithuania, also expressed similar doubts about the obligatory quotas. Eventually, the voluntary basis was maintained despite the emotional opposition of Italy and Greece and Germany’s mediation attempts. By the end of July, the states were to con-

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sensually decide on how to share the migrants. Kopacz said that Poland had reached its intended target. The Hungarian government spokesperson called the success of the Visegrád countries an achievement in itself. The June summit took place in a tense atmosphere; the media reported the opposition of the Italian Prime Minister loudly demanding the adoption of the mandatory quotas and the dispute between Tusk and Juncker. The former supported the V4 postulates, whereas the latter strongly advocated the mandatory mechanism.

3. THE VISEGRÁD GROUP AND THE TWO EMERGENCY RELOCATION SCHEMES

3.1. The Visegrád Group’s proposals concerning reallocation and resettlement. The first relocation scheme

On July 20th, 2015, JHA agreed by consensus on the distribution of 32,256 migrants within the relocation procedure. As for the remaining 7,744 people, the member states were to reach an understanding by the end of the year (however, they still did not). Poland and the Czech Republic declared that they would accept 1,100 migrants each, Slovakia – 100, and Hungary – none, being the only state, apart from Austria, which decided not to participate in the procedure. Within the resettlement procedure, the member states agreed to accept 22,504 migrants. Poland was to receive 900 people, the Czech Republic – 400, Slovakia – 100, Hungary – none, being the only state which had made that decision. The whole relocation process was planned for two years. The table below shows the V4 share of migrants.

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Tab.2. The first relocation and the resettlement of migrants among the V4 states as proposed by the Czech Republic, Hungary, Poland, and Slovakia on July 20th 2015

<table>
<thead>
<tr>
<th></th>
<th>Relocation (number)</th>
<th>Relocation (% out of 32,256)</th>
<th>Resettlement (number)</th>
<th>Resettlement (% out of 22,504)</th>
<th>Relocation + Resettlement (number)</th>
<th>Relocation + Resettlement (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>1100</td>
<td>3.4</td>
<td>900</td>
<td>4</td>
<td>2000</td>
<td>3.6</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>1100</td>
<td>3.4</td>
<td>400</td>
<td>1.8</td>
<td>1500</td>
<td>2.7</td>
</tr>
<tr>
<td>Hungary</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Slovakia</td>
<td>100</td>
<td>0.3</td>
<td>100</td>
<td>0.4</td>
<td>200</td>
<td>0.4</td>
</tr>
<tr>
<td>V4</td>
<td>2400</td>
<td>7.1</td>
<td>1400</td>
<td>6.2</td>
<td>3700</td>
<td>6.7</td>
</tr>
</tbody>
</table>

The author’s calculations are based on the following sources: Council of the European Union, *Outcome of the Council Meeting 3405*\(^6\) *Council meeting Justice and Home Affairs*, Brussels, 20 July 2015, 11097/15 (OR. en), Provisional Version, Presse 49 PR CO 41, pp. 4-5, 7-8.

For the time being, it was only a draft – the final decision was to be made at the next Council meeting. Warsaw announced its readiness to accept migrants.\(^58\) Out of the V4 countries, Poland was most open to do so, but still far from being enthusiastic. Although initially reluctant, Poland finally gave in to Germany’s *thinly veiled blackmail* that Southern Europe will not be willing to maintain EU’s sanctions against Russia if Poland *does not demonstrate solidarity with Italy and Greece*. Warsaw also counted on the other member states to distribute all migrants among themselves, but that did not happen.\(^59\)

In August 2015, the Slovak PM announced that Bratislava would only accept Syrian Christians, which caused great controversy. On the other hand, Slovakia agreed to temporarily house 500 asylum seekers from Austria. They were supposed to return to Austria later on or be deported from the EU.\(^60\) Robert Kaliňák, Slovak minister of the interior


and deputy PM, explained that Bratislava wanted to demonstrate solidarity and repay its debts to Vienna, which had helped Slovakia before, for example in the case of the accession to the Schengen area. In a local referendum, the residents of Gabčíkovo, a small town near Hungarian and Austrian borders where migrants were to be relocated, almost unanimously opposed their reception. However, the referendum was non-binding. The Slovak authorities did not change their minds and migrants came to Gabčíkovo.

However, it soon became clear that the number of 40,000 was insufficient and that the Commission and the countries concerned would strive to expand the relocation. On August 24th, Berlin suspended the Dublin Regulation for Syrian refugees, allowing migrants to apply for asylum even if Germany was not their first EU country of entry. A week later, chancellor Merkel famously stated: we can do it!, stressing that Germany could handle arriving migrants. The same opinion was expressed earlier by Sigmar Gabriel, the vice-chancellor of Germany from Merkel’s CDU coalition partner, Social Democratic Party Germany (Sozialdemokratische Partei Deutschlands, SPD). Then, on September 4th, Germany opened its borders to migrants staying in Hungary.

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65 This most famous quote about the migration crisis is often presented without its context. Precisely what Merkel said was: Germany is a strong country. Our guiding motivation as we address these issues has to be: We achieved so much – we can do it! We can do it, and where we face an obstruction, we have to overcome it by working on it. […] Then there is a European dimension, and here I believe that we may say: Europe as a whole must move together. […] If Europe fails at the refugee problem, its tight connection to universal civil rights will break. It will be destroyed and that Europe will no longer be the one we imagine […] the one that we must continue to develop even today as our founding myth our founding myth (translation by Helga Druxes) – H. Druxes, P.A. Simpson, “Pegida as a European Far-Right Populist Movement”, German Politics and Society, vol. 34, no. 4 (2016), p. 15, at <http://dx.doi.org/10.3167/gps.2016.340401>; “Merkel: ‘Deutschland ist ein starkes Land’”, Stern, 31 August 2015, at <http://www.stern.de/politik/deutschland/angela-merkel--deutschland-ist-ein-starkes-land-6427648.html>, 10 May 2017; “Wir schaffen das’ war eigentlich Gabriels Idee”, Die Welt, 1 September 2016, at <https://www.welt.de/politik/deutschland/article157920725/Wir-schaffen-das-war-eigentlich-Gabriels-Idee.html>, 10 May 2017.

67 K. Than, I. Preisinger, “Austria and Germany Open Borders to Migrants Offloaded by Hungary”, Reu-
At the end of summer 2015, the government of Kopacz, being pressured by the EU and threatened with an increasingly raised issue of sanctions for evading obligations concerning the migrant crisis, was becoming more accustomed to the thought of accepting more migrants. The upcoming parliamentary election did not favour coming up with a comprehensive plan. The Polish foreign minister suggested that a revision of the Polish position was possible, but the principle of solidarity should apply to all of the EU policies. At the time, PiS, the main opposition party and the leader in the polls, presented a stance close to that of the ruling coalition of PO and PSL. The postulate of receiving 2,000 migrants did not cause a huge controversy among the Polish opposition. Just like the government and president Komorowski, PiS firmly advocated voluntary approach to the relocation and the separation of refugees and economic migrants. One of the members of the government led by Kopacz told a reporter: *Maybe in the same way we can agree that if the Minsk agreement is broken, then the Commission will decide that the Germans or the French send two brigades to Poland. They will probably not agree.*

Before the decision of July 20th could be adopted, the EP’s opinion was required. On September 9th, the resolution was supported by 72% of MEPs including only 25 out of 106 of V4’s representatives (though only nine of them represented ruling parties; six Poles from PO and three Slovaks from Smer-SD). Having obtained the EP’s approval, an extraordinary meeting of JHA held on September 14th decided by unanimous vote on establishing provisional measures in the area of international protection for the benefit of Italy and of Greece. The JHA decision 1523 of September 14th did not raise huge controversies as it was reached by consensus and participation in the scheme was – at least technically speaking – voluntary. The same cannot be said about the second re-location scheme, which shortly followed.

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3.2. The widening of the relocation and the reintroduction of the EC’s binding quotas – the second relocation scheme

On September 9th, the EC presented the second implementation package following the European Agenda on Migration. It consisted of the following proposals: 1) An emergency relocation proposal for 120,000 refugees from Greece, Hungary and Italy; 2) A Permanent Relocation Mechanism for all Member States; 3) A common European list of Safe Countries of Origin, 4) Making return policy more effective; 5) Communication on Public Procurement rules for Refugee Support Measures; 6) Addressing the external dimension of the refugee crisis; and 7) A Trust Fund for Africa.73

The first proposal reintroduced the obligatory distribution key based on the indicators included in the Agenda (see 1.4). To the quota of 40,000 migrants who were to be relocated from Italy and Greece as established in the first relocation scheme, the EC sought to add another 120,000 who were to be relocated from Italy (15,600), Greece (50,400) and Hungary (54,000). The relocation would be accompanied by €780 million EU budget support for participating Member States, including a 50% pre-financing rate to ensure that governments on national, regional and local level have the means to act very swiftly. Also a temporary solidarity clause, a gate which would make the process more elastic and reduce the resistance of reluctant states, was to be established. The document stated that if, for justified and objective reasons such as a natural disaster, the EU’s member would not temporarily participate totally or in part in a relocation decision, it will have to make a financial contribution to the EU budget of an amount of 0.002% of its GDP. Then the EC would analyse the reasons notified by the country and take a decision on whether or not they justify the non-participation of a country in the scheme for a maximum of up to 12 months. In case of partial participation in the relocation, the amount will be reduced in proportion. The second proposal applied the same objective and verifiable distribution criteria as in 1); likewise it included a temporary solidarity clause.74

The V4 leaders met a few days before the EC’s new proposals were published and stressed the need for preserving the voluntary nature of EU solidarity measures. Also, they appealed: the EU must focus on a constructive dialogue leading to effective common action and avoid any mutual accusations.75 Yet in the next couple of days, Prime Minister Kopacz said that Poland would consider increasing its involvement. The reaction of the Czech Republic and Slovakia to the imposed quotas remained categorically negative. In the Czech Republic, the PM, the president and the leader of the largest opposition


74 European Commission, Proposal for a Council decision establishing provisional measures in the area of international protection for the benefit of Italy, Greece and Hungary, Brussels, 9 September 2015, COM(2015), 451 final, 2015/0209(NLE), p. 15; European Commission – Press release. Refugee Crisis...

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party, Civic Democratic Party (Občanská demokratická strana, ODS), were speaking with one voice. This common position of the ruling social democrats and Christian democratic opposition was a rare case. The situation was similar in Slovakia where the ruling coalition and the main opposition parties found a common ground. President Kiska, however, had a different, more favourable view on accepting the migrants. The Czechs and Slovaks did not reject the EC proposals *en bloc*; for example, the Slovak foreign minister acknowledged the *need for solidarity and assistance* and *strengthening of the return policy*. He sought to address the causes of the crisis, i.e. to undertake actions in third countries. However, the mandatory quota system was unacceptable.76

Orbán, on the other hand, did not only reject the possibility of accepting imposed quotas, but also stressed that Hungary would not agree to the relocation of 54,000 migrants from their soil. Before the publication of the EC’s document, when the proposal was referred to in *Die Welt*, a Hungarian PM called it *a bluff*.77 When it turned out to be official, he dismissed it altogether. An anonymous source claimed that the Hungarian government thought that the EC’s plan is *only of superficial help*. They argue that the result of the first relocation scheme in May only served as an invitation for more asylum seekers to come, so they disagree with the whole scheme.78 The table below presents the quotas proposed by the EC in September.


Tab.3. The relocation of migrants among the V4 states as proposed by the EC on September 9th 2015

<table>
<thead>
<tr>
<th></th>
<th>Relocation – EC’s September proposal (number)</th>
<th>Relocation – EC’s September proposal (% out of 120,000)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>9287</td>
<td>7.7</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>2978</td>
<td>2.5</td>
</tr>
<tr>
<td>Hungary</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>Slovakia</td>
<td>1502</td>
<td>1.2</td>
</tr>
<tr>
<td>V4</td>
<td>13767</td>
<td>11.5</td>
</tr>
</tbody>
</table>


On September 17th, the EC’s proposal was approved by the EP. Although the Council decision gained support of the two thirds of the Parliament, it received little applause among the V4’s MEPs. Only 11 out of 106 representatives of the Group voted for (four Czechs, four Poles, and three Hungarians) and among them there were only four MEPs representing the ruling parties (three Poles from PO and one Czech from KDU-ČSL).79

3.3. The final decision on the second relocation scheme

The Commission’s proposals were the subject of a debate during the extraordinary JHA Council, which took place on September 22nd 2015. Unlike the first relocation, which was voluntary and consensual, the second one, mandatory and based on imposed quotas, was a subject of controversy. Despite the objections of some member states, the proposals of the EC were accepted, and the JHA decision 1601 of September 22nd was adopted. The scheme would last till September 26th 2017. The ministers of the Czech Republic, Hungary, Romania and Slovakia voted against the decision, and the Finnish minister abstained. The vote split the Group, with Poland unexpectedly backing the decision on the second relocation scheme.80 Due to Budapest’s refusal to take part in the scheme, it was limited to migrants staying in Greece and Italy. Thus the number of migrants who were to be relocated was significantly smaller (see below). Unlike


the previous proposal, the decision 1601 obligated the Hungarians to host more than thousand migrants from Greece and Italy. The Council’s decision did not mention the algorithm – in accordance with the V4 postulates, automatism was rejected and any subsequent emergency relocation would require member states’ decision. However, the fact that the resolution was adopted by a qualified majority vote made it look as imposed rather than the result of compromise. Minister Chovanec stated that the decision is a hasty move. In his opinion, major policy decisions such as this should be adopted by consensus.\footnote{Proposal for a Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy, Greece and Hungary – First Reading, Adoption of the Legislative Act, VoteWatch Europe, 22 September 2015, at \textasciilast={[http://www.votewatch.eu/en/term8-proposal-for-a-council-decision-establishing-provisional-measures-in-the-area-of-international-protection.html](http://www.votewatch.eu/en/term8-proposal-for-a-council-decision-establishing-provisional-measures-in-the-area-of-international-protection.html)}, 10 May 2017.} Later, Warsaw announced its satisfaction noting that its postulates such as the separate treatment of refugees and economic migrants, the protection of the EU’s external borders and the preservation of the freedom of distribution of migrants were agreed upon.\footnote{Informacyjna Agencja Radiowa, Polska Agencja Prasowa, “UE przegłosowała decyzję o podziale imigrantów. Polska cofnęła swój sprzeciw”, PolskieRadio.pl, 22 September 2015, at \textasciilast={[http://www.polskieradio.pl/5/3/Artykul/1509225,UE-przeglosowala-decyzje-o-podziale-imigrantow-Polska-cofnela-swoj-sprzeciw](http://www.polskieradio.pl/5/3/Artykul/1509225,UE-przeglosowala-decyzje-o-podziale-imigrantow-Polska-cofnela-swoj-sprzeciw)}, 10 May 2017.} The Polish deputy foreign minister Trzaskowski explained that the V4 states had adopted different tactics. Due to the lack of a blocking minority and thus having no way of obstructing the decision, Poland decided that it was better to negotiate its terms. On the other hand, Hungary, Slovakia and the Czech Republic sought to demonstrate their dissatisfaction with the fact that the JHA decision took the solution to the migrant crisis out of the member states’ hands. Nonetheless, when it came to the merits of the issue, Trzaskowski ensured that the Group was in absolute agreement.\footnote{M. Mikulska, “Trzaskowski: Grupa Wyszehradzka będzie współpracować”, \textit{Rzeczpospolita}, 23 September 2015, at \textasciilast={[http://www.rp.pl/Dyplomacja/309239751-Trzaskowski-Grupa-Wyszehradzka-bedzie-wspolpracowac.html#ap-1](http://www.rp.pl/Dyplomacja/309239751-Trzaskowski-Grupa-Wyszehradzka-bedzie-wspolpracowac.html#ap-1)}, 10 May 2017; “Rafał Trzaskowski: Polska przyjmie 4,5 tysiąca uchodźców”, Interia.pl, 22 September 2015, at \textasciilast={[http://fakty.interia.pl/raporty/raport-imigranci-z-afryki/informacje/news-rafal-trzaskowski-polska-przyjmie-4-5-tysia-uchodzcow,nId,1890520](http://fakty.interia.pl/raporty/raport-imigranci-z-afryki/informacje/news-rafal-trzaskowski-polska-przyjmie-4-5-tysia-uchodzcow,nId,1890520)}, 10 May 2017.} It is true that the stance of Poland did not cause any substantial changes – the decision 1601 would have been adopted despite the opposition from Warsaw.\footnote{Proposal for a Council Decision Establishing Provisional Measures in the Area of International Protection for the Benefit of Italy, Greece and Hungary – First Reading, Adoption of the Legislative Act, EUobserver, 22 August 2015, at \textasciilast={[http://europe.europa.eu/eur-lex/en/lsg/130374.html](http://europe.europa.eu/eur-lex/en/lsg/130374.html)}, 10 May 2017. See also “EU poślę na Bliski wód miiliardu eur, ‘polska zrada’ Visegrádu byla zapomenuta” , \textit{Lidové Noviny}, 23 August 2015, at \textasciilast={[http://www.lidovky.cz/polska-zrada-byla-zapomenuta-Visegrad-predvedel-pred-klicovym-summitem-jednotu-gcu-/zpravy-svet.aspx?c=A150923_215448_Ln_zahranici_ELE](http://www.lidovky.cz/polska-zrada-byla-zapomenuta-Visegrad-predvedel-pred-klicovym-summitem-jednotu-gcu-/zpravy-svet.aspx?c=A150923_215448_Ln_zahranici_ELE)}, 10 May 2017.} All the same, it held symbolic significance as for the first time the V4’s position on the fundamental issue of migration was not consistent. Minister Chovanec expressed his disappointment and wondered if that meant that the V4 would become V3.\footnote{N. Nielsen, E. Zalan, “EU Forces ‘Voluntary’ Migrant Relocation on Eastern States”, EUobserver, 22 August 2015, at \textasciilast={[http://euobserver.com/migration/130374](http://euobserver.com/migration/130374)}, 10 May 2017.} Poles were criticised by president Zeman and Czech first deputy PM Andrej Babiš wondered if
the Group still existed. The Group met the next day during an extraordinary informal meeting of the heads of state or government convened by Tusk. In the published joint statement, the V4 presented its priorities (among others strengthening of the EU’s external borders and adopting the list of safe countries of origin) while encouraging the EC to present a detailed and realistic implementation roadmap.

Media all over the world commented on the remarks of the irritated Slovak PM. He called the outcome of JHA a dictate of the majority and stated: We have been refusing this nonsense from the beginning, and as a sovereign country we have the right to sue. Both the Czech Republic and Slovakia considered taking legal action, challenging the Council’s decision in the CJEU. The Czechs eventually withdrew but the Slovak lawsuit was filed on December 2nd 2015 (case C-643/15). The next day, the Hungarians joined in, challenging the decision (case C-647/15). The hearing took place on May 10th 2017. Poland took part in it as an intervener in support of the applicants. A non-binding opinion of the Advocate General, which was delivered on 26 July 2017, proposed that the Court should dismiss both actions. Expectedly, on 6 September 2017 the Grand Chamber of the CJEU agreed with that opinion, arguing that the Council could adopt the decision by a qualified majority.

The table below illustrates the number of migrants to be relocated to the V4 countries on the basis of the JHA’s decision of September 22nd.

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91 Action brought on 3 December 2015 – Hungary v Council of the European Union (Case C-647/15).


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Tab.4. The second relocation among the V4 states as decided by the JHA on 22 September 2015

<table>
<thead>
<tr>
<th></th>
<th>Relocation – JHA’s September decision (number)</th>
<th>Relocation – JHA’s September decision (% out of total 65,999)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>5082</td>
<td>7.7</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>1591</td>
<td>2.4</td>
</tr>
<tr>
<td>Hungary</td>
<td>1294</td>
<td>2</td>
</tr>
<tr>
<td>Slovakia</td>
<td>802</td>
<td>1.2</td>
</tr>
<tr>
<td>V4</td>
<td>8769</td>
<td>13.3</td>
</tr>
</tbody>
</table>


In total, the JHA agreed on the relocation of 160,000 migrants; 40,000 within the first relocation scheme (the Council’s decision 1523 of September 14th) and additional 120,000 within the second (the Council’s decision 1601 of September 22nd). However, at that point the states were willing to distribute among themselves only 60% of that number.

As already mentioned, member states did not agree on 7,745 places within the first relocation scheme, and they remained unallocated. Within the second scheme only 65,599 out of 120,000 migrants were to be relocated. The remaining 54,000 places, previously dedicated to relocation from Hungary, were to be divided at a later time, following the next decision of the Council. However, in September 2016, as a follow-up to the EU-Turkey deal on migrant crisis (which the V4 supported and wanted to use as a template of cooperation with third countries95), it was determined that those places will be used for resettlement from Turkey rather than relocation within the EU.96

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cision to use those places for additional resettlements was adopted by the Council on 29 September 2016.97 Thus, in total, 98,255 migrants were to be relocated: 32,256 according to the decision 1523 and 65,999 according to the decision 1601.98 Therefore, the proposals concerning the relocation shown in tables 1 and 3 are not binding. Only the numbers on which the member states agreed upon in July (table 2) and September (table 4) 2015 are considered as such. As far as resettlement is concerned, the quotas of July 20th 2015 still apply (table 2).

4. THE VISEGRÁD GROUP’S STANCE TOWARDS IMPLEMENTATION OF THE COUNCIL’S DECISIONS


The topic of the migration crisis played an important role in Polish and Slovakian campaigns of 2015 and 2016. As widely predicted, the Polish parliamentary election of October 2015 was won by PiS and its satellites, the United Poland (Solidarna Polska, SP) and Poland Together – United Right (Polska Razem – Zjednoczona Prawica, PR). On November 6th, Beata Szydło from PiS became the new PM. As a candidate for this position, Szydło had called the decision of September 22nd a scandal which threatened the security of Poland. In her opinion, the government of Kopacz deceived the Visegrád countries. Furthermore, she acknowledged that the decision could serve as a precedent in subsequent years, which would allow the EU to impose additional numbers of migrants on Poland and other countries.99 Despite these harsh words, Szydlo’s government initially decided to uphold its predecessors’ commitment to receive migrants. According to the prepared but finally abandoned regulation, in 2016 no more than 400 people were to come to Poland.100 However, Szydlo stressed that this applied strictly to refugees fleeing from war-torn countries and not economic migrants.101

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98 A. Adamczyk, “Kryzys imigracyjny w UE…”, p. 53.
100 Projekt rozporządzenia Rady Ministrów w sprawie relokacji cudzoziemców w roku 2016, 12 January 2016.
In February 2016, MPs of the ruling PiS presented a draft of a resolution on Poland’s immigration policy. Not only did it negatively evaluate the decisions of the JHA of September 22nd, but it also criticised the government of Kopacz for supporting it contrary to the other Visegrád countries and Romania. PO and PSL, opposition parties at the time, contested the draft but PiS had the majority. It was passed on April 1st. It was expected that the PiS victory in the elections of 2015 would contribute to tightening of Poland’s cooperation within V4. That was also the position of president Duda. During the debate with the incumbent president Komorowski supported by PO, he stated: *We should return to work within the Visegrád Group, which needs to be renewed. I think that Poland could take the initiative here.* Poland’s support of the complaints brought to CJEU by Slovakia and Hungary sent an important political signal.

As it has already been mentioned, Smer-SD won the election once again in March 2016 and Fico remained prime minister, this time leading the coalition government. The campaign slogan of Smer-SD, *We Protect Slovakia* (*Chráňme Slovensko*), obviously referred to the migration crisis and the adamant position of the Slovakian government. The PM explained that the migrants pose a threat to his country and clearly stated in January 2016: *Not only are we refusing mandatory quotas, we will never make a voluntary decision that would lead to formation of a unified Muslim community in Slovakia.* Furthermore, the decision on challenging the relocation mechanism should be read in the context of the pre-election campaign. It is also worth pointing out that People’s Party – Our Slovakia (*Ludová strana – Naše Slovensko, ĽSNS*), a far-right,
anti-immigration party led by radical Marian Kotleba, came fifth in the election (8%), for the first time gaining parliamentary seats.

4.2. The migrant quota referendum in Hungary and the attempt to change the Hungarian constitution (2016)

In September 2016, Orbán undertook two initiatives. Firstly, he called for the quota referendum, which took place on October 2nd. The Hungarians were asked one straightforward question: *Do you want the European Union to be entitled to prescribe the mandatory settlement of non-Hungarian citizens in Hungary without the consent of the National Assembly?* The results were easy to predict: 98% of the Hungarians (3.36 million voters) answered negatively. Only 1.64% (56,163 voters) voted *yes.* The turnout, however, was only 44% and according to *The Fundamental Law of Hungary,* only decisions taken on a valid and conclusive referendum shall be binding on the National Assembly. A referendum is to be regarded as conclusive if more than half of those voting validly have given the same answer to a question, and as valid if more than half of all voters have cast valid votes. Therefore, the first condition was met, but the second was not.

A few days after the announcement of the results of the referendum, Orbán launched the second initiative putting forward a proposal to amend the constitution. Among a couple of changes, there was the crucial one introducing the law that would prohibit non-Hungarians (with the exception of the citizens of the countries of the European Economic Area) from living in Hungary. They would only be able to settle down in Hungary on the basis of individual requests which would be processed by the authorities according to a specific procedure. The introduction of this law would block the possibility of receiving groups of migrants as each case would have to be dealt with separately. In the justification of the project, its authors expressly referred to the will of more than 3 million Hungarians who voted *no* in the referendum. A couple of weeks later, the Hungarian PM threatened to sue the EC if the mandatory quotas were to be introduced once again. Amending the Hungarian constitution requires support of the two-thirds of the votes (133) in the National Assembly. In November 2016, the

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112 “Orbán beszélt az állami rádióban, és mintha kissé ingerült lenne”, Népszava, 28 October 2016, at
amendment was supported by only 131 parliamentarians and the fundamental law remained unchanged.\textsuperscript{113}

\textbf{4.3. The Dublin plus and the Concept of Flexible (Effective) Solidarity}

Facing massive resistance to the mandatory quotas while observing little progress on the relocation and resettlement, in May 2016 the EC presented its proposal of a complex reform of the Common European Asylum System, which included amending the Dublin Regulation (the so called \textit{Dublin plus}). It introduced the \textit{corrective allocation mechanism}. It would be triggered automatically where the number of applications for international protection for which a Member State is responsible exceeds 150\% of the figure identified in the reference key. The key would be based on two criteria with equal 50\% weighting, the size of the population and the total GDP of a Member State. States not willing or able to participate in the corrective allocation would be required to make a solidarity contribution of EUR 250,000 per applicant to the Member States that were determined as responsible for examining those applications.\textsuperscript{114} Although the document did not present it this way, this amount was commonly commented as a ‘penalty’. Not surprisingly, the reaction of the V4 was unequivocally negative.\textsuperscript{115} Both the ruling parties and the opposition expressed their objection.\textsuperscript{116}

In September 2016, the V4 responded putting forward a concept called \textit{flexible solidarity} which would enable Member States to decide on specific forms of contribution taking into account their experience and potential. Furthermore any distribution mechanism should be voluntary.\textsuperscript{117} Shortly after that Fico announced that the quotas which divide the EU are, in his opinion, \textit{politically finished}.\textsuperscript{118} Although initially greeted with en-

\begin{flushleft}
\footnotesize{\textsuperscript{113} About motives of Jobbik, Politics Can Be Different (Lehet Más a Politika, LMP ) and Hungarian Socialist Party, which did not support the amendment, see for example S. Dull, “Leszavazták Orbán Vik-tor alkotmánymódosítását”, Index.hu, 8 November 2016, at <http://index.hu/belfold/2016/11/08/szavazas_az_alkotmanymodositasrol>, 10 May 2017.}
\footnotesize{\textsuperscript{114} European Commission, \textit{Proposal for a Regulation of the European Parliament and of the Council establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)}, Brussels, 4 May 2016, COM(2016) 270 final, 2016/0133 (COD), pp. 18-19.}
\footnotesize{\textsuperscript{115} Joint Declaration of the Visegrád Group Prime Ministers...}
\end{flushleft}
thusiasm by both Christian democrats and socialists, it quickly became criticized by some countries of Southern Europe which argued that the only plausible solution was an automatic relocation procedure triggered by the increased migration pressure.

Between July and December 2016, the presidency of the Council of the European Union was held by Slovakia. Bratislava wanted to seize the opportunity and push the idea of flexible solidarity at the EU summit scheduled on December 15th 2016. Thus, the concept was expanded, redesigned and renamed to effective solidarity. In mid-November, Slovakia presented a document entitled Effective Solidarity: A Way Forward on Dublin Revision. It introduced three different mechanisms dedicated to dealing with three stages of migration: normal, deteriorating, and severe circumstances. Under normal circumstances, the system would operate under the same rules. If deteriorating circumstances occurred, the member states would be required to relocate a well-defined proportion of applicants or to help the state affected by the problem in a different way, from specific financial contributions to tailor-made wider contributions relevant for both the internal and external migration field (for example joint return operations, joint processing of applications, sharing reception facilities during the process of examining the applications and increased contributions to the European Border and Coast Guard and the European Asylum Support Office). In severe circumstances, the EC (note: not the Council) should decide on additional supportive measures, on a voluntary basis. A couple of days later, the V4 also established the Migration Crisis Response Mechanism (MCRM), aimed at creating new or enhancing existing links between the Participating States’ governmental institutions responsible for migration. It was to be coordinated by Poland and open for all EU Member States willing to participate.

While the Slovakian proposal gained the support of the rest of the V4, most of the other EU member states remained unconvinced. As expected, it was opposed by several states, particularly Italy, Greece and Germany. The December summit ended without a conclusion in this regard. The debate on the effective solidarity was to be continued in the forthcoming months. Zsuzsanna Végh accurately pointed out that


the approach of the V4 in replacing relocation with alternative measures is essentially not much different from the Commission’s proposal, as the effective solidarity would require to put a ‘price tag’ on individuals not relocated for the system to be in any way manageable.\textsuperscript{125} If so, then what was the point of the proposal? Firstly, it could be seen as a tool of political marketing, an attempt to respond to the weakening image of the V4 in the EU.\textsuperscript{126} Because the Group is often criticised for not articulating an alternative to the Commission’s proposals, which it often opposes,\textsuperscript{127} it may be perceived as just that. Secondly, the symbolic value of the Slovakian proposal should be taken into consideration. Bratislava and its supporters signalled that the solution to the migration problem should be formulated bottom-up rather than be orchestrated by the EC. Thirdly, the emphasis put on the role of the European Council and not the Council in severe circumstances signals confidence that the key decisions concerning the relocation should be carried unanimously and not voted by a qualified majority like on September 22\textsuperscript{nd} 2015.

4.4. Relocating and resettling migrants among the V4 states – the state of play

The V4 countries are not willing to meet their obligations to receive relocated migrants. As of May 2017, they had accepted only 0.2\% of the migrants within the relocation and 3.7\% within the resettlement. The table below shows the number of migrants received by the V4 states under the relocation and resettlement programs.


\textsuperscript{126} Ł. Ogrodnik, “Grupa Wyszehradzka z perspektywy Słowacji”, Biuletyn Polskiego Instytutu Spraw Międzynarodowych, no. 37 (1479), 11 April 2017, p. 2.

\textsuperscript{127} For example Anne Applebaum stated that the V4 became an initiative of one single case, and that the Group does not have a positive project for Europe. S. András, A. Applebaum, “Ezért nem állok szóba magyarokkal – Anne Applebaum a Mandinernek”, Mandiner, 18 April 2016, at <http://mandiner.hu/cikk/20160417_ezert_nem_allok_szoba_magyarokkal_anne_applebaum_interju_mandiner>, 10 May 2017.
Tab.5. The relocation and resettlement of migrants among the V4 states: the final numbers and the state of play as of September 6th 2017

<table>
<thead>
<tr>
<th></th>
<th>The first relocation scheme – the decision of September 14th, 2015</th>
<th>The second relocation scheme – the decision of September 22nd, 2015</th>
<th>Relocation – total (number)</th>
<th>Relocation – total (% from the 98,255)</th>
<th>Resettlement number agreed by the V4 on July 20th, 2015</th>
<th>Resettlement (% from the 22,504)</th>
<th>Relocation + Resettlement (number)</th>
<th>Relocation – state of play as of September 6th, 2017 (%)</th>
<th>Resettlement – state of play as of September 6th, 2017 (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Poland</td>
<td>1100</td>
<td>5082</td>
<td>6182</td>
<td>6.3</td>
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<td>4</td>
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</tr>
<tr>
<td>Czech Republic</td>
<td>1100</td>
<td>1591</td>
<td>2691</td>
<td>2.7</td>
<td>400</td>
<td>1.8</td>
<td>3091</td>
<td>0.4</td>
<td>13</td>
</tr>
<tr>
<td>Hungary</td>
<td>0</td>
<td>1294</td>
<td>1294</td>
<td>1.3</td>
<td>0</td>
<td>0</td>
<td>1294</td>
<td>0</td>
<td>n/a</td>
</tr>
<tr>
<td>Slovakia</td>
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<td>802</td>
<td>902</td>
<td>0.9</td>
<td>100</td>
<td>0.4</td>
<td>1002</td>
<td>1.8</td>
<td>0</td>
</tr>
<tr>
<td>V4</td>
<td>2300</td>
<td>8769</td>
<td>11069</td>
<td>11.3</td>
<td>1400</td>
<td>6.2</td>
<td>12469</td>
<td>0.2</td>
<td>3.7</td>
</tr>
</tbody>
</table>


The V4 states were failing to fulfil their obligations, stalling for time, testing the Commission’s determination and waiting for both the CJEU’s verdict and the end of relocation schemes. In March 2017, Avramopoulos issued a warning concerning the member states’ obligations saying that there are no more excuses for the Member States not to deliver on resettling refugees. In April 2017, The Times wrote that the countries should expect to receive an ultimatum demanding that they accept their quota of migrants or get out of the EU. On May 16th, the 12th report on the relocation and


129 B. Waterfield, “Take in Migrants or Leave, EU Tells Hungary and Poland”, The Times, 4 April 2017,
resettlement was published. The Commission urged the Member States that have not relocated anyone, or have not pledged for Italy and Greece for almost a year, to start doing so immediately and within a month. If no action is taken, the Commission will specify in its next report in June 2017 its position on making use of its powers under the Treaties and in particular on the opening of infringement procedures. On the same day, Szydło clearly stated: Currently there is no possibility for refugees to be received by Poland. We will not agree to imposing involuntary quotas concerning refugees in Poland or other member states. In June 2017, the EC launched infringement procedures against the Czech Republic, Hungary and Poland for non-compliance with their obligations under the 2015 Council Decisions on relocation. A month later the EC decided to move to the second stage in infringement procedure, issuing reasoned opinions. Due to the continuing lack of willingness to comply on the part of the three states, at the time of closing this article it seemed certain that by the end of 2017 the EC will move to the third stage, thus referring the matter to the CJEU.

5. INTERNAL FACTORS OF THE VISEGRÁD GROUP’S STANCE TOWARDS THE MIGRANT CRISIS

The Group’s opposition to the migrant quotas results from their limited capabilities (wealth level, infrastructure, know-how) as well as historical and cultural conditions (lack of historical contacts with Islamic culture and rather negative experiences with national minorities). The Czech Republic, Hungary, Poland and Slovakia are not the migration target countries, which obviously affects their perspectives. Additionally, the location of Hungary on the main transit route of migrants has put this state in the most difficult situation. But it is not just a matter of political will and political configuration, but also of strong social grounds for reluctance to the relocation and resettlement of migrants.


Basic intuition suggests that countries whose populations are (i) most concerned about migration, (ii) emphasise reluctance towards others and (iii) to the European integration, would be particularly prone to consistently resisting the development of compulsory solidarity mechanisms in the context of the migration crisis. The case of the V4 states shows that the issue is of a more complicated nature. It is easiest to exclude the last interpretation – the V4 countries have a positive attitude towards the Union. The percentage of positive stances of the four societies does not differ significantly or even exceeds (especially as regards the particularly enthusiastic Polish public) the percentage of positive stances of Western societies.\textsuperscript{135} Also when it comes to the threat of migration, similar suspicions do not find empirical confirmation. This is shown in the table below based on Eurobarometer data.

Fig.1. The percentage of Europeans who stated that immigration is one of the two most important issues faced by their country.

The table was developed by the author using the following sources: European Commission, Standard Eurobarometer 84 – Autumn 2015. “Public opinion in the European Union, First results”, p. 17; European Commission, Standard Eurobarometer 86 – Autumn 2016. “Public opinion in the European Union, First results”, p. 11. The research was conducted in November 2015 and November 2016.

Surprisingly, in the autumn of 2015 only Czechs were above the European average and were the only V4 nation which perceived migration as the most important issue. For

the Hungarians, it was their second choice, for Slovaks – the third. Poles did not place it in the top three at all. A year later, the Hungarians were slightly above the European average, and migration was their second most important issue, just as Czechs’. Slovaks and Poles did not place it in the top three. Furthermore, it must be stressed that the V4 citizens did not recognise terrorism, a phenomenon which is often depicted as connected with the migration crisis, as a major challenge for their countries. In 2015, out of all the EU nations only the British and the French placed it in the top three (the second and the third place respectively). In 2016, the French did it again (the second place in the hierarchy); it was also the opinion of the Germans (the second place) and Belgians (the second place).

Thus, although it would be groundless to claim that the V4 nations are Eurosceptic, the fact is that their policies have strong social foundations, for example the widely discussed xenophobic attitudes. Fear of migrants, while not being an all-encompassing phenomenon, is common among the V4 nations. The table below shows the attitude of Czechs and Poles towards receiving migrants according to public opinion polls conducted in 2015-2017. Unfortunately, the comparative study covering all of the V4 nations has not yet been conducted. Only the studies done in the Czech Republic and Poland are characterised by adequate regularity and therefore suitable for comparison. Slovak and Hungarian polling organisations do not carry out this type of consequent research and only once in a while the results of singular polls are published by the media. Due to the different samplings, methods and questions, it is impossible to make a direct comparison.

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140 About four different levels of fear among V4 nations see B. Simonovits, "Migration-Related Fear and Scapegoating – Comparative Approach in the Visegrad Countries", in idem. A. Bernát (eds.), *The Social Aspects of the 2015 Migration Crisis in Hungary*, Budapest, March 2016, p. 34.
The questions asked by the interviewers of both polling organisations were the same: should [the Czech Republic/Poland] accept refugees from countries affected by armed conflicts?


The presented results are telling. In general, the analysis of all the public opinion polls in the V4 countries proves that their governments’ policies in the period covered by this article had a strong social foundation. When in June 2015 Slovaks were asked whether they were for Slovakia to receive refugees from the Middle East and North Africa on the basis of quotas proposed by the European Union?, 70% of the respondents answered negatively. At the beginning of 2016, Fico’s policies were supported by 89% of Slovaks.142

The reluctant attitude is also dominant in Hungary, as confirmed by the results of the *quota referendum* and the popularity of the largest parties. What draws attention is the *Orbán rebound* – after the construction of the border wall began, the downward trend of Fidesz was halted and since then the support for the party has clearly increased.143 It is not surprising that when in 2015 a journalist of *Bild* asked Orbán

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143 Z. Simon, “Hungarian Refugee Vote May Boost Orban’s Power in Divided EU”, Bloomberg, 30 Sep-
whether his role of the European *main villain* was bothering him, he replied: *I can only say: I stand here and cannot act otherwise.*

The relocation procedure and the *forced quotas* became symbols of the EU’s policy on the migrant crisis as a whole. The leaders of the V4 governments as well as the opposition in the four countries are aware of that.

In the Czech Republic, social opposition to fulfilling EU’s obligations concerning the migrant crisis is very visible. Currently, the biggest party opposing Sobotka’s cabinet, the Communist Party of Bohemia and Moravia (Komunistická strana Čech a Moravy, KSČM), is against the reception of migrants. In April 2017, ODS added a new postulate to its programme – a *refusal of mandatory quotas of refugees proposed by the EU*. Earlier it appealed to the government to prepare for the possibility of closing the borders. TOP 09 is also against the quotas although this party is not opposed to accepting migrants and its demands in many places coincide with the EU’s proposals. As Grigory Mesežnikov argued, all of the Slovak parties, except perhaps for Most-Híd, are negatively oriented as well. The opposition to the EU quotas is widespread.

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150 G. Mesežnikov, “Problematica migrací a utečencov…”, p. 146.
In Hungary, Orbán’s Fidesz is competing with the far-right Jobbik.\textsuperscript{151} Although some scholars label it as a semi-opposition,\textsuperscript{152} the rivalry between those two parties has deep foundations. The coalition between them is unlikely as it would most likely end in Jobbik’s split and marginalisation. Although the electorate of the Hungarian Socialist Party (Magyar Szocialista Párt, MSZP), the left-wing opposition, is clearly less reluctant to accept migrants than the Fidesz or Jobbik voters,\textsuperscript{153} the party has little chance of gaining power in the next election. In fact, this note applies to the opposition as a whole. Nevertheless, it attempts to use the migrant crisis to promote its ideas.\textsuperscript{154} There are many indications that in 2018 the radical Jobbik, a party even less willing to accept migrants then the ruling Fidesz, will be Orbán’s most dangerous competitor.\textsuperscript{155} Warsaw emphasises that attempts to impose migrant quotas are unfair since there are already many immigrants from Ukraine in Poland. The Hungarians are acting similarly stressing that gaps in the European labour market could be fulfilled by training and integrating the six to eight million Roma already living in Europe.\textsuperscript{156}

In Poland, PiS is the guarantor of consistent opposition to the compulsory quotas. The coalition of PO and PSL and the government of Kopacz were aware of social expectations and were trying to balance between them and the mainstream of European politics. In September 2015, at the last moment, the government changed its mind succumbing to the pressure of the largest EU states, especially Germany, while trying to distinguish itself from PiS before the forthcoming parliamentary elections. For a decade, Jarosław Kaczyński’s party had been governed by the logic of ‘guarding the right wall’, i.e. blocking every potential rival on the right side of the political scene. That is


\textsuperscript{153} A. Bernát et al., Attitudes towards Refugees, Asylum Seekers and Migrants. First Results (October 2015), Budapest, November 2015, pp. 18-19.


precisely why PiS utilises radical (often anti-European) emotions by absorbing competing groups or by not allowing them to be formed. As long as PiS is the ruling party, Poland will not make any concessions in this regard.

The PiS administration would probably be willing to accept a small number of refugees provided that the number would be negotiated, not imposed, and that the operation would be carried out without media hype. The problem is that the EU is not interested in such a scenario. Western Europeans expect not only compliance and collaboration, but above all loud and clear messages. *The symbol of quotas was a bigger matter than a real solution to the problem in Europe*, argued the Slovakian PM.

It should be noted that making concessions by the Szydło cabinet would probably result in an increased popularity of such radical groups as the National Movement (currently a non-parliamentarian party). The results of public opinion polls are unequivocal. The percentage of Poles who believe that Poland should not accept refugees from countries suffering from armed conflict increased from 21% in May 2015 to 52% in December 2016. For more than a year, the number of the Poles reluctant to receiving migrants has been considerably higher than the number of the supporters of the opposite view.

Among the V4 nations, Poles are less reluctant towards accepting migrants and they are characterised by a lower level of fear of them. But even in Poland, the opposition to immigration dominates. It is primarily an attribute of the voters of PiS (79% express the negative stance), but the voters of PO, main opposition party, are not very far behind (50%). In the spring of 2017, PO announced that it would not accept the migrants. Currently, Szydło’s government is trying to combat the image of being reluctant towards helping refugees by strongly promoting *on-site help* policy.

**CONCLUSION**

It is not by mere coincidence that on 15 February 2016, on the 25th anniversary of the establishment of the V4, the Group published two separate join statements: while the first concentrated on celebrating the anniversary, the second was devoted to the migration crisis. Although its unanimity was limited to the migration issue, the Visegrád Group has experienced the second revival in the years 2015-2017. It is true that it has earned it more coverage than ever before in the 25 years of its existence. However, this

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157 R. Muller, J. Lopatka, “Slovakia Will Challenge...”
is certainly not coverage welcomed from the marketing point of view. Anna Potyrała has called the Group an unwilling coalition.\textsuperscript{163} The differences in opinions among the EU states, with the prominent role of the V4, are even considered to be an East-West fracture\textsuperscript{164} or a new iron curtain.\textsuperscript{165} In 2015, Tusk argued: I apologize for the simplification, but one can argue about the division between East and West of the EU.\textsuperscript{166} A young Slovak journalist of SME wrote: Migration crisis was another chance to show constructive solutions from Visegrád. Instead, we brought up criticism, negativism and hatred.\textsuperscript{167} This is a representative example of a journalistic oversimplification concerning the V4 position towards the migrant crisis. Firstly, it should be noted that the fundamental differences between the V4 and the rest of the EU concentrate on the relocation procedure. In many areas of the EU migration policy, the Group supports the stance of the EC. Not only does the V4 not prevent the EU from acting, but it advocates more extensive reforms. Secondly, the moral values, so frequently raised by journalists, cannot be implemented in total isolation from two factors: internal conditions and the current shape of the EU.

The position of the Group concerning the migrant crisis in 2015-2017 remained transparent and consisted of the following stances:
- Collaborating with the United Nations, the League of Arab States and the African Union.
- Distinguishing between refugees and economic migrants.
- Ensuring effective control and protection of the EU external borders in all aspects is needed.\textsuperscript{168}

\textsuperscript{168} The V4 agreed with Tusk who stressed that either the EU will have strong external boarders, or it will be force to bring back internal ones. See for example I. Traynor, “Europe Split over Refugee Deal as Germany Leads Breakaway Coalition”, The Guardian, 30 November 2015, at \url{https://www.theguardian.com/world/2015/nov/29/germanys-plan-to-strike-eu-wide-refugee-sharing-deal-stalls}, 10 V 2017; A. Gruszczak, “Ciemne chmury nad Schengen”, Analizy Zakładu Bezpieczeństwa Narodowego, no. 2, 28 January 2016, at \url{http://www.zbn.inp.uj.edu.pl/analizy?p_p_id=56_INSTANCE_s74udNM-
– Fighting against traffickers and smugglers at the national level as well as further intensification of police and intelligence cooperation.
– Fighting with the Islamic State.
– Intensification of diplomatic activities in regard to destabilized countries which contribute to the migrant crisis.
– Limitation of relocation directions – not all migrants should be relocated or resettled; a list of safe countries of origin is needed.
– Making the return policy more effective.
– Mobilizing Greece and Italy to build a hotspot system (swift implementation of functional hotspots).
– Pointing out the problem of migration from the east and south of Europe; calling for the development of a more systemic and geographically comprehensive approach to migration and criticizing the EU’s focus on the Mediterranean region.
– Providing humanitarian aid in the crisis-stricken countries of Europe and the Middle East.
– Supporting the EU actions, but solely on the basis of voluntary consensus. Decisions should be made unanimously at the level of heads of government.
– Strengthening the European Asylum Support Office and the European Border and Coast Guard Agency.
– Taking wider actions – the European Union attaches too much importance to the relocation and resettlement; the main focus is being put on treating the effects of disease and not its root causes.\(^{169}\)

It remains a question whether the Group’s cohesion in the field of migration will last. Though every once in a while the media argue that the V4 has died, so far these opinions have proved to be greatly exaggerated. In 2012, the editor-in-chief of the Visegrád Insight wondered if the V4 was dead or alive.\(^{170}\) In autumn of 2014 – just at the threshold of the Group’s revival – one of the Polish publicists argued that the Visegrád Group practically does not exist. We should accept its death, he said, and think about Visegrád 2.0 consisting of the V4 members alongside the Baltic States, Romania and the Balkan countries.\(^{171}\) Three years later these plans seem distant. The migration crisis breathed new life into the group and gave it a new outlook. Milan Nič argued that


in the history of the Group and its influence within the EU, the year 2016 will be seen as a turning point. In order for the words of the Slovakian analyst to be true, the strengthening of the V4’s consistency would have to turn out to be long-lasting, while exceeding the confines of the migrant crisis. The end of a closer cooperation in the field of migration could be caused by a significant easing of the migration problem and/or by a drastic change of public views, but, as of October 2017, these are not the scenarios that are likely to occur in the near future. However, the cohesion of the Group will remain limited due to conflicting interests of its members in many vital areas. Thus, the crucial query is whether the intensification of cooperation in this field will translate into its strengthening in other areas, and, if so, which ones?

The Group’s position fits in with the ‘step back’ trend concerning European integration observable in recent years. The V4 certainly will not become, as some right-wing publicists may imagine, an alternative to the EU or the root of the 21st century version of the intermarium. But the example of the European migrant crisis shows that the Group can be influential within the EU. The nearest challenge for its durability will be the parliamentary elections in the Czech Republic scheduled for October 2017. ANO, the coalition partner and the main concurrent of Sobotka’s ČSSD, has been leading the polls for months. Overall, today’s chances for Sobotka to retain office after 2017 seem slim. But even though it is possible that the next Slovakian government will be led by Babiš, it will probably not drastically change Prague’s stance towards the immigration crisis as the views of ANO’s leader, a populist and billionaire, are plain and simple: Czechs must do everything to reject migrants. The quotas are unacceptable and

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174 See for example H. Foy, A. Byrne, “Splits over EU Test Relations between Visegrád Four”, Financial Times, 6 October 2016, at <https://www.ft.com/content/f5d017f8-84b2-11e6-8897-2359a58ac7a5>, 10 May 2017.
176 On May 2nd 2017, the PM unexpectedly announced that in connection with the long-running controversies concerning First Deputy PM and Minister of Finance Andrej Babiš, the founder and leader of ANO, ČSSD’s coalition partner, and his unwillingness to leave office, he is going to hand in the government’s resignation. The snap election was briefly considered as one of the possible solutions. A couple of days later, the PM changed his mind and so the election will come about normally. R. Muller, “Czech Parties Look To Avoid Snap Election after PM Quits”, Reuters, 3 May 2017, at <http://www.reuters.com/article/us-czech-government-idUSKBN17Z17N>, 10 May 2017; P. Kosová, V. Dolejší, “Sobotka: Babiš by měl sám rezignovat. Babiš: Není důvod, na rozdíl od premiéra jsem úspěšný”, Seznam.cz, 1 May 2017, at <https://www.seznam.cz/zpravy/clanek/premier-sobotka-babiby-se-mel-zachovat-jako-chlap-a-rezignovat-30812>, 10 May 2017.
the government must oppose them even at the cost of sanctions.\textsuperscript{178} Since it is expected that the Hungarian parliamentary election of spring 2018 will be won by Fidesz, one could argue that a serious test of the Group’s consistency will not take place until the autumn of 2019 when the next parliamentary elections will be held in Poland. However, it must be remembered that in the meantime, in 2018, a discussion on the matter of the Common European Asylum System reform and a new Multiannual Financial Framework will take place. It is negotiations concerning those issues that will be a true test of the Group’s cohesion, determining if it will continue to experience its (limited) second revival.

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\textsuperscript{178} Facebook profile of Andrej Babiš, 1 August 2016, at <https://pl-pl.facebook.com/AndrejBabis/posts/809293832540596>, 10 May 2017.
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