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Hungary and Poland facing the migration crisis

Abstract

This article presents a reflection on the experiences of Hungary and Poland in the face of the migration crisis. Its aim is to present the measures taken by the Hungarian government in 2015 and by the Polish government in 2021 when both countries were confronted with a particular threat related to the mass influx of illegal immigrants and the forcing of their borders. The response to the specific threat became the use of a special legal regime, Hungary introduced a state of crisis due to mass migration at the Hungarian-Serbian border, while Poland had a state of emergency along the Polish-Belarusian border. In this context, it was hypothesised that the decision to impose a special legal regime in Poland and Hungary was justified in the context of the specific threat that the migration crisis had become and the possibility to take quick action and respond adequately. In both cases, a decision was made to build a border wall to keep out illegal immigrants, so one can see some analogies in the actions of the Polish and Hungarian authorities, as well as their anti-immigration rhetoric. The comparative method, the normative approach and the discourse method were applied in the article.

Keywords: Poland, Hungary, migration crisis, state of emergency, state of crisis due to mass migration

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Introduction

The migration crisis caused by the massive influx of immigrants affected Hungary in 2015, which, due to its location, was on the route leading primarily to Germany as the main destination country. Faced with this particular threat, Viktor Orbán's government took special measures in the form of special legal regime – a state of crisis due to mass migration was imposed in several border provinces. Poland, in turn, faced a similar threat in 2021 when there was a migration crisis on the Polish-Belarusian border. At that time, the response of the Polish authorities was the decision to introduce one type of state of emergency, namely, of emergency along the entire Polish-Belarusian border. Due to the influx of illegal immigrants and the fact that the state border was being pushed through, Poland and Hungary were faced with the challenge of large numbers of foreigners crossing their borders in the hope of applying for international protection. In both countries under discussion, the migration crisis was treated as a particular threat to state security and a rationale for the introduction of a special legal regime. The aim of the article is to present the reactions of the Polish and Hungarian governments to the migration crisis and to indicate the consequences of the introduction of a special legal regime in the two countries in question. The main research questions are: what actions were taken by the Polish and Hungarian governments in the face of the migration crisis? Can analogies in action be discerned between the two countries that experienced the migration crisis? Was the decision to impose a special legal regime justified? Such inquiries are answered by the thesis that the decision to impose a special legal regime in Poland and Hungary was justified in the context of the specific threat that the migration crisis had become and the possibility to take quick action and respond adequately. Indeed, the occurrence of situations of specific threats that cannot be removed by ordinary constitutional means justifies the introduction of a special legal regime. One can, therefore, see analogies and similarities in the action and response to the migration crisis between Hungary and Poland. Both countries have used such a strategy. In both states in question, a decision was taken to build a fence on the border pushed by immigrants in order to stop their influx. In connection with border protection and building a fence, the Hungarian government's discourse was partly based on the historical concepts of "Hungary, the Fortress of Christianity" and the "Bastion of Europe" (Glied & Pap, 2016). When analysing the experiences of Poland and Hungary in the context of the migration crisis, it is also important to point out crucial differences regarding the scale of the threat faced by the two countries in question. When comparing the data with regard to the number of immigrants arriving in Hungary in 2015 and in Poland in 2021, it should be emphasised that in the case of Hungary it was definitely at a higher level than in Poland, although there was a spike in both countries. However, it is worth noting that Hungary is a smaller country than Poland in terms of both area and population. The Hungarian situation, moreover, required greater mobilisation of services, as the threat was not limited to the border area, but a large number of immigrants managed to get to Budapest and gather in crowds at the Keleti railway station. In Poland, the threat concentrated mainly in the border region although it was also associated with an intensification of service activities and an increase in the number of officers

needed to protect the border and repel the assault on the border, which occurred at the border crossing point in Kuźnica. It is worth emphasising that the genesis of both migration flows is different. While the migration wave of 2015–2016 was in line with the spontaneous global migration trend (which, of course, is caused by armed conflicts as well as demographic, social and environmental reasons) as a border crisis with refugees, asylum seekers and illegal migrants, the migration crisis as a refugee crisis on the Polish-Belarusian border in 2021 was clearly generated by the Belarusian regime, most likely with the support of Russia as part of a hybrid strategy.

A comparative method became the primary research strategy in order to identify similarities and differences in the approach to the migration crisis in Poland and Hungary. The article uses a normative approach by analysing the legal acts in force in Poland and Hungary with regard to the issue of states of emergency, primarily the 2011 Constitution of Hungary and the 1997 Constitution of the Republic of Poland, as well as the laws on states of emergency. In addition, a discourse method relating to the analysis of media messages concerning the coverage of the migration crisis was used. Among the source materials, mainly legal texts and scientific articles should be pointed out, especially those by Anna Potyrała, who in her publications refers to the issue of the migration crisis in Europe and provides definitions of the concept of crisis. According to Potyrała, the term crisis used to refer to “*a state of tension between two or more states or other actors in international relations, leading to destabilisation at the state and/or international level*” (Potyrała, 2019b). The migration crisis (caused by the mass influx of foreigners) is a serious, dysfunctional phenomenon of a cultural, social, economic and political nature carrying a broad catalogue of risks and threats for the whole of Europe, including the EU (Czachór & Jaskulski, 2015).

The experience of European countries in 2015 related to the phenomenon of external migration, i.e., the crossing of national borders, gained momentum and began to be referred to as a migration crisis, although the term “refugee crisis” also appeared in the media. This was supposed to reflect the nature of the observed migratory movements, which were mainly caused by persecution by non-democratic regimes or ongoing armed conflicts. Later on, however, the perception of the crisis changed, as attention began to be drawn to the fact that economic migrants began to arrive in Europe along with people fleeing their own countries for fear of persecution, so the population movements began to be referred to as a “migration crisis” (Potyrała, 2016). The debate in the EU included a profound difference in attitude, stating that in 2015 “who was a refugee in Brussels, a migrant in Budapest and Warsaw” (Glied & Zamecki, 2021). The term “immigrant”, as used in the article, refers to any person arriving in the EU from a third country, a person who enters the territory of a country other than his or her country of origin for the purpose of temporary or permanent relocation, while the term “refugee” refers exclusively to a person designated by the 1951 Refugee Convention (Potyrała, 2016).

The migration crisis is viewed through the prism of state security (Potyrała, 2015) and the institution of an extraordinary legal regime, namely the state of emergency. Securitisation is one of the most significant, innovative and at the same time most contested approach in security studies which was introduced by the members of the Copenhagen School, namely Barry Buzan, Ole Wæver, and Jaap de Wilde in their book

entitled *Security: A new framework for analysis* in 1998. Securitisation theory “aims to gain an increasingly precise understanding of who securitizes, on what issues (threats), for whom (referent objects), why, with what results, and, not least, under what conditions (i.e., what explains when securitization is successful)” (Juhász, 2020). In a democratic country, a state of emergency is understood as a special legal regime introduced in the event of a particular threat, the removal of which is possible only by means of measures of an exceptional nature, not provided for in the constitution and ordinary legislation. This regime is characterised primarily by a restriction (suspension) of certain individual rights and freedoms. There may also be a transfer of competencies between public authorities or the granting of specific powers to them to remove the resulting threat (Prokop, 2005; Eckhardt, 2012). Thus, the most important consequences of the introduction of a special legal regime may include changes in the principles of activity of the state apparatus and in the sphere of human and civil liberties and rights. It is possible that the competencies of the authorities may be shifted, leading towards the centralisation of public power and its concentration in the hands of the executive (Prokop, 2020). A state of emergency, irrespective of its type, is based on seven structural elements: the mode of introduction, the purpose of introduction, the prerequisites for application, the territorial scope, the duration, the emergency measures and the mode of abolition. Based on the provisions of the Constitution of the Republic of Poland of April 2, 1997, the most important principles of states of emergency can be presented, which include the following:

- 1) of last resort (exceptionality), states of emergency may only be used in situations of special danger if ordinary constitutional measures are insufficient a special legal regime;
- 2) legality, states of emergency may only be imposed by law, by means of a decree which is subject to public disclosure;
- 3) proportionality, the action taken as a result of the state of emergency must correspond to the degree of threat and the requirements of the situation, the measures taken should be adequate to the actual threat;
- 4) expediency, the emergency measures applied in a given state should aim to restore the normal functioning of the state as soon as possible;
- 5) temporariness, enforces that states of emergency do not last beyond what is necessary to restore the normal functioning of the state;
- 6) protecting the foundations of the legal system means that the constitution, electoral laws and the emergency law cannot be amended during a state of emergency;
- 7) protection of representative bodies, during states of emergency parliamentary terms continue, shortening them is prohibited, as well as holding a national referendum, holding elections.

Migration crisis in Hungary in 2015

In 2015, the EU was confronted with a massive influx of migrants and refugees, who reached Europe by sea – the southern route, the Mediterranean route or by land – the Balkan route. This phenomenon came to be known as a migration crisis, and its

extraordinary and unique character was determined primarily by the scale of the phenomenon. For comparison, according to estimates by the International Organisation for Migration, more than one million people from African and Middle Eastern countries entered Europe in the whole of 2015, which, compared to 280,000 immigrants in 2014, represented a more than threefold increase (Potyrała, 2019a). Since the culmination of the migration crisis in 2015, the EU has been implementing measures to control its external borders and the influx of migrants. The Union as a whole as well as its Member States are intensifying their efforts to develop an effective, humane and safe European migration policy. The Common European Asylum System provides for minimum standards for the treatment of all asylum seekers and minimum standards for the processing of asylum applications across the Union. The migration crisis has been characterised by a mass influx of asylum seekers and has demonstrated that EU asylum rules need reform in this context. Furthermore, faced with a massive influx of irregular migrants, individual Member States, citing the need to guarantee public order and the security of their citizens, questioned the legitimacy of the concept of a border-free area and reintroduced controls at the internal borders of the EU.

One of the EU countries on its external border that was most affected by the migration crisis at the time was Hungary. In 2015, the influx of migrants seeking asylum in this country increased from 42,775 in 2014 to 177,135 (Roston-Žmuda, 2017). The increase in the number of immigrants was largely due to Hungary's geographical location, which was at the crossroads of the eastern and south-eastern migration routes. Together they form the Western Balkan route leading through Turkey, Greece, Macedonia, Serbia, Croatia, Hungary and on to other EU countries. Hungary was, therefore, initially on the main and shortest route for the flow of refugees and immigrants, for whom the destination point was mainly Germany. According to the Hungarian authorities, the country was facing a wave of migration, not refugees, as they were reaching Hungary from safe transit countries, with the wave of migration largely due to the uncontrolled flow of migrants through Greece, the first country of the EU and the Schengen area to be reached (Gniazdowski & Jaroszewicz, 2015).

In response to the increased wave of migration, the Hungarian authorities decided to amend the migration law by increasing penalties for smugglers bringing migrants across the border and introducing criminal liability for illegal border crossings (Mohay, 2021). In addition, citing legal solutions within the framework of the EU's common asylum policy, the Hungarian authorities also decided to refuse asylum to persons arriving in Hungary from the territory of Serbia, which was classified as a safe country. The 175-kilometre Serbian-Hungarian border has become one of the most heavily trafficked borders by migrants in the EU – from the beginning of 2015 to mid-September 2015, more than 190,000 immigrants were reported to have crossed the Hungarian-Serbian border (Sadecki, 2015), and riots occurred at the Horgoš-Röske border crossing. This became the reason for the Hungarian authorities' decision to tighten the rules on illegal border crossings and build a barbed wire fence on the Hungarian-Serbian border, which was criticised by the EU and resulted in a change of migration routes and paths (on September 15, 2015, the Hungarian authorities closed the border with Serbia). In order for the implementation of the wall to proceed smoothly and for the services to be supported by the military in their border operations, a state of crisis

due to mass migration was imposed in the two provinces of Csongrád and Bács-Kiskun by government decision 269/2015 (in 2016 it was extended to the whole country by Government Decree 41/2016). The regulation of the state of crisis due to mass migration contains Chapter IX/A of the Asylum Act. The explanation why the state of crisis due to mass migration is not regulated on a constitutional level is a political one. Since Fidesz lost its two-thirds majority in the parliament on the by-elections in February 2015, the Hungarian Government has chosen the easier and political way: instead of introducing the state of crisis due to mass migration by amendment of the Fundamental Law which would have required two-thirds majority support in the Hungarian Parliament, the Government regulated it by the amendment of an ordinary law with a simple majority (Juhász, 2020). Hungarian Constitution of 2011 provided six states of emergency: state of national emergency, state of emergency, state of defence mobilisation, state of unexpected attack, state of danger, state of terrorist emergency introduced by the 2016 Sixth Amendment. However, in the December 2020 amendment to the Hungarian Constitution, the number of states of emergency was reduced to three (the change took effect from November 1, 2022): state of war, state of emergency, state of danger (Héjj, 2022). Under the state of crisis due to mass migration in 2015, the right not to tender for public procurement was mainly exercised, with procurement going to a narrow circle of trusted individuals centred around the Prime Minister (Héjj, 2020). A number of administrative facilitations were granted to the security authorities, including access to state or local government property and to companies under their authority, the construction of facilities for immigrants bypassing public procurement procedures and the participation of the military in guarding the border became possible (Sadecki, 2015). The authorities announced intensified police checks, including ID cards and searches of persons and cars, and the airspace was closed for some time on a 20-kilometre stretch near the Serbian border to allow the smooth movement of police, army and ambulance air units. Much harsher penalties for illegal border crossings and a simplified path for the deportation of immigrants to countries deemed safe, including Serbia, were introduced. This was followed by a package of legislation making illegal border crossing a criminal offence rather than the previous offence. Persons apprehended while illegally crossing the border were brought before a fast-track court. Damage to the border fence or entanglements (considered as destruction of state property) and obstruction of construction were also punishable. In addition, the penalties for people smuggling migrants across the border were increased (now up to 20 years in prison). Due to the current state of crisis, asylum seekers had to wait for their applications to be processed in the transit zones at the border. Hungary was the first among the EU countries to start erecting fences on its borders with Serbia (151 km long) and Croatia (300 km long), “*facing accusations of misappropriation of European values and undermining the idea and duty to protect human rights, including those of migrants*” (Potyrała, 2019b). The resulting protections were reinforced with barbed wire border fence, visual monitoring systems, movement detectors and even heat and live detectors (Juhász, 2017).

The measures taken, i.e., mainly the construction of a fence on the Hungarian-Serbian border and changes to the law (the asylum law was tightened) proved to be effective, as refugees stopped arriving in Hungary in large numbers after the experience

of September 2015, choosing other alternative migration destinations and routes. It appeared that the sealed border and the restrictive asylum procedure discouraged immigrants from entering Germany via Hungary. The authorities' decision to build a border wall became the cause of fierce criticism at home and abroad. It was alleged that Hungarian actions were contrary to "European principles". Human rights organisations, including the United Nations High Commissioner for Refugees (UNHCR), accused Hungary of violating the rights of migrants, in particular, the abuse of detention, violations of the principle of *non-refoulement* (expulsion of persons facing persecution), failure to provide them with the basic means of existence and decent conditions of residence (Gniazdowski & Jaroszewicz, 2015). In the last few years, the European Court of Human Rights has also found violations by Hungary of the European Convention on Human Rights regarding the unlawful prolongation of detention of foreigners.

At the beginning of September 2015, in the face of an escalating migratory wave, the Hungarian authorities decided to demonstrate their determination to enforce EU rules and, in this aspect, entered into a dispute with Germany, which had publicly declared its willingness to accept refugees, and Austria, declaring its willingness to provide them with transit to Germany. In fact, both countries agreed to also admit those migrants who had not registered in their first country of residence in the EU, thus agreeing to derogations from the rules of the European asylum system. Hungary regarded the German authorities' declarations of readiness to receive immigrants as an irresponsible incentive to illegally push the borders of the EU. When migrants residing on Hungarian territory attempted to reach Austria and Germany by rail and gathered at Budapest's Keleti station, the authorities of the capital removed them from the station and then launched an operation to transport immigrants to the border with Austria by bus (Gniazdowski & Jaroszewicz, 2015). The Orbán's government subsequently spoke out against the introduction of a mandatory quota mechanism pushed within the EU, and received support on this issue from the three Visegrad countries. Poland was initially in favour of the relocation mechanism, but after the change of government, the then Prime Minister Beata Szydło supported Hungary in this regard (Cebul & Zenderowski, 2020). The coalition formed by the Visegrad countries against the migrant relocation mechanism was called the "coalition of the unwilling" by the media. The migration crisis has highlighted the fact that many states prioritise national interests and place them above European solidarity, abdicating co-responsibility for its solution (Greenhill, 2016). Hungary has consistently refused to accept immigrants under the relocation mechanism and advocated for the construction of hotspots outside the external borders of the EU (Bauerová, 2018).

The Hungarian authorities intensified anti-Islamic and anti-immigration rhetoric in order to win voter support. The migration crisis dominated the Hungarian public debate, sidelining other topics as Prime Minister Orbán's firm rhetoric was in line with a public mood full of fear of strangers. Prime Minister Orbán declared that he wanted to preserve "Europe as a continent for Europeans and Hungary as a country of Hungarians" (Orbán, 2017), he further suggested that there is a direct link between immigration and terrorism, rising unemployment and crime. According to the Hungarian Prime Minister, the migration policy of the EU, aiming to incorporate people from different

civilisation-cultural backgrounds, may lead to cultural and ethnic changes and would transform the Christian character of Europe within a few generations. The government has demonstrated its willingness to protect the Schengen border absolutely. An important move by the Hungarian authorities became the ordering of a nationwide referendum to strengthen Hungary's position in the EU in the debate on the migration crisis. In the referendum held on October 2, 2016, 98% of Hungarians who cast a valid vote answered negatively to the question: "Do you want the EU to be able to decide on the compulsory settlement of non-Hungarian nationals in Hungary without the consent of the Hungarian parliament?" (Sadecki, 2016). However, the referendum turned out to be invalid as only 40% of eligible voters took part, so the turnout requirement, which according to the 2011 Hungarian Constitution must be at least half of the eligible Hungarian citizens (Sejm Library, 2016), was not met. The reasons for the insufficient social mobilisation and poor turnout in the referendum could be attributed to the changing situation, as the vote was conducted at a time when there had already been no influx of migrants into Hungary for a year (Czyż, 2017).

It is worth noting that the crisis caused by the mass migration crisis introduced in 2015 was subsequently extended and covered the entire national territory. It was maintained despite the fact that the number of immigrants fell after the culmination of the crisis in 2015, and that the threat had been removed and the country had returned to a relatively normal functioning. In reality, therefore, there was no rationale for using a special legal regime in practice.

Migration crisis in Poland in 2021

The Constitution of the Republic of Poland of April 2, 1997 provides for situations in which ordinary constitutional measures are insufficient in the face of specific threats, and in Chapter XI speaks of three types of states of emergency: martial law, state of emergency or state of natural disaster. The above three types of emergencies were distinguished by the criterion of the source of the threat: in the case of martial law, it is introduced in the event of an external threat, as regards the state of emergency – it is introduced in the event of an internal threat, while the state of natural disaster is introduced in the event of a threat caused by acts of nature. Detailed rules for the operation of public authorities and the extent to which human and civil liberties and rights may be restricted during individual states of emergency are defined by laws:

- 1) Act of August 29, 2002 on martial law and the competencies of the Commander-in-Chief of the Armed Forces and the principles of his subordination to the constitutional bodies of the Republic of Poland (Journal of Laws 2002 No. 156, item 1301),
- 2) Act of June 21, 2002 on the state of emergency (Journal of Laws 2002 No. 117, item 985),
- 3) Act of April 18, 2002 on the state of natural disaster (Journal of Laws 2002 No. 62, item 558).

In 2021, Poland faced a sudden influx of migrants from Belarus (most of whom were from the Middle East and North Africa) who wished to cross further into Germany

via Poland. According to the Border Guard, 39,697 attempts were recorded in 2021, when third-country nationals attempted to cross the state border with Belarus against the law, outside border crossings. This is more than 300 times as many as in 2020 (Border Guard, 2022). A similar problem was faced by Lithuania and Latvia, against whom the Belarusian authorities headed by President Alexander Lukashenko also used a hybrid war (Wicha, 2021). The premise of the implemented action by the Belarusian side was migratory pressure on the eastern border of the EU and destabilisation in countries supporting opposition activities against the Belarusian regime (Wróblewski, 2021). The actions taken by Belarus were seen as blackmail against the EU, a crisis artificially created by the Belarusian authorities as revenge for the imposition of sanctions on the Lukashenko regime (Chochowski, 2021). In response to the EU sanctions, Lukashenko launched an operation (code-named *Sluice*) to bring into Belarus citizens from Asian and African countries, who were promised assistance in reaching Western Europe (Wawrzusiszin, 2022). In view of the situation, the prime ministers of Lithuania, Latvia, Estonia and Poland issued a joint statement on the hybrid attack on the countries' borders by Belarus, in which they stressed that the existing crisis was planned and systematically organised by the Alexander Lukashenko's regime.

Due to the influx of illegal immigrants across the Polish-Belarusian border, President Andrzej Duda on September 2, 2021, at the request of the Council of Ministers, imposed a state of emergency on part of the territory of the Republic of Poland – the area covered 115 towns in Podlaskie Voivodeship and 68 towns in Lubelskie Voivodeship, along the entire Polish-Belarusian border (Journal of Laws 2021, item 1612). The state of emergency was initially imposed for 30 days, then by a decree of October 1, 2021, the President extended it over the entire previous area for another 60 days (Journal of Laws 2021, item 1788) due to the continuing threat. The day before, the extension of the state of emergency was approved by the Polish Parliament. In connection with the imposition of the state of emergency on part of the territory of the Republic of Poland, relevant restrictions of rights and freedoms were introduced, including the suspension of the right to organise and hold assemblies, mass events, the prohibition to stay in the area covered by the state of emergency, restrictions on access to public information by refusing to provide information on activities carried out in the area covered by the state of emergency in connection with the protection of the state border and prevention of illegal migration (Journal of Laws 2021, item 1613). The authorities claimed that the imposition of the state of emergency helped the state to organise an effective response to the migration crisis and to protect both borders of Belarus and Poland and Belarus and the EU. In reaction to the experience of the migration crisis, the Polish authorities decided to build a fence on the Polish-Belarusian border (Journal of Laws 2021, item 1992).

Following the end of the state of emergency, a decision was taken to amend the Law on the Protection of the State Border (Journal of Laws 2022, item 295). The amendments to the law imposed a similar set of restrictions that were introduced with the constitutional state of emergency. The amendment to the Law on the Protection of the State Border thus became a substitute for the state of emergency, as it prolonged the legal solutions as if the state of emergency had not practically ended. It made it possible for journalists to be present in a specific area, with an official

permission, which during the state of emergency was subject to restrictions and caused a number of controversies and allegations of violations of citizens' rights to reliable information. The opposition also pointed to aspects of human rights violations in relation to the treatment of migrants forcing their way across the Polish-Belarusian border and the lack of sufficient access to assistance by humanitarian organisations, activists or medics. The migration crisis at the Polish-Belarusian border had several dimensions:

- legal, related to the introduction of the state of emergency as a solution to ensure the safety of border residents and the freedom of the services to carry out their duties;
- humanitarian, directly related to the situation of immigrants trapped in border forests threatening their health and lives, without access to water, food or other forms of basic assistance;
- financial, related to losses incurred by border entrepreneurs and the need for support from the state budget or the costs of technical border security and dam construction;
- logistical, linked to the need to increase the presence of services securing the border area;
- informational and psychological, related to disinformation and propaganda activities against Poland, the EU and NATO carried out by the Belarusian and Russian state media.

Summary and conclusions

The migration crisis was treated as a particular threat to the security of Poland and Hungary and became a premise for the introduction of special legal regime. The thesis put forward in the article that the decision to introduce a special legal regime in Poland and Hungary was justified in the context of the specific threat that the migration crisis had become was confirmed. The existence of a situation of specific threats in the face of the migration crisis justifies the introduction of a state of emergency in Poland and a state of crisis due to mass migration in Hungary. In both countries in question, a similar decision to use a special legal regime and build a border wall as one of the instruments in response to a situation of an extraordinary nature was made. One can, therefore, see an analogy in the action of these states, and since the Polish experience with the migration crisis occurred later, it can be pointed out that Poland modelled itself, so to speak, on the Hungarian solutions taken in the face of the migration crisis. In both countries discussed, the consequences of the use of a special legal regime were restrictions on civil rights and freedoms and administrative facilitation or the use of the military to protect the border. However, it should be remembered that the scale of the threat and the genesis of migration crises were different for Hungary and for Poland. The data suggests that by the time the fence was built on the border with Serbia and Croatia, more than 378,000 immigrants had entered Hungary in 2015 (Bodalska, 2017). According to data from the Polish Border Guard, almost 40,000 attempts to illegally cross the Polish-Belarusian border were recorded in 2021. Compared to data from previous years, there was a visible, jumping

increase in the number of immigrants and illegal border crossings in both countries in question.

The difference between Poland's and Hungary's approach to a special legal regime is that in Hungary a state of crisis due to mass migration was extended for years to come and encompassed the whole country. It was formally in force despite the fact that waves of migrants had no longer been arriving in Hungary for a long time and no real threat from immigrants persisted. In Poland, the state of emergency under the constitution was formally extended for 60 days, while it ceased to be in force at the end of the period for which it was introduced and then extended. However, although the emergency regime formally ended, an amendment to the Border Protection Act passed by parliament maintained the ban on border crossings.

Poland and Hungary are widely perceived as adopting a negative attitude towards the influx of foreigners, especially those arriving from Africa and the Middle East. It was represented by forming, together with the Czech Republic and Slovakia, what is called "coalition of the unwilling" against the mechanism of mandatory refugee relocation quotas between individual EU Member States in 2015. The Visegrad countries did not agree with the imposition of the need to accept immigrants on their territory. This was due to fear of strangers, as migrants pushing across borders were portrayed in the rhetoric of those in power in Poland and Hungary as a threat. The migration crisis became an important topic in domestic politics in both countries under discussion, effectively used by ruling politicians to fuel anti-immigration and partly anti-EU sentiment (the fight against mandatory quotas was presented as opposition to Brussels' dictates and a desire to preserve national sovereignty in the face of externally imposed solutions). The Orbán's government built an entire political narrative on the foreign threat, and the migration crisis became a dominant theme in public debate in Hungary in 2015, but also thereafter.

Among the EU Member States, the approach to the migration crisis and related problems varied. Poland and Hungary presented an approach treating the migration crisis in terms of a threat, which should be defined as having a negative, often destructive impact on the state. Thus, the actions taken by the Hungarian and Polish authorities in the face of a massive influx of migrants and border forcing were justified precisely by the need to guarantee the security of the state. Poland and Hungary perceived migration in terms of an economic or even civilisational, cultural and religious threat. This approach differed from that of other EU Member States, which prioritised the need to provide security and assistance to immigrants in the context of the migration crisis. They emphasised the need to fulfil international obligations guaranteeing the right to seek asylum, as well as the social dimension and humanitarian attitude towards individuals in need of support.

For Poland and Hungary, an important aspect of the migration crisis has become an increase in the sense of threat among citizens and, consequently, an emphasis on security considerations above all, the need to protect against the destabilisation of the internal situation that may be caused by the stay of immigrants on the territory of a given state. Special legal regime has become an instrument used in the hands of those in power to maintain a sense of particular threat and thus justify the need to resort to a specific tool. Both countries have restrictive migration policies, both have been reluctant to

admit immigrants, and both have chosen to defend their borders and those of the EU as a whole against immigrants. In both countries, right-wing parties were in power at the onset of the migration crisis: in Poland, Law and Justice (in power continuously since 2015), in Hungary, Fidesz (in power continuously since 2010). The ruthlessness demonstrated by the authorities in their approach to immigrants and their anti-immigrant rhetoric were driven by calculations and political views.

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