

**“Western Flag, Eastern Wind” –
The Hungarian Immigrant Investor Program
Conflicting Migration Policies in Contemporary Hungary**

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Abstract

The present study aims at unpacking the sharpening contradictions in the field of migration in contemporary Hungary. Amending the Act No. 2 of 2007 on the Admission and Right of Residence of Third-Country Nationals, Hungary joined the global trend of residence by investment. By the enactment of the law, non-European nationals can acquire permanent residence status, in return for their investment in special bonds of EUR 300 000. The neoliberal character of this program stands in stark contrast to the increasing anti-immigrant sentiment of the current government and its ideal vision of the “illiberal state”. The thesis attempts to account for these radical contradictions by studying this program as a state policy. Analyzing it at three levels, it comes to light that the program indicates an uneven hollowing out tendency in the field of migration that results in inconsistent and fragmented migration policies that polarize immigrants to an extraordinary extent.

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Table of Content

| | |
|--|----|
| Abstract | 2 |
| Acknowledgements | 3 |
| Table of Content..... | 4 |
| 1. Introduction..... | 5 |
| 2. Theoretical Overview | 9 |
| 2.1. Literature Review | 9 |
| 2.2. Theoretical Approach | 14 |
| 3. Legacy of the Hungarian Migration Policy..... | 17 |
| 3.1. Introduction..... | 17 |
| 3.2. Pre-1989 Immigration – Changing Boundaries | 18 |
| 3.3. Uncontrolled Immigration..... | 19 |
| 3.3. Tightening Rules - One System, Two Standards | 21 |
| 3.4. EU Harmonization?..... | 23 |
| Conclusion | 26 |
| 4. Towards a Neo-Liberal “Immigration” Policy – The Hungarian Immigrant Investor Program | 28 |
| Introduction..... | 28 |
| 4.1. Introduction of the Program | 28 |
| 4.2. Tight Partnership between the State and the Market | 30 |
| 4.3. Anti- or Pro Immigration State Policy? | 33 |
| 4.4. European Immigration Market..... | 34 |
| Conclusion | 39 |
| 5. Discussion | 40 |
| Introduction..... | 40 |
| 5.1. Micro-Level Policy Analysis..... | 40 |
| 5.2. Meso-Level Policy Analysis | 42 |
| 5.3. Macro-Level Analysis | 46 |
| 6. Conclusion | 51 |
| List of References | 53 |

1.Introduction

At the end of the first session of the last parliamentary cycle, the Parliament of Hungary approved the amendments to Act No. 2 of 2007 on the Admission and Right of Residence of Third-Country Nationals by which it established the institution of national settlement permit on the ground of national interest (in further text immigrant investor program). By the enactment of the law, non-European nationals can acquire a fast-track temporary residence permit, which after six months upgrades to a permanent residence status, in return for their investment in special bonds of EUR 300 000. A Ministry of National Economy decree specifies the rules on the issuance of the so-called “Residency Government Bond” (in further text residency bond) (Ministry for National Economy Decree 4/2013 (II.19). The Economic and Information Technology Committee of the Hungarian Parliament authorizes the business intermediaries to the issue security bond with a par value of EUR 300 000 and maturity of 5 years who in turn purchase the residency bond from the Government Debt Management Agency Private Company Limited by Shares (ÁKK ZRT) at a discount price. As it is seen, a significant division of labor is taking place concerning both the legislation and implementation of the program. It demonstrates precisely that the notion of the immigrant investor program neither falls within the scope of immigration nor belongs to the field of economics nor is it about politics exclusively, rather it is situated conceptually at their intersection. Nevertheless, scrutinizing the program through either lens, remarkable contradictions come into view equally. PM Viktor Orban has enunciated his radical standpoint toward immigrants more and more vehemently. Recently, the Government has compiled a survey of twelve questions as the basis of the national consultation concerning immigration,

economic immigration and terrorism¹. The poll of 12 questions includes: “Do you agree that economic immigrants endanger the jobs and livelihoods of the Hungarian people? Do you agree with the government that instead of allocating funds to immigration we should support Hungarian families and those children yet to be born? Do you agree that mistaken immigration policies contribute to the spread of terrorism?” In the light of such an institutionalized practice of attracting wealthy immigrants, the hostile governmental rhetoric about invasion of economic migrants makes the state’s stance on immigration inconsistent. Migration legislation appears to be contradictory likewise. Until amending the Act No. 2 of 2007, migration legislation had offered preferential treatment solely to kin minorities (i.e. ethnic Hungarians living abroad) in terms of both residence and naturalization by a branch of law: the Act XXXII of 2001 on amending Act LV of 1993, the Act LXII of 2001, XLVI Act of 2005 and Ministry Decree of 340/2010.

Furthermore, the Hungarian program, regarding its low criteria and moderate benefits is amongst the most neoliberal residence by investment programs in Europe. The neoliberal character of the program is striking not only in comparison to other migration policies, but in the emerging Hungarian “illiberal democracy” in general. As it is seen, the program can be understood only in relation to other policies. Thus, the thesis would like to unfold these contradictions by asking: How can we account for the stark contrast that stands between the new policy of the immigrant investor program and the other state policies in the field of migration? To be able to answer the question, the thesis offers an anthropological analysis of the program which not only illuminates the policy and the field in which it is embedded, but it sheds light on the current government as well.

¹ URL: Website of the Hungarian Government Prime Minister's Office. 2015 National consultation on immigration to begin [ONLINE] Available at: <http://www.kormany.hu/en/prime-minister-s-office/news/national-consultation-on-immigration-to-begin>. [Accessed 24 May 15]

The growing trend of “residence for sale” is a weakly-theorized phenomenon. One strand of the literatures puts emphasis on the changing nature of the membership by which they are inclined to be normative. Moreover, even though they recognize that a state-initiated commodification of residence status is at work, they cannot account for the role of the state in this process. The other strand of the literature attempts to place the trend of immigrant investment in the matrix of contemporary global political-economic forces however, it tends to treat the state as a black box likewise. The thesis contributes to the discourse on the notion of residence by investment by filling this gap.

The present study aims to demonstrate three contributions. It uses migration as a lens through which the state can be studied. It considers policy as a relational concept and as a productive force that is structure over time.

It will be shown that extremely conflicting clusters of policies exist simultaneously in the contemporary migration regime: an ethnic diaspora regime, a restrictive policy toward immigrants (economic immigrants or even terrorists) and finally a neo-liberal program for investors. By reviewing the patterns of the emerging post-communist migration legislation, it will be demonstrated that contradictory policies and selective measures have always characterized it. Nevertheless, I assert that such extreme contradiction between the diffuse clusters of the state migration policies has been unprecedented. In order to be able to account for this shift, the thesis employs an anthropological analysis of immigrant investor program as a state policy. I study primary and secondary sources which allow the thesis to give a thorough account of the policy including but not limited to its contradictions, institutional setup and its place in a European context. In the discussion part the research puzzle is placed at three levels of analysis. The micro-level of analysis transforms the empirical materials to concepts by which the policy can be put at a meso-level of analysis. The subject of the thesis here is understood as a relational and as a historically structured policy which, by its

conflicting relationship with other state policies, established a diffuse and hybrid migration system. In a broader understanding, the policy is part of the state's unorthodox economic reforms, which poses the question what has given rise to such reforms. Through the historical analysis of political economic system in post-communist Hungary, it is revealed that it was extremely vulnerable to global economic imbalances. The global financial crisis has had a drastic impact not only on the national economy, but on the legitimation of the existing political-economic setup. However, I argue that it does not imply that the state is not anymore exposed to hollowing out tendencies (Jessop, 1993). The state presence in the "global immigrant market" (Wong, 2003) with its neoliberal program implies that it has to apply a race to the bottom strategy so that to successfully performing in a global competition for foreign capital. The thesis argues that an uneven hollowing out trend in the field of migration is at work which makes the contemporary Hungarian migration regime extraordinary fragmented and which polarizes immigrants to a great extent.

2. Theoretical Overview

2.1. Literature Review

The following chapter aims to look over potential concepts through which immigrant investor program might be analyzed. One strand of the existing literature on residence or citizenship by investment studies the changing meaning of membership this trend has brought about. Yet scholars with this research enterprise are able to identify one of main organizing forces of the phenomenon, commercialization of the rights of membership, they cannot contextualize it moreover they are inclined to be normative. The membership is a widely discussed concept and its relevant approaches are shortly overviewed by the subsequent part. However, it is found that the concepts of post-national membership, cosmopolitanism and transnationalism would highlight important aspects of the phenomenon, but they are too fractional to place the phenomenon of immigrant investor program on a historical junction of economic, social and power relations, and thus either of the perspectives is capable of theorizing it. Another strand of the existing literature on residence or citizenship by investment overcomes these shortcomings and offers a thorough structural analysis of the phenomenon. Ong's (1999) work on flexible citizenship and Wong's (2003) piece on Chinese business migration give excellent accounts of how global economic forces constitute a new market in which citizenship is a simple instrument through which the state attempts to reposition itself in the global economy. However they tend to overlook the role of the state in this process and thus treat it as a black box. The next part reveals how the thesis situates itself in the above research programs and introduces the best-fitting theoretical approach to this enterprise.

Surprisingly, the notion of "residence by investment" is a weakly theoritized phenomenon in social sciences. Existing literatures on the growing trend of investor

citizenship and residence by investment tend to focus on the implications of the programs and thus conceive of a “hollowing out national citizenship (Owen, Shaw and Spiro, 2014 ed. Shachar and Bauböck) and of democratic standards (Bauböck, 2014). By commodifying the citizenship and residence, these programs break the social contract and therefore transform the very meaning of citizenship into something else. According to this interpretation, citizenry is no longer a mix of obligations and rights based on ties and belonging, but rather a simple commodity obtained through a market transaction. Thus the above scholars speak of a neoliberal transformation of citizenship. Carrera (2014), by analysing the EU’s intervention over the Maltese “citizenship by investment” program, concludes that by referring to the “genuine link” as the basis of citizenship, European institutions paradoxically legitimize nationalistic approach of the member states to their restrictive integration policies. He puts his finger on a pivotal issue. Highlighting the negative implications of “sale of citizenship” programs in the meaning of citizenship is counterproductive to a high degree; it essentializes citizenship as a “deeply rooted cultural and political conception of nationhood” (Brubaker, 1992:3). Nevertheless, the above normative studies identify one of the main themes involved in the case of residence by investment programs: commodification of the basis of rights.

Long-term residency status has received significant scholarly attention in its own right. Hammar (1989) coined the term "denizenship" to portray the legal status of long-term resident foreign nationals. Apart from political rights, denizens share most of the privileges with citizens. Nationality as a legal status is not incorporated into the concept of denizenship and therefore it falls under the category of non-citizenship (Brubaker, 1989). However regarding social and economic rights, denizenship can be seen as a “specific status of citizenship” according to Bauböck’s opinion (1992) or as Bosniak (2006:3) puts it “citizenship of noncitizens”. In this sense not citizenship but residence constitutes privileges which, according to Brubaker, speaks to the concept of membership. Denizens do not have political

membership since they have neither political rights nor obligations of that kind, however they are indistinguishable from the citizens by virtue of their economic and social rights. Thus it implies an extra-political membership.

In Soysal's viewpoint (1998), scholarship on denizenship tends to interpret denizenship as an indicator of a shift in the concept of citizenship from a narrow nationhood dimension to the expansion of a territorial dimension, and therefore studies are still strapped in the nation-state model. She proposes a different conceptualization in which she conceives of not an expansion but rather a reconfiguration of the citizenship. In the "post-national membership model" particularistic nationhood-based citizenship is refigured by a more universalistic personhood-based one. Post-national membership draws on international human norms, conventions, charts and institutions which ascribe universal status of individuals and their rights. However, it has not replaced national citizenship rather co-exists with growing nationalism and intense ethnic struggles.

Sassen (2002) concurs with Soysal regarding the growing impact of human rights regimes on states and the frequent use of human rights instruments in national courts. However, she differentiates these mechanisms on the basis of being internal or external to the state. The former is called denationalization, while the latter is termed post-nationalism. Although the denationalization of citizenship may be associated with post-national influences, it encompasses processes that occur within the boundaries of the nation-state. Indeed, immigrant investor program establishes a denationalized membership but it is far from being initiated by human rights regimes.

Precisely this is the reason why cosmopolitanism cannot capture conceptually our subject either. This concept is usually employed in relation to a capability of geographic mobility and cultural diversity, as opposed to localization and ethnocentric monoculturalism. In their overview of the different perspectives on cosmopolitanism, Cohen and Vortevic's (2002)

claim that it might be seen as a cultural practice, institutional-political project, a leftist worldview and finally a socio-cultural quality. One may argue that these perspectives conceptualize cosmopolitanism fairly broadly, thus allowing a grand mass of people to be seen as such, which indicates the vague and transformative nature of the definition.

Transnationalism departs from a human rights discourse and envisages immigrants as being involved in the country they reside economically, politically or through their everyday practices, while participating actively in the affairs of their sending countries through conducting transactions, maintaining connections, building institutions or influencing events (Glick-Schiller, 1995). Transnational migration thus denotes the process in which migrants form and maintain multiple relations both with their host and sending countries. Therefore what differentiates them most significantly from other migrants is their simultaneous embeddedness in more than one society. In contrast to the vision of “uprooted” migrants, this theory conceives of a growing number of migrants as rooted in multiple ways and places.

Here we have to turn back to the notion of “genuine link”. Whereas Maltese “citizenship for sale program” was criticized by European bodies, thus the program has adapted “effective residency” in the country as a precondition of acquisition of Maltese citizenship, other residency for sales regimes in Europe were not (Carrera, 2014). It means that if at all investors set foot in Hungary, it depends solely on their wish; the Hungarian legislation has no proviso with regards to investors’ actual residence in Hungary. Theoretically speaking, this undermines transnational migration’s potential especially under the methodological limitations of the thesis. Neither moral principles nor “genuine ties” are the foundation of privileges, rather an unprecedented financialization is at work. The role of the state in this process is striking: immigrant status, as a compact commodity is marketed by the state.

Although Owen, Shaw, Spiro and Bauböck (2014) describe the state-initiated commodification of residence status (or of citizenship) too, they cannot situate it in a matrix of contemporary political-economic forces.

Ong's work (1999) on flexible citizenship fills this gap accurately since she is able to link commercialization with the changing character of citizenship in a situated manner. Her piece gives a far-reaching insight into the meaning of citizenship in late-capitalism. In her understanding, flexible citizenship is a "cultural logics of capitalist accumulation, travel, and displacement that induce subjects to respond fluidly and opportunistically to changing political-economic conditions" (1999:6). The cultural logic of capitalist accumulation is construed by the interrelated activity of the market, the state and the family. Besides that Ong's study is able to identify the interplay between the main actors, she sheds light on their agency as well. In her view, citizenship is a mere instrument of the state to reposition itself in the global economy. It mirrors how the state is shaped by transnational forces, by which the state cannot apply its regulatory regime universally, rather it has to give privileges to certain group of immigrants contributing to the transnational accumulation of capital. This is captured by the notion of graduated sovereignty, in which the state classifies the population under different clusters of control and evaluation and therefore establishes different sections of laws internally.

Examining the patterns of Chinese business migration to Austria, Canada and the United States, Wong (2003) gives a brilliant account of how an entirely new arena has emerged around the practice of attracting business immigrants. In his understanding, the state, by introducing the concept of business immigration, enters a "global immigration marketplace" where its commercialized citizenship program is competing with those of other countries. As opposed to the 1970s demand for foreign labor power, the 1990s state-sponsored immigration policies are directed to business and highly skilled immigrants. It reflects a more general

neoliberal restructuring which came to be known as “designer” immigration (Simmons, 1999 in Wong, 2003). He argues that immigration is a part of the domestic economic and political regime, however, not only the state, but international politics has a significant impact on immigration policy, which results in inner inconsistencies. The above two studies provide insightful accounts of the complex nature of immigrant investor programs. To sum it up, driven by global economic forces the state’s immigration control mechanisms have become porous for foreign investors for whom various regimes compete with each other in a growing global arena. However, we do not really see the role of state in this process, it is treated as a black box. Nevertheless, it does play a pivotal role, since they state controls the entry and the residence in its territory. Indeed, the state aims to have an entire control over its boundaries and thus specifies a set of criteria for immigrants and, at the same time it commodifies the rights of residence. What happened with the state? It is a question that is not adequately answered either of the studies.

This thesis aims to contribute to the discourse by analyzing the Hungarian immigrant investor program as a state policy. Whereas this study examines the specificities of the program, its related contradictions and its place in the European “immigration marketplace”, this particular site is employed to investigate the conflicting state policies which give an insight into the contemporary governance regime.

2.2. Theoretical Approach

Brettel and Hollifield (2000) claim that disciplines in social science have competing theoretical approaches toward immigration that result in fragmented, reinvented and often inefficient research programs on the subject. Migration as being located at the intersection of various disciplines calls for a cross-disciplinary research enterprise. Different disciplines

favor different questions, units of analysis and theories which, of course, overlap in practice. It is even more challenging to find the best-fitting theoretical approach to residence by investment program since it is not simply an immigration phenomenon, neither is it political or economic exclusively. In the next part the anthropological analysis of policies as the theoretical approach of the thesis is introduced. By the short review of its underlying principle I argue that the subject of the thesis can be efficiently unfolded.

Anthropological Analysis of Policies

A group of anthropologists, Chris Shore, Susan Wright Davide Però (2011), have undertaken a far-reaching research enterprise by laying out the theoretical and methodological foundations of the anthropology of policy. In their view, policies are embedded in political, social and economic universes and “domains of meaning”, but at the same time they actively shape and reflect them. Policies are not simply texts, rather contested and productive forces that are produced by and continuously reproduce a “new set of relations, new political subjects and new webs of meaning” (Shore and Wright, 2011:12). Thus policies are seen as

windows onto political processes in which actors, agents, concepts and technologies interact in different sites, creating or consolidating new rationalities of governance and regime of knowledge and power. (Shore and Wright, 2011:12)

Shore and Wright claim that policies shed light on how policy makers, governments, non-governmental organizations and international bodies, categorize and control social space and subjects. Thus policies may be comprehended as an underlying organizing principle of society. Through an anthropological analysis of policies, patterns and processes of the governance can be traced out. Anthropology joins interpretative policy analysis in challenging the conventional model of the linear policy process in which an objective policy produced by rational actors is meant to offer the best possible remedy for a commonly articulated problem.

Instead they assume an agency behind the policies. Shore (2011) sees policies a political technology, as statecraft and as a method. Claiming that policy is a political phenomenon, it is believed that policy is neither a neutral nor a legal-rational problem-solving device. However by using a neutralizing and rationalizing discourse, its “ideological content” (2011:171) becomes evident and thus policy ceases to be regarded as a part of the political sphere. As statecraft, policy is in the service of legitimation. Policies are always framed within universal principles and through these policies “express a will to power and offer a program for acting upon the world” (2011:172). Finally, policy as a method offers a tool to examine how governance operates, how policies form a new matrix of actors, institutions and discourses and to analyze the newly emerged networks, relations and subjects.

The thesis attempts to contribute to this approach in two respects. It aims at revealing that policies are structured over time and policies of a given regime of governance draw on those of the preceding ones. In my understanding, policy is a relational concept as well, it does not exist in isolation. By virtue of their characteristics, policies are grouped in clusters which are held together by the underlying ideological objectives of the political regime.

Taking into account that policy and its connected processes cannot be grasped by participant observation, an anthropological analysis of policies seeks a more appropriate way to acquire empirical materials. Non-local ethnography is the methodology applied by the practitioners of anthropological analysis of policies, which, instead of localized practices, focuses on non-local discourses. Taking the main objective of the thesis into consideration, legal texts, official documents, government’s reports and newspaper articles constitute the main body of the sources in the thesis.

3. Legacy of the Hungarian Migration Policy

3.1. Introduction

Through their external and internal control mechanisms, countries aim to regulate the extent and composition of migrants (Brochman, 1999). Migration strategies are determined by a set of factors including but not limited to general history, ideas on national identity and nationhood, advancement of bureaucratic apparatuses and traditional approaches to migration. These are equally important determinants of countries migration polities. Brochman claims that considerations regarding national security, national economy deliberations, demography and social and cultural cohesion play significant role in the formation and legitimation of countries' immigration control mechanisms. She adds that the state's immigration policy is embedded in a changing international context, thus it is not a one-way process, but rather shaped by other countries' immigration policies, international standards, institutions and the actual immigration flow. One can argue that she fails to notice that the constitutive forces and considerations are themselves conflicting. This results in the development of a hybrid, but at least, contradictory state migration regime which, according to a critical understanding, should be used rather in plural. Indeed, the Hungarian case illustrates that different control regimes have been applied to different types of immigrant along their ethnicity and class affiliation. By tracing the patterns of the Hungarian migration legislation, it will be demonstrated that due to the bitter Hungarian past, ethnic Hungarians have been treated preferentially amongst immigrants from the very outset, which may give the impression that immigration policy is rather in the service of national policy (Hárs, 2009). By contrast, economic migration of non-European individuals has been considered as a threatening issue and therefore has been restricted. Between the two, sporadic and inconsistent policy has been emerging towards wealthy and highly skilled third-country nationals.

3.2. Pre-1989 Immigration – Changing Boundaries

Under the Habsburg Empire, population movements amidst zones of the empire happened by routine, as a consequence, the country became ethnically mixed. Until the second half of 18th century, however, social position, religious affiliation and the “Hungarus consciousness” (Miskolci, 2012) were the dominant principles of the identification, and consequently conflicts on the ground of ethnicity were uncommon yet. The second half of the century, however, denotes a distinct period in history with the rise of the ideological current, nationalism (Bibó, 2004).

The revolution in 1848 gave rise to a large-scale migratory movement. Later at the turn of the 20th century Hungarians moved to Germany, Austria and America, while approximately 200 000 Austrians resided in Hungary (Kristóf, 1999). At the end of the First World War, the peace treaty at Trianon defined the borders of the independent Hungarian state by which Hungary lost two-thirds of its territory and 31% of Hungarians were left outside of post-Trianon Hungary. New borders thus did not ensure ethnic boundaries, which has had an enormous impact on migratory movements to Hungary and migration policy up to now.

Second World War also brought about a large-scale immigration and emigration flow².

As a consequence, Hungary has become an ethnically almost homogeneous country (Hárs, 2009). Period between 1949 and 1989 marks a distinctive phase in Hungarian migration history. Hungary was made part of the communist bloc whereby both inflow and outflow of the population was unprecedentedly diminished, with only one exodus prompted by nationwide revolt of 1956 and two immigration flows on the grounds of political considerations (Kristóf, 1999). Under the Kádár regime, reforms were introduced in the

² The World War II also brought about a large-scale immigration and emigration flow. Thousands of Jews were either fled or deported. In 1940, as a consequence of the territorial agreement known as Second Vienna Award, Hungarians fled to Northern Transylvania, Romanians sought refuge in South Transylvania. Hungary functioned as a transit country as well, more than 300 000 fled to Hungary temporary while approximately 200 000 Germans left the country (Kristóf, 1999)

sphere of border control whereby only passport holders could travel abroad (Hárs, 2009). On the whole, Hungary did not engage in the massive international population flow stipulated by the postwar demand for labor of Western European countries in 1960s-70s. Under communism, the country became part of a virtually closed bloc and thus immigration to Hungary could happen only on the bases of ideological communality. Therefore Greek and Chilean citizens were fleeing to Hungary in 1949 and in 1973. Also, Cubans, Vietnamese and Chinese were working in the Hungarian textile industry and truck factory (Szöke, 1992:307 in Kristóf, 1999), but an average of 1500 migrants per year was not exceeded yet (Tóth, 1995 in Kristóf, 1999). By virtue of drastic political changes in Eastern Europe, 1988 hallmarks a new period in the Hungarian history of migration. Both the extent and the nature of migration changed significantly, which brought forth the necessity of building the institutional and regulative framework of international migration.

3.3. Uncontrolled Immigration

As Hárs (2009) points out, in contrast to the communist system's strict border control, the political-economic transition made free border crossing possible in which not even the emigration of the temporary residents were monitored. As a result, not only ethnic Hungarians mainly from Romania came to the country, but also Chinese immigrants could take advantage of the lack of regulation. Two processes can be traced that simultaneously characterized the first phase of the post-communist immigration "control". Firstly, the amendment of the Constitution in 1989 introduced the concept of immigration, asylum and naturalization, however a specific legal framework of migration system came into force much later. The Constitution adopted the concept of asylum, but Hungary did not sign the Geneva Convention at that time and consequently no asylum seeker could formally receive refugee status. However, migrants coming from Romania were called refugees, which can be interpreted as

an expression of responsibility for ethnic Hungarians residing outside of the motherland's borders. Thus, a "quasi-refugee regime" (Sík, Zakariás, 2005) has emerged which was intended to stress solidarity with ethnic Hungarians living in neighboring countries. The Law on Emigration and Immigration passed in 1989 (Act No. 29/1989 on Emigration Immigration) basically wiped out the barriers for Hungarian citizens to enter and leave freely the country and at the same time granted Hungarians living abroad to return home. Secondly, another significant, but non-ethnic Hungarian immigration flow turned up, the Chinese. The newly emerged market opportunities provided an attractive business environment, which was easily available to them due to a treaty signed by People's Republic of China and Hungary in 1989 allowing a visa free travel between the two countries (Nyíri, 1995). Thus, in 1991, 30 000-40 000 Chinese resided in Hungary. In 1992, approximately 1400 companies were run by Chinese nationals with a total capital of HUN 1.6 billion, but only HUF 6 million derived from permanent residents. Nyíri notes that even though Chinese companies existed, they did not function, which can be partially explained by that Chinese turned into market vendors. Based on his fieldwork, he concludes that many Chinese entrepreneurs viewed Hungary as a channel through which their goods could be passed to the European markets. This denoted a new type of migration which was motivated by "hopes for a better quality of life, less control by the society over the individual, and more money-making opportunities" (Nyíri, 1997 pp.66).

The early phase of the post-communist migration policy was characterized by a lack of border control. It not only allowed ethnic Hungarians entering the country en masse as a remedy for past grievances, but it has constituted a new type of migration by the increasing economic possibilities of a newly emerging market. This new pattern, as Nyíri describes, displays a "sojourners mentality". He notes already in 1997 that the new wave of immigration to Hungary urges migration studies to develop a new discourse on minorities. It should not be

private research enterprise of migration scholarship, but “investment and foreign trade laws, along with immigration, citizenship, minority, labor, and family legislation must increasingly be regarded in the policy framework of dealing with Chinese migrants in Europe, as it is already the case in America and Australia” (1997:67). However, such a comprehensive policy has not emerged.

3.3. Tightening Rules - One System, Two Standards

In contrast to what Nyíri envisioned, the Antall government initiated a “cleanup” campaign to check the legality of the residence and the economic activity of Chinese and other foreigner residents. The newly introduced yellow card became valid for one year and only in possession of working visa could a foreigner apply for stay permit based on work permit. Nyíri (1997) highlights that the Alien Law did not set specialized immigration quotas moreover “expert immigration” or “investment immigration” did not exist, despite that it was a common practice in the Anglo-Saxon countries as his Chinese informants were well aware of the trends. In spite of such much-needed and progressive policies, Nyíri gives an impressive account of how the actual regulation worked.

At present, over 70 percent of Hungary’s Chinese residents are forced to renew their stay permits at least every month, and sometimes every ten days or every week (...) After the re-introduction of the visa requirement, many found themselves without valid documents (...) Until 1993, immigration authorities lacked legislation, but operated on the basis of various regulation. The new aliens’ law (...) sets forth criteria for the residence and stay permits but, in effect, leaves the decision in KEO officials’ hands. (Nyíri, 1995:210)

Regarding the discretionary operation of the immigration control, Nyíri’s opinion is shared by other experts’ critiques (Kristóf, 1999 Sík, Zakariás 2005). They also conclude that especially after the introduction of Act CXXXIX on Asylum of 1997, which delegated the admission procedure to administrative offices, the migration system became characterized by a high

degree of discretionality: practical and procedural issues were regulated in various decrees or even by virtue of office. Under first democratically elected government the Act LV of 1993 on Hungarian Citizenship and later the Act LXXXVI of 1993 on the Entry, Stay, and Immigration of Foreigners (Alien Acts) were entered into force. This latter, detailed legal text aimed to control the entry and stay of foreigners more effectively by laying out firm statutory bases. The Aliens Act therefore introduced three kinds of permit; a temporary residence permit for a stay of maximum one year, a permanent residence permit granted for more than one year, and an immigration permit (Act LXXXVI of 1993 on the Entry, Stay, and Immigration of Foreigners). The holders of latter permit were settled migrants who had to meet the following criteria: residence for three years in Hungary, satisfactory income and accommodation, no threat to public health or public order and ability to integrate into Hungarian society. Life-long residence permit practically comprised all social and educational benefits that Hungarian citizens enjoyed and made work permit needless. Hárs (2009) posits that foreign labor was seen as a threatening issue, the restriction of which was to be accomplished by the law, as it is clear from the Péter Boross' introduction of the new law: "In order to protect the Hungarian labor market, certain provisions were amended, including restricting the employment conditions of foreigners and imposing visa requirements for such entries" (Parliamentary Logbook, 20th April, 1993, presentation of Péter Boross (Minister of the Interior) in Hárs, 2009 p.57). According a data, approximately 90% of the naturalized individuals were ethnic Hungarians between 1990 and 1995 (OECD/SOPEMI 1997:114 in Kristóf, 1999). Juxtaposing the two main legal documents, it may be seen that Hungarian migration policy in the 90s demonstrates a double standard. On the one hand, immigration permit is a proviso for naturalization and the residence requirement for naturalization is eight years in the Act on Citizenship. On the other hand, this time period is reduced to one year if a person can prove that they have Hungarian ancestors. In other words, on the bases of

ethnicity, distinct standards are applied to aliens regarding their naturalization: favoritism towards those who ethnically constitute the nation as opposed to the restriction towards ethnically distinct foreigners. This double standard has remained one of the key features of the migration legislation even after the EU accession. In addition to this, scattered policies were made by high discretionary power of officials towards business-type of immigrants.

3.4. EU Harmonization?

At the turn of the millennium, Hungary's aspiration to become an EU member state had a strong impact on its migration legislation. On behalf of the harmonization with EU immigration policies, a set of amendments was passed including laws on citizenship, immigration and asylum as well. Act XXXIX of 2001 on the Entry and Stay of Foreigners made legally a distinction between EU citizens and third country nationals in terms of their free movement. It comprises the rules on the free entry and stay of EU citizens which came into force after Hungary's accession to EU in 2004. The law contains common EU visa policy, abolishes temporary residence permit and introduces the permission to stay and residence permit (Hárs, 2009).

Foreigners who have legally and regularly lived in Hungary without interruption for at least three years may be granted with a residence permit which equals immigrant status. While those foreigners whose citizenship has ceased or whose ascendants had been Hungarian nationals or citizens may be treated differently according to the law. Otherwise, eight years of residence is required for naturalization. Act XXXII of 2001 on amending Act LV of 1993 on Hungarian Citizenship clarified further the conditions of preferential naturalization concerning children, persons born in Hungary and persons residing in Hungary during their childhood. These preferences could be primarily used by ethnic Hungarians living abroad.

Legally speaking, preferential treatment of kin-minorities hit the ceiling in the Act LXII of 2001 on Hungarians Living in Neighboring Countries (it is often called Status Law). By virtue of the law, ethnic Hungarians not only receive privileges in various fields, for instance in education, labor market or access to health care services, but they have the same rights as Hungarian citizens in certain areas (Küpper, 2004). The Hungarian Identity Card entitles its holders to enjoy the above privileges, which can be obtained after a submission of an official recommendation of Hungarian minority organizations from the country of citizenship. Also, the Act II of 2007 gave a visa and residence permit for five years for the purpose of practicing Hungarian language, maintaining cultural traditions or family contacts. However, as Gödri, Soltész and Bodacz-Nagy (2013) point out, it does not authorize its holders to move freely within the EU. Later, in 2011, the modification of the Act LV of 1993 introduced the simplified naturalization process for those non-Hungarians whose ancestor was a Hungarian citizen or who can prove that they have a Hungarian origin, if they can attest their knowledge in the Hungarian language, have no criminal records and their naturalization does not violate the Hungarian nation's security. A recent study (Kiss-Barna 2013:60 in Gödri, Soltész and Bodacz-Nagy, 2013) shows that 62.8 per cent of the respondent ethnic Hungarians living Romania have already applied or intend to apply for Hungarian citizenship, 88 per cent would like to work abroad while 93.5 per cent were thinking about studying abroad.

In contrast to the supportive legal environment for ethnic Hungarians, the legislation for third-country nationals was rather rigorous. Hárs (2009) gives a good summary of it. Labor market liberalization in terms of foreign labor power was one of the central policy debates between 2004 and 2005. In the National Action Plan for Employment the government explicated that instead of foreign labor, it would mobilize domestic labor power and, therefore, it aimed at preventing labor immigration. Consequently, the Green Paper, which is

a combination of work and residence permit, was refused³. Work permits thus remained an obstacle to the mobility of foreigners. Article 7 of Act IV of 1991 specifies the maximum number of working permits issued for one year. The employment of third country nationals is initiated by the potential employer (Gödri, Soltész and Bodacz-Nagy, 2014). Act IV of 1991 authorizes the Minister of Employment to set a quota for self-employed occupation. Self-employment is possible by holding a long-term visa for the purpose of gainful employment (Act II of 2007.) Section 20 (1) of the Act II of 2007 specifies the conditions under which third country nationals can obtain long-term visa or residence for the purpose of gainful employment:

“a) to perform work for others under contract of employment - as governed by law - for remuneration, which constitutes subordinate and superior positions;

b) to lawfully perform work in a self-employed capacity for remuneration;

c) to engage - save where Paragraph b) applies - in any gainful activity in the capacity of being the owner or director of a business association, cooperative or some other legal entity”

(Act II of 2007 On the Admission and Right of Residence of Third-country Nationals).

The residence permit issued on the basis of gainful employment is valid for three years and it can be extended by another three years. Highly skilled third country nationals can apply for EU Blue Card at the Immigration and Nationality, but Hungary does not offer any active highly skilled workers program as Gödri, Soltész and Bodacz-Nagy (2014) point out. Section 36 (2) however implies a discretionary power when it states “the minister in charge of immigration shall take into account the applicant's particular circumstances (...) as well as the interests of the Republic of Hungary” (Act II of 2007 On the Admission and Right of Residence of Third-country Nationals).

³ In 2014, a single application procedure came into effect.

See more on URL: <http://munkajog.hu/rovatok/munkahely/egyszerubb-az-eu-n-kivuliek-munkavallalasa>

Conclusion

This chapter aimed to trace the main patterns of the emerging post-communist migration policy. The drastic reconfiguration of the borders and the resulting displacement of Hungarian nationals first appeared to be manageable in 1989-90, after the establishment of the autonomous democratic state. The first phase of migration policy was full of improvisation and, as a result, it allowed for a mass immigration of ethnic Hungarians and Chinese. This rather liberal climate in immigration control was followed by a highly discretionary regime that aimed at reducing immigration, partly due to economic constraints. The next period is hallmarked by harmonizing the legislation with EU directives, while a branch of laws offered preferential treatment for ethnic Hungarians. Also, it preserved the hostile attitude towards economic migrants. Even though gainful employment and national interests had an increasing role in the legislation, comprehensive and active highly skilled immigration program did not exist while the national interest was a vaguely defined notion.

As a conclusion, the following short story told by Hárs (2009) illustrates the gist of the inconsistent and immature migration policy at the dawn of the new millennium in Hungary. In 2004, the Prime Minister's office established a Committee on Migration to produce the basic structure of the national immigration policy through collecting and analyzing data. The Committee submitted a draft amended by inter-ministry consultation to the relevant ministries. It was said to be inappropriate, not to mention that NGO- s and academia were equally left out form the consultation. Series of drafts were produced, amended and sent for consultation. Finally, in 2007, when the Committee came up its final draft, an opposition party⁴ published the draft on its website. It received significant media attention due to the vague and xenophobic wording: the Government was blamed by resettling Asian migrants

⁴ Christian Democrats People's Party which is the coalition partner of the ruling party Alliance of Young Democrats

and, as a consequence, the migration strategy was ceased to be on the Government's agenda. Hárs concludes that "Since then there has been no sign of formulating any migration strategy and the Inter-ministry Committee has been dormant for more than two years" (2009:53). She ends her study in 2009 by saying that future outlook is uncertain. Quoting Sketny she suggests giving more prominence to skilled migrants and investment.

"Though wealthier than their neighbours, Hungary and the others are not wealthy states relative to the rest of Europe, and in fact are seen as low-cost labour destinations for outsourcing manufacturing from the West (*e.g.*, Audi makes cars in Hungary). These states are not in need of low-skilled workers. More similar to China and Southeast Asian states, they would seem to need, if anything, skilled co-ethnics and investments"

(Sketny, 2007 p. 814 in Hárs, 2009 p. 71).

In her view economic considerations should be guiding migration. She finally concludes that "It largely depends on the economic development of both Hungary and the potential sending regions. The next phase and type of the migration is now subject to the uncertain future of the world economy" (2009:71). In retrospect, her prognosis was immensely correct. In 2012, the new governing party, which proposed the Status Law and the simplified naturalization process, and its coalition partner, which accused the socialist government of resettling thousands of Asian migrants, introduced a new law which has unprecedentedly economic in its essence.

4. Towards a Neo-Liberal “Immigration” Policy – The Hungarian Immigrant Investor Program

Introduction

In this chapter the Hungarian immigrant investor program will be presented. By analyzing primary sources, this chapter offers a thorough overview of the program including its main characteristics and institutional structure. Contradictions related to the program will be thematized by the use of secondary sources. These contradictions are revealed in both Hungarian and international news sites through which they open space for a broader discussion on the main features of the program, and, at the same time, they shed light on the inconsistent state immigration policies. Claiming that immigration by investment is a contemporary global trend, the final part gives a summary of the European “immigration market” (Wong, 2003) and it attempts to situate the Hungarian program in it.

4.1. Introduction of the Program

In order to attract wealthy immigrants “whose investments in Hungary qualify their entry and stay as being in the interest of the national economy” (Act CCXX of 2012 amending Act II of 2007 on the Entry and Residency Requirements of Third-Country Citizens) Hungary joined the global trend of immigrant investor programs in 2012. Within the framework of the amendments to Act No. 2 of 2007 on the Admission and Right of Residence of Third-Country Nationals, the Parliament of Hungary introduced the concept of “Residency Bond”. The Residence Government Bond, issued with denominations of EUR 300.000 and with maturity of five years, provides wealthy third-country investors with temporary residence permit, which after six months can be converted to a permanent residence permit,

i.e. entitlement to a life-long residency (ÁKK ZRT). At the end of the five-year period, investors may decide whether they aim to invest this sum into the Hungarian government bond again or want it back, but regardless of the decision, their permanent resident status will not be withdrawn. The permit thus can be renewed for the next five years and after another 3 years, investors become eligible for Hungarian citizenship. With notable exception of significant political rights such as voting in national elections and holding Hungarian passport, permanent residence permit guarantees all the socioeconomic rights that Hungarian citizenship encompasses including access to public education, employment, social assistance and to welfare benefits. Also, it authorizes investors to stay 90 days from a 180 day- period of time in the Schengen zone, which is considered one of the most attractive elements of the program. Moreover, investors do not have to live in Hungary, merely as a part of the application procedure, a proof of a Hungarian residence is required and consequently, only if they actual residence exceeds more than 182 days in a year, are investors obliged to pay tax.

Arguing that it would mean a significant capital injection to the national economy, moreover it could contribute to the domestic real estate and trade market, Bill No. T/88792 was submitted by three MPs of FIDESZ Antal Rogán, Krisztián Kapus and Mihály Babák on 27 October 2012 (Parliament, 2012). During a general parliamentary debate on the new bill on Act CCXX of 2012 amending Act II of 2007 on the Entry and Residency Requirements of Third-Country Citizens, President of the Chinese-Hungarian Friendship Association Antal Rogán explained that he has thought of such a program first while he has been negotiating with China. He added that immigrant investor program is not intended to be offered only for Chinese citizens, but non-European nationals in general. He emphasized that immigrant investment is becoming a world trend and therefore Hungary should not fall behind in this race. In December 2012, the Hungarian Parliament adopted the law. However, it does not mean that it is not contested in various public and political platforms. The following part

demonstrates the most contentious aspects of the program by using primary and secondary sources.

4.2. Tight Partnership between the State and the Market

The bond is exclusively issued by finance companies. Residency Bond Agents authorized to issue security bond by Economic and Information Technology Committee of the Hungarian Parliament with a par value of EUR 300 000 and maturity of 5 years (ÁKK ZRT). Within 45 days upon issuing the residence permit, companies purchase residency bond from Government Debt Management Agency Private Company Limited by Shares (ÁKK ZRT). ÁKK ZRT, however, sells the bond to business intermediaries for a discount price and pays the par value back at maturity. Consequently, companies are the initial investors since they purchase the bond, but they issue securities to recipients. Their service covers the procedural and legal representation of the investor during the entire application process. This non-refundable fee amounts 55 000 or 65 000 EUR depending on the company.

Based on the country of origin of the immigrant investors, they target different nationals and therefore they are not in competition with each other. Except for 1 out of the 7 companies is in Hungary, the others are located in various corners of the world. Vietnamese and Chinese can use the service of the Hungarian State Special Debt Fund (HSSDF) located in the Cayman Islands while those interested in the program from South Africa, Indonesia, Kenya, Nigeria, the USA, Thailand and Kazakhstan can receive help from the Discus Holdings located in Malta. The VolDan Investment in Liechtenstein focuses on the post-Soviet block and East Europe. The Innozone Holdings from Cyprus targets the Cyprian and Indian nationals. Citizens of Singapore are assigned to Euro-Asia Investment Management. And finally the Hungarian Arton Capital aims at attracting citizens of the UAE. The Framework Contract

with S&Z, based on the resolution of the Committee no. 1/2014-2018 dated 25th September 2014, is terminated. The company's activity covered Egypt, Morocco, Algeria, Oman, Iran, Tunis, Yemen, Kadar, Kuwait, Lebanon, Iraq, Saudi-Arabia, Syria, Libya, Jordanian, Bahrain, the UK and Switzerland in Lichtenstein.

A short interview with Lian Wang, the executive director of the Hungarian State Special Dept (HSSDF) provides an insight into how a complex division of labor is taking place in the program. He said that they have sold 2200 residence bonds only in China through a single business intermediary which generated a total of HUF 155 billion (Index, 2014). "The Debt Management Agency Private Company Limited by Shares (ÁKK ZRT) could have paid an annual interest of EUR 5000 per bond, but finally we agreed upon a discounted price which is essentially the same as if we had received the interest beforehand. This is, however, not a clear profit, HSSDF' expenses have to be covered by it. Service charges are spent for organizing promotional events of the residency bond and those 200 partners which forward the construction to the clients" (Index, 2014). According to Wang, amongst similar program operating in the EU, such as the Greek, Portuguese and Bulgarian, the Hungarian immigrant investment is the most popular.

Plenty of cynical media reports and articles have been published under such headlines: "Offshore companies make USD 185 million on sale of Hungarian residency bonds" (The Budapest Beacon, 2015) "Tremendous amount of money is made by Rogan's idea" (Index, 2015). Since many of the companies are registered in tax havens, they challenge the transparency of the process. Moreover, they question if the state is benefited the most from the purchase. Until recently the ownership structure of the companies was completely unknown. Green liberal political party Dialogue for Hungary made a public record request, but referring to bank and security secrecy, it was refused by the ÁKK ZRT. Later, an official announcement of the Economic Committee was sent to HVG which published the owners of

the companies. The disclosure of the companies' owners served a good basis for formulating the government's response for the accusations. The government claimed (INDEX, 2015) that the Hungarian practice follows the international trend. The prices of handling charge are set by the market. Furthermore the companies are not at all offshore since their owner structure is published. However, news sites were not completely convinced, they still claim that the real beneficiaries are unidentified.

Similarly, MP's from across the political spectrum question the program, from the liberals to the radical right. According to Zsuzsanna Szelényi from Together – Party for a New Era the program, no information is available about the applicants and it is not sure if they surveilled beforehand (Népszava, 2015). Dániel Z. Kárpát from the right-wing party Jobbik holds the opinion that neither residence permit nor citizenship should be purchased (Mandiner, 2015). In his point of view, the government simply aims at improving economic indicators whilst no information is available regarding the actual profit that investors bring to the country. Referring to a profit of HUF 60 billion that companies have gained from the program, MP Erzsébet Schmuck from "Politics Can Be Different" questions that the main objective of the program is a contribution to the national economy (Mandiner, 2015). Instead, she opines that it is intended to increase party members' private means through the networks of offshore companies. Finally, Democratic Coalition would eliminate business intermediaries from the entire process (Magyarhírlap, 2015).

4.3. Anti- or Pro Immigration State Policy?

Another segment of contradictions related to the Hungarian resident by investment program is presented by international media as well (Heinrich Böhl Stiftung, 2015, The Guardian, 2015, Budapest Beacon, 2015, Hungarian Spectrum, 2015). Prime Minister Viktor Orbán's speech after attending a rally in Paris has generated an overwhelming critic. He said:

Economic migration is a bad thing in Europe. We should not look at it as something useful, because it only means trouble and danger to the European people. Migration should be stopped. That's Hungary's opinion. We don't want to ingest a significant minority with a cultural nature and background that is different from ours. We would like to keep Hungary Hungarian (EuroNews, 2015).

Recently, the Government has compiled a survey of twelve questions as the basis of the national consultation concerning immigration, economic immigration and terrorism⁵. The poll of 12 questions includes: "Do you agree that economic immigrants endanger the jobs and livelihoods of the Hungarian people? Do you agree with the government that instead of allocating funds to immigration we should support Hungarian families and those children yet to be born? Do you agree that mistaken immigration policies contribute to the spread of terrorism?" News and articles write about hypocrisy when they interpreted Orbán's national consultation on immigration. They not only criticize the "ethically untenable" wording (Financial Times, 2015) and the manipulating style of the twelve questions, but they hint that the radical initiation is part of domestic policy, "and that maybe this is a bid by Orbán to stop his party's popularity from falling further" (Euronews, 2015).

Calling his attention to the stark contrast between the government anti-immigrant rhetoric and with its effort to attract wealthy immigrants, Antal Rogán, who appointed those companies which are entitled to sell the residency bond, clearly stated that residency bond is not a matter

⁵ URL: Website of the Hungarian Government Prime Minister's Office. 2015 National consultation on immigration to begin [ONLINE] Available at: <http://www.kormany.hu/en/prime-minister-s-office/news/national-consultation-on-immigration-to-begin>. [Accessed 24 May 15]

of immigration but a matter of investment and therefore has to be treated separately (Napigazdaság, 2015).

4.4. European Immigration Market

Several countries from all income groups and from all corners of the world have established their own immigrant investment program so that gaining financial contribution to their national economy. These programs share the same logic: in exchange for a certain type and amount of contribution, they offer a definite cluster of benefits. The programs are increasingly diverse in terms of contribution, benefit and other criteria, however specific patterns might be identified. With the help of the available information and Carrera's piece (2014), the following chart exhibits the immigrant investor programs in Europe along three main axes: type and amount of investment, criteria and benefits. Later, based on these dimensions, I set up a possible classification of these programs.

| | Type and amount of Investment | Criteria | Benefits |
|-----------------|---|---------------------------|--------------------------------------|
| Austria | a. Direct investment in business for the purpose of creating jobs or generating exports. b. Joint venture (Austria Citizenship for Wealthy Investors. Austria Citizenship by Investment.) | No residence requirement. | Austrian Citizenship. |
| Bulgaria | a. EUR 511, 292 into the Governmental Bond Portfolio with maturity of 5 years. b. Leverage of EUR 425,000 in a Bulgarian bank c fast track EUR 512,000 in government bonds or in a Priority Investment | No residence requirement. | Long Residency Status or Citizenship |

| | | | |
|----------------|---|--|---|
| | <p>Project and holding a second investment for 2 years.</p> <p>(Investor Program. Investor Program for Residence and Citizenship in Bulgaria.)</p> | | |
| Cyprus | <p>a.EUR 2 million in bond and EUR 0,5 million donation to the Research and Technology Fund</p> <p>b.Direct Investment for EUR 0,5 million</p> <p>c.EUR 0,5 million Deposit in Bank</p> <p>d.EUR 5 million Investment and donation to the State Fund</p> <p>e.Annual donation of EUR 0,5 million to the State Fund through business activities</p> <p>f.EUR 3 million of deposit in a Bulgarian Bank</p> <p>(Citizenship-by-Investment in Cyprus. Henly & Partners)</p> | <p>No residence requirement</p> <p>but</p> <p>Private residence for EUR 500,000 which has to be maintained</p> | Citizenship |
| Greece | <p>a.Real estate property for minimum EUR 250,000</p> <p>b.Strategic investment. No specific information regarding the value.</p> <p>(Greece Investment-Based Immigration. Investor Visa)</p> | No residence requirement | Residence permit |
| Ireland | <p>a.Immigrant investor bonds for EUR 1 million</p> <p>b. Investment in Irish enterprise for EUR 500,000 for 3 years</p> <p>c.Investment in a real estate property for EUR 450,000 in investor bond for EUR 500,000</p> <p>d.Donation for a project for EUR 500,000</p> <p>(Investor and Entrepreneur Schemes Ireland Irish Naturalization and Immigration Service)</p> | <p>Having private medical insurance and no entitlement to public funds.</p> <p>No residence is requirement but investors have to visit Ireland at least once in every 12 month period.</p> | Residence permit for two years, which after five years may be converted into long-term residence status |
| Latvia | <p>a.Company investment for EUR 80,000 – non-refundable</p> <p>b.Investment in real estate for EUR 280,000</p> | No residence is requirement | Temporary residence permit with annual renewal. Permanent residence permit after 5 years of holding the |

| | | | |
|-----------------------|--|--|---|
| | (Latvia Immigration - Get Permanent Residency in Latvia. Latvia Immigration) | | temporary residence permit. |
| Malta | <p>Donation of EUR 650,000 to the Government Fund and Investment of EUR 150 000 in Government Bonds for 5 years and Property investment of EUR 350,000 for 5 years OR rental of property of EUR 16,000 for 5 year (spouse and children have to pay EUR 25 000, unmarried children and dependent parents are obliged to pay EUR 50 000.</p> <p>(Individual Investor Programme Malta's. Individual Investor Programme)</p> | Residence requirement for a period of 12 months | Citizenship |
| Portugal | <p>a.EUR 1,000,000 of capital investment in a Portuguese company</p> <p>b. Job creation (minimum 10) through the establishment of a company</p> <p>c.EUR 500 000 of property investment</p> <p>(Portuguese Residency for Investors / Golden Residence Permit)</p> | Minimum stays is specified: 7days in first year and 14 days in the following 2 years. | Residency Permit for 1 year which can be renewed for 2 years. Permanent residence status after 5 years and citizenship status 1 year later. |
| Spain | <p>a.EUR 2, 000,000 of government bonds or public debt;</p> <p>b.EUR 1, 000, 000 of shares in firms or banks</p> <p>c.EUR 500 000 of property investment or acquisition of property</p> <p>It will grant the right to reside for a period of at least one year in Spain.</p> <p>(Spain Investment Immigration. EFSAG)</p> | No residence requirement | Residency permit for 1 year which can be renewed for two years by investment and proof of at least one visit to Spain during the 12-month period. Citizenship after five years. |
| United Kingdom | <p>a.£1,000,000 in a financial institution in the UK</p> <p>b.Having personal assets £2,000,000 in value and having £1,000,000 in a financial institution in the UK</p> <p>(Tier 1 (Investor) visa. GOV.UK.)</p> | Effective residence. Sufficient knowledge of the English language and knowledge about life in the United Kingdom | Tier 1 Investor Program : residence permit for 3 year and 4 months which can be converted into indefinite leave to remain after three years if the investor meets the above criteria. |

Madeleine Sumption and Kate Hooper (2014) summarize the advantages and shortcomings of each type of contribution. One form of financial contribution might be an investment in business for instance in Austria or in a project like in Ireland. They point out that to assess the benefits of this model is difficult: the project's future success cannot be foreseen since it also depends on how the projects will be sponsored after the expiration of the program. Another variety of contribution is property investment. This type of investment is popular among those countries which were hit especially hard by the housing boom slump recently such as Spain, Greece and Portugal. The property model may increase property prizes and generate jobs in construction and contribute to consumption or taxation of the investors, but all of these are rather speculations, and they conclude that the economic benefits of this type of contribution are quite unclear. They distinguish direct donation to the government national fund from the investment in regular government bond. These two fall under different categories of contribution, but in both of them a direct transaction takes place between the investor and the government. The first is a cash-based transaction in which the government can exercise a direct control over the funds. This is the case in Malta. In other countries like in Hungary or Ireland the investors have to purchase zero-or low interest government bonds. They claim that the disadvantage of this type is that investors' contribution is tied up for some years and thus prevent their investment in productive activity. However these programs are less controversial in comparison to cash payment which is "disguised" in their view. Last but not least, in the United Kingdom, immigrant investors are supposed to buy interest-bearing government bonds. Surprisingly, they note that this program has no direct economic benefits, but the economic activity, the consumer spending and the taxation of the investors may be regarded as indirect contributions. As for the criteria, only TIER 1 investor program restricts investors to reside in the UK as the prerequisite for permanent resident status. It not only implies investor's long-term financial contribution, but their acculturation as well. In

contrast, Austria and Cyprus exemplify less limitative programs, investors neither have to actually reside in these countries nor have to relinquish their initial citizenship. Malta is an exemption, the European Union was raising pressure on it to modify its program by the inclusion of the “genuine link” (i.e. effective residence) as the criterion for naturalization (Carrere, 2014) whereas some countries, like Portugal and Ireland specify a very limited number of visits within certain period of time.

In terms of the type and amount of contribution, the criteria and benefits, these programs demonstrate similar patterns that delineate the contours of the three main regimes.

The key features of the conservative type of investment programs are high amount of investment for moderate or high benefits, but relatively high criteria as it is exemplified by the UK. The liberal cluster stands at the other end of the scale stands characterized by moderate degree of investment with favorable benefits and low criteria. The typical examples of it are Hungary, Bulgaria and Greece. The conservative programs are between the two extremes with either high amount of investment, low criteria and moderate benefits or moderate amount of investment, low criteria and moderate benefits. Ireland and Spain may give examples of the former, while the latter can be illustrated in the Latvian’s program. Of course, the basis of comparison is indefinite, but taking into these dimensions account, the position of the Hungarian program in the European immigration marketplace (Wong, 2003) is becoming crystallized. Even if the Latvian program is cheaper, it offers only temporary residence permit with annual renewal. In comparison to the 6-month long waiting time in the Hungarian program, the permanent residence permit is received only after 5 years in the Latvian case. Moreover, the very similar benefits are available in Bulgaria, but at almost double price, while in Greece the type of investment may be less attractive, since it is not refundable.

In the light of this, it is not surprising that according to the data of the European Commission (European Commission, 2014), between May 2013 and December 2013 440 applicants

submitted their request from which only one was rejected. 429 out of 440 applications were from China, the rest were submitted by Russian, Egyptian, Lebanese, Iranian, Ukrainian, Syrian and American applicants. While, by now, this number has been quintupled, it has raised up to 2230 bonds sold last year, which means EUR 491.25 million (ÁKK ZRT).

Conclusion

As it was seen in this chapter, Hárs (2009) was correct when she envisioned a bigger role of economy in the development of national migration policies. The program basically aims to reduce state indebtedness by specifying the state bond as the type of investment, which is issued by the Debt Management Agency Private Company Limited by Shares (ÁKK ZRT). However many critiques question the effectiveness of the program, due to the active involvement of market actors in the program and the lack of transparency. The Hungarian program is extremely neoliberal in comparison to other residence by investment programs in Europe and thus entirely different from the emerging anti-immigrant sentiment of the government. How can we account for such contradictory, but simultaneously existing migration policies? Is this pattern entirely new?

5. Discussion

Introduction

The following chapter attempts to offer a potential explanation of the research puzzle. Drawing on the empirical materials, the policy of immigrant investor program is placed at three levels of analysis. I will use the anthropological analysis of policies as a theoretical framework. At each level of analysis, different aspects of the program come into light, by which, not only the program, but the field of migration and the current governance can be illuminated as well.

5.1. Micro-Level Policy Analysis

The policy of the Hungarian immigrant investor program has introduced a distinctive, contemporary subject, has established a novel constellation of institutional cooperation and a new set of relations and finally it has set the stage for a new discourse. In the following part, the above will be discussed.

As Wright and Shore (2011:18) posit, “Governmentality creates spaces in which population is classified and managed”. Looking at the empirical materials, it is seen that immigrant investors have a prominent position amongst foreign aliens. By virtue of their financial contribution, they are treated preferentially during the entire process. In contrast to other flows of immigrants, their arrival is highly desirable. As a result, the government distinguishes immigrant investors from the increasingly homogenized group of immigrants. According to their rhetoric, the immigrant investor is not an immigrant, but rather a foreign investor and thus the program built on their attraction is not a migration issue, but rather it is a business affair. Nevertheless, the profit which is offered to immigrant investors in exchange

for their financial contribution is permanent residence that is a visa status hence inherently a migration issue. Thus, the thesis argues that migration and economic politics are equally crucial institutions that make this policy run and, therefore, the policy is both migrational and economic in nature.

State and market actors are involved in the purchase process equally. Companies, authorized by the Economic and Information Technology Committee of the Hungarian Parliament, buy the bond from the Government Debt Management Agency Private Company Limited by Shares and sell it to the investors, moreover they employ intermediaries who market the program. This network transcends state boundaries and it covers almost the entire globe. The market centric logic of the purchase and the tight partnership between the state and market have provoked a storm of critics from various actors.

Even though the government has aimed at justifying the program's reasonability and portraying it as rational instrument that is in the service of the national interest, the political opposition and the independent media have started to question the policy. The offshore registration of the companies, the role of the state in the appointment of the firms and the business organization's significant profit on the procedure have been interpreted as a suspicious, state corruption issue.

By the introduction of the immigrant investor program, Hungary has entered a new platform, the so-called "global immigration market" as Wong (2003) puts it. Residence or citizenship by investment is indeed a worldwide phenomenon, countries from all across the world and from all type of income groups have launched their own program. This constitutes a new market in which the competition between different states is striving for the same customers. The low amount of investment, the low criteria and the relatively high benefits place the Hungarian policy amongst the most neo-liberal programs in Europe. In other words, the Hungarian immigrant investor program is particularly neo-liberal in character in

comparison to other programs in Europe, which indicates its competitive advantage in the immigration market.

The above aspects of the policy call attention to a key implication. The short analysis suggests that the state's otherwise more and more tightening border control has become permeable for a privileged group. In order to be able to unfold this more accurately, the policy has to be placed at a different level of analysis. The next part aims to locate the policy at a meso-level of analysis. Here, a policy is embedded in broader fields and, at the same time, it sheds light on them (Shore and Wright, 2011).

5.2. Meso-Level Policy Analysis

The first challenge in the conceptualization of the immigrant investor program in a broader policy field is to define the policy field it belongs to. Even though it is mainly specified in the migration legislation, the Ministry of National Economy Decree 4/2013 defines the rules on the issuance of bond. It implies that it is a complex issue which is placed at the intersection of various fields. Let me start first with the analysis of its relationship with other policies in the field of migration.

Szikrai's (2014) piece on the social and political consequences of the global financial crises analyzes the main features of the welfare reforms initiated by the current government. Although she does not explicitly assert, but by illustrating that a given policy field is made up of diverse and often conflicting policies, she considers policy is relational. By classifying policies based on their characteristics, she determines that their ideological underpinnings follow three main patterns; liberalism, etatism and neo- conservatism which results in a mixed welfare regime. This is the case in the field of migration too. There are three main clusters of policies. One hand the state's anti-immigrant rhetoric has been escalating into measures the

most recent manifestation of which is the “national consultation concerning immigration, economic immigration and terrorism”. The conflation of these three categories not simply implies that the state has no intention to set the stage for a mature and coherent migration regime, but displays a radically negative attitude to immigration as a whole. While, on the other hand, such a comprehensive and institutionalized program for wealthy immigrant has been unprecedented in Hungary. At the same time, the ethnic preference system is expanding by the recent introduction of the simplified naturalization process in 2011. The simultaneous existence of the ethnic preference system, the restrictive labor migration policies and the current structure of attraction of wealthy third-country nationals stand in stark contrast within the same field. It portrays a hybrid migration regime which comprises diffuse, contradictory and highly selective measures. Shore’s (2011) concept of the policy as a legitimating instrument fits here very well. According to his opinion, a policy not only determines a series of action to achieve a definite result, but it places this procedure within a framework of key principles. Even if the different threads of the state migration policy contradict each other, they are woven into the fabric of national interest, thereby simultaneously legitimize one another. Describing immigrants as terrorists who jeopardize the order or as alien parasites who invade the weak labor market imply that their entry is antagonistic to the national interest. While, the moral foundations upon which the facilitated immigration of ethnic Hungarians to the “mother country” rests are redressing past grievances, expressing ethnic solidarity and strengthening the concept of the nationhood. And finally, in the complex notion of immigrant investor, the investor segment is highlighted and thus their financial contribution overwrites their cultural distinctiveness, which is simply nullified in their case. As a conclusion, the sacrosanct and underlying principle of the current government, the national interest, holds the different clusters of immigration policies together.

Policies are not only relational, but historically constituted entities as well. In other words, they are structured over time. The simultaneous existence of discrepant policies in the sphere of migration is not a recent trend. Different standards have been applied for different type of immigrants in the field of migration from 1989 onwards. The subsequent political parties have given a significant preference for ethnic Hungarians in terms of their residence and naturalization over the rest of the immigrants, while they have been putting obstacles for the entry, residence and naturalization of third-country nationals, and thus their activity in the labor market has been undesirable. Yet sporadic and discretionary, but there has always been a practice of the preferential treatment of rich immigrants from the political economic transformation onwards too, consequently the vaguely defined national interest has played a role in the mechanism of immigration control. This is not to suggest that nothing is new in the current migration politics, rather I argue that nothing has come from nowhere. Nevertheless, the extreme radicalization of all the above patterns is unquestionable. Accounting for why these contradictions are sharpening, however, transcends the field of migration politics and leads to the field of political economy.

In a broader interpretation, but still at the meso-level of analysis, the policy of immigrant investor program is part of the state's unorthodox economic reforms. In a nutshell, the underlying principle of the unorthodox model is the rejection of the conventional neoliberal policies and the expansion of the state's role (Veress, 2013). Kornai's (2015) most recent piece gives a good summary of the actual implementation of the unorthodox model in Hungary, however, he goes beyond the boundaries of economy and offers a thorough depiction of the government's general reforms. The two-third parliamentary majority enabled the government to raise any issue to the level of law, moreover, it could replace the Fundamental Law based on multi-party consensus by its own version drafted by its own circles. The Fundamental Law includes several clauses that serve the interests of the power,

which are even more cemented by the 32 Cardinal Laws. In fact, trias politica principle does not function, Hungary exemplifies a fusion of supreme power since both executive and legislative branches are controlled by the government, according to Kornai. Private property is exposed to an intensifying legal, economic and ideological state attack and, as a result, the state sector is expanding in several areas, including banking, energy and media. Decentralization, as one of the major achievements of the political economic transformation, is replaced by a growing tendency towards centralization, which is seen most clearly in the shrinking power of the local authorities and of civil society. Centralization has constituted hierarchical relations within the regime. The “henchmens” at all layers of the pyramid are simultaneously servant and master but, foremost, they are loyal to the leader at the top of the hierarchy. In respect the market, Kornai speaks of a “half-turn” since state and market coexist still, but their relationship has been distorted: the careful balance between the two has been exposed to political interests. The state does not introduce austerities, but increases its revenues by tax and super-taxes imposed on banking sector, telecommunication and insurance.

The change that Viktor Orbán’s regime introduced is that now the state impinges on the economy in a much more aggressive fashion than did the governments before 2010: it exerts more efforts to rule over it. (Kornai, 2015:7).

Instead of state capture, Kornai conceives of a “capitalist clientelism” in which “the natural selection of market competition is overwritten by political considerations” (2015:7) and which ultimately results in corruption. One of the instances in which this process can be seen in its most crystallized form is the logic and the implementation of the policy under study. The close relationship between state and market actors in the immigrant investor program is unquestionable in the light of the empirical materials. The unpacking of the intricate institutional and personal interfusion of the market and the state in the program, however, is

beyond the scope of this study, nevertheless it is a key feature not only of the program, but, as it is seen, of the general political economic arrangement of the current regime.

He claims that these reforms trace a “U-turn” implying that the most significant achievements of the political-economic transformation have been abolished or at least weakened by the current government. In his standpoint, a robust shift from democracy to authoritarian political system is at work. He implies a key issue by his concept of “U-turn” in my opinion, namely that the shift that is currently taking place can only be understood in a historical context. There is a significant path-dependence at work indeed nevertheless, he does not offer a detailed account of why and in relation to what this “U- turn” has been taking shape. Furthermore, the “U-turn” suggests that current state policies are homogeneous and not conflicting since they share the same logic. The thesis takes issue with this implicit argument. The preceding chapters revealed that not only the current, but the previous governments have had contradictory policies in the field of migration. This is not to suggest that Kornai’s argument about the general direction of the shift is not correct, his piece is indeed a rich diagnosis of the current political economic setup, however it is a highly descriptive study. Furthermore, he fails to identify why and in relation to what the turn is happening. Nevertheless, the shortcomings of his work can be completed by the next section, hoping that it would contribute to the better understanding of why contradictions are sharpening in the field of migration.

5.3. Macro-Level Analysis

The adequate elucidation of the research question necessarily requires a more abstract level of discussion. In a broader interpretation, the policy has induced an extreme fragmentation in the field of migration, and precisely the understanding of this polarization is the main objective of this study. I insist that policy is structured over time, and as at meso-

level of analysis, here, at macro scale I would like to offer a historical analysis too. The “U-turn” about which Kornai speaks, has been taking place since the global financial crises and the overwhelming victory of FIDESZ. Indeed, in Hungary, the global financial crisis was an important landmark in the change of the political economic setup. Veress (2013) points out that the Hungary was an extremely open economy in which the share of the private ownership was 80 per cent and the vast majority of the stakeholders were foreigners, therefore it was extremely vulnerable to global imbalances. First, I review its historical trajectories then its consequences assuming that it can give an accurate account for the main puzzle of the present study.

Authors like Hoen (1998) and Kornai (1996) argue that the liberalization in the late 60s under János Kádár’s leadership had an ambiguous impact on both the speed and the nature of the transformation and the emerging political economic regime. Due to the relatively higher standard of living in Hungary and the wider availability of consumer goods compared to those of other countries in the communist bloc, the society was less accepting of paying the costs of the transformation. Hoen (1998) convincingly argues that all of these factors, and the fact that the vested interests of the political parties had appeared before the transition, prevented the first democratically elected government from taking radical, but necessarily measures. In “Paying the Bill for Goulash Communism” (1996), Kornai claims that economic policy of the successive governments from the 60’s to the spring 1995 was in many respects similar. Instead of taking radical actions that would have undermined their popularity, they aimed to maximize consumption at the expense of dept accumulation. Consequently, he calls this period "goulash post-communism" (1995:944).

Some scholars from the Variety of Capitalism theories describe the emerging capitalism in CEE differently (King, 2007 and Lane 2007). According to them, the essential

feature that distinguishes CEE capitalism from other varieties is rooted not their communist past, but their high dependence on foreign investment.

Lane (2007) asserts that post-communist states differ from advanced market economies at least in two aspects; they have a higher level of state ownership and control over economies and a lower degree of internal investment. Nölke and Vliegenthart (2009) accentuate the pivotal role foreign investment plays in the nascent economies in CEE countries as well. Drawing on Soskice and Hall research program on Varieties of Capitalism (2001), they point out that capitalism in Central and Eastern European countries can be categorized as neither liberal market economies nor coordinated market economies and, thus, they introduce a third way of coordination, “dependent market economies”. King (2007) seems to agree with this argument. He makes a distinction between dependent post-communist capitalism and patrimonial post-communist capitalism. Having relatively small degree of domestic capital, East Central European countries rely heavily on foreign direct investment. The main features of liberal dependent economies are high degree of FDI, but moderate steering capacity of the state, weak trade unions, but high level of state provisions. By contrast, in the patrimonial system, the economic coordination takes place through patron-client network, FDI is weak, the state is also weak and the degree of state provisions is moderate.

According to King (2007), the most important consequence of the predominance of foreign investment is that economic growth becomes dependent on the investment strategies of multinational corporations and the decisions of foreign-owned banks.

Bohle and Greskovics (2007) also claim that the Visegrád states are characterized by their high degree of foreign investment. The Visegrád states attempt to prevent the negative effects of market shock and attract foreign capital by a set of state interventions. As a consequence, Hungary can be regarded as an extremely hollowed out (Schumpeterian

workfare) state (Jessop, 1993) which applied a mixture of neoliberal and neo-statist strategy, the so-called embedded neo-liberalism, as Böhle and Greskovics (2007) call it.

Being exposed to global economic forces, not only the national economy has been hit by the global financial crisis enormously, but it also has indicated that the state could not perform its duty to protect people from the consequences of the crises, since it had no control over transnational economic forces. It has brought forth, what is called, the "crisis of democracy" by Resch (1992). Offe and Adler (2004) foresaw something similar when they claimed that the market economy in post-communist countries has been a political project which holds promises only if it is built upon democratic legitimation. If either or even both cease to be affirmed by people, frustration and accumulated disappointments may lead to various distortions of the principle of liberal democracy. Precisely, this is at stake in contemporary Hungary, as PM Viktor Orbán himself declared in his speech delivered in Tusnádfürdő, Romania July 2014 in which he revealed his ideal of the state. He stated that followings.

(...) The state that is most capable of making a nation competitive. This is why, Honorable Ladies and Gentlemen, a trending topic in thinking is understanding systems that are not Western, not liberal, not liberal democracies, maybe not even democracies, and yet making nations successful. Today, the stars of international analyses are Singapore, China, India, Turkey, Russia We needed to state that a democracy is not necessarily liberal. (...) Just because something is not liberal, it still can be a democracy (...) We have to abandon liberal methods and principles of organizing a society, as well as the liberal way to look at the world (...) The new state that we are building is an illiberal state, a non-liberal state. It does not deny foundational values of liberalism, as freedom, etc. But it does not make this ideology a central element of state organization, but applies a specific, nation.

(Budapest Beacon, 2014)

In his speech, he defines the underlying principles of the current governance in contrast to those of the previous regimes. The prosperity of the nation is at the centre of his vision, which is only possible through the rejection of liberal "methods and principles". This stands in stark contrast to the extremely neo-liberal logic of the immigrant investor program. By the introduction of the residence/citizenship by investment program, the state is not able to apply its immigration policies universally, but it has to classify subjects under different regulations

in order to be able to accumulate capital, according to Ong (1999), which is in the Hungarian case is rather to cut back state indebtedness. The trend of immigrant investor program thereby can be interpreted as a hollowed out control of the state over its own boundaries. It implies a shrinking state capacity for exercising exclusive control over the immigration. It presumes a great extent of neoliberal flexibility, a race to the bottom, for the better performance in the global competition. Precisely, this is what distinguishes the Hungarian immigrant investor program from the rest of the existing policies in the sphere of migration. Its neoliberal character not only differs from the “illiberal” vision of the state fundamentally, but stands in stark contrast to the growing anti-immigrant and the stable diaspora politics of the state migration regime over which, presumably, the state can keep its control still. The sharpening contradictions in the field of migration, from this standpoint, reflect an uneven hollowing out tendency. As the lack of transparency in the investor immigration program also well exemplifies, there is a growing trend of hollowing out democracy from within. Hárs’s prognosis (2009) that type and the next phase of the migration politics will be depending on global economy, can be completed by the findings of the thesis, migration policies are even more fragmented thereby polarizes even more radically immigrants both on the bases of ethnicity and class. The diffuse policies, under the sacrosanct principles of the governance, the nation, enable the current government, at least in the field of migration, to sailing under a “Western flag, but by Eastern wind⁶”.

⁶ PM Viktor Orbán introduced the government’s “Eastern Opening” policy September 5, 2010 meeting in which he stated “We are sailing under a Western flag, though an Eastern wind is blowing in the world economy” URL: http://index.hu/belfold/2010/11/05/orban_keleti_szel_fuj/

6. Conclusion

The thesis aimed at interpreting a controversial site in contemporary Hungary. The migration regime is composed of extremely diffuse and conflicting clusters of policies: an ethnic diaspora regime, a restrictive and even hostile stance toward immigrants (economic immigrants or even terrorists) and finally a neo-liberal policy for wealthy investors. Tracing the historical trajectories of the emerging post-communist migration regime, it came to light that inconsistent policies and selective measures have been always part of it. Nevertheless, an extreme radicalization is at work in all clusters. The thesis aimed to account for this shift through an anthropological analysis of immigrant investor program as a state policy. In the introduction of this state policy, I relied on primary and secondary sources which enabled the thesis to characterize the program in details, to reveal its contradictions, to trace its institutional setup and finally to determine its place in a European context. The discussion chapter offered three levels of analysis through which it aimed to elucidate the radical contradictions in the field of migration. The micro-level of analysis formed concepts from the empirical materials that were necessarily for place the phenomenon at a meso-level of analysis. Here, the policy was seen both as a relational and as a historically constructed entity which, by its contradictory relationship with other state policies, constitutes an extremely hybrid migration regime. Considering the policy as part of the state's unorthodox economic reforms, opened a window onto a historical analysis of what has given rise to such reforms. By the analysis of the emerging political economic regime in post-communist Hungary, it came to light that it was enormously exposed to global economic imbalances. The crises has hit not only the national economy, but has had a significant impact on the legitimation of the existing political-economic setup. However, it does not mean that the state is not anymore

exposed to hollowing out tendencies (Jessop, 1993). The active participation of the state in the “global immigrant market” (Wong, 2003) with such a neoliberal commodity implies precisely the opposite, namely, that state does not have a centralized control over its boundaries, instead, it has to apply a flexible, race to the bottom strategy in order to efficiently perform in a global competition. In my understanding, it indicates an uneven hollowing out trend in the field of migration which makes the contemporary Hungarian migration regime extremely polarized.

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