



Working Paper

**Romania's Stance in the Issue of the Refugees Crisis.
Preliminary Observations.**

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Abstract

The present paper is a part of a broader European debate concerning the rise and risks of the refugees crisis in the midst of a European Union tormented by an economic, social and security crisis. Using open sources I present here a brief overview of the Romanian political landscape and the scars that the debate regarding the refugee crisis left, using open sources.

At the EU level we are currently dealing not only with a massive influx of refugees from war torn countries such as Syria and Iraq but also with an increasing number of economic migrants that tend to be mixed together by an overly passionate public opinion and political class. It is important in my opinion to have this distinct approach in order to try identifying the necessary policies.

For the first time after the end of a Second World War, we are assisting to a huge migratory flux in Europe, with persons coming from foreign cultural areas that have triggered a wave of fears and potential conflicts due to difficulties of cultural integration, all on the background of older migrant issues in Western Europe.

Taking into account the fact that migration issues seem to be yet ever more present in contemporary European democracies, this phenomenon is likely to draw further scientific attention, and an increased need for nationally localized studies, such this one on Romania.

¹ The views and opinions expressed in this article are those of the author alone and do not necessarily reflect the official policy or position of any organization he is connected to.

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General context

Europe is currently facing the worst refugee influx since the end of the Second World War – it is a massive wave that includes mainly, but not limited to, refugees from war-torn Syria and Iraq as well as economic migrants from Sub-Saharan Africa, Afghanistan, Pakistan and other regions of Asia and Africa. It was a surge that started in 2010 – 2011 that reached its peak in the second half of 2015.

UNHCR Mid-Year Trends Report 2015 has shown a glooming face of the refugees' crisis as it shows that **2015 is likely to break any known records for forced displacements**. Without taking into consideration the second half of 2015, this Report shows an aggravating trend unlikely to stop.

“With almost a million people having crossed the Mediterranean as refugees and migrants so far this year, and conflicts in Syria and elsewhere continuing to generate staggering levels of human suffering, 2015 is likely to exceed all previous records for global forced displacement”³.

The pressure on the EU Member States is obvious if we take into consideration that “in the first six months of 2015 Germany was the world's biggest recipient of new asylum claims – 159 000, close to the entire total for all of 2014”⁴.

This generated a shock wave across the European Union by splitting the Union in two camps – those who welcome the refugees (lead by Germany) and those opposing based on a series of arguments either objective or subjective (see the case of Hungary).

We have assisted in the last couple of months to a series of extraordinary European meetings dedicated to solving the refugee crisis that have resulted in a series of decisions that often have generated a series of negative reactions on behalf of the Member States, decisions and rules that are not the main topic of the present paper⁵.

³ *UNHCR Mid-Year Trends Report 2015*, available online at <http://www.unhcr.org/5672c2576.html> Last visited on December 30th 2015.

⁴ *UNHCR Mid-Year Trends Report 2015*, available online at <http://www.unhcr.org/5672c2576.html> Last visited on December 30th 2015.

⁵ For further references please visit http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/index_en.htm Last visited on December 30th 2015.

One of the most important decision is that regarding the **compulsory quota**⁶ of refugees that each Member State must receive which generated a series of heated debates amidst the ranks of national political elites.

Migrant	Migrants choose to move not because of a direct threat of persecution or death, but mainly to improve their lives by finding work, or in some cases for education, family reunion, or other reasons. Unlike refugees who cannot safely return home, migrants face no such impediment to return. If they choose to return home, they will continue to receive the protection of their government ⁷ .
Refugee	Any person who “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” ⁸ .
Legal Migration	The migration process due in accordance with the host country legislation that follows a series of legal provisions ⁹ .
Irregular migration	Movement that takes place outside the regulatory norms of the sending, transit and receiving countries ¹⁰ .

Table 1. Terminological clarifications of the main terms used

⁶ Romania in accordance with the European Relocation scheme must receive a percentage of 3.75% of refugee. See *European schemes for relocation and resettlement*, available online at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_annex_en.pdf Last visited on December 30th 2015. For further details regarding this process please visit *European Commission - Fact Sheet Refugee Crisis – Q&A on Emergency Relocation*, Brussels, 22 September 2015, available online at [http://europa.eu/rapid/press-release MEMO-15-5698_en.htm](http://europa.eu/rapid/press-release_MEMO-15-5698_en.htm) Last visited on December 30th 2015.

⁷ Adrian EDWARDS, 'Refugee' or 'migrant' - Which is right?, 27 August 2015, available online at <http://www.unhcr.org/55df0e556.html> Last visited on December 30th 2015.

⁸ *Convention and Protocol relating to the status of refugees*, available online at <http://www.unhcr.org/3b66c2aa10.html> Last visited on December 30th 2015.

⁹ See more at *Legal migration*, European Commission, available online at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/legal-migration/index_en.htm Last visited on December 30th 2015.

¹⁰ See more at *Key Migration Terms*, International Organization for Migration, available online at <https://www.iom.int/key-migration-terms> and *Irregular Migration & Return*, European Commission, available online at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/irregular-migration-return-policy/index_en.htm Last visited on December 30th 2015.

Brief overview of the regulations regarding the refugees

The basis for any refugee policy can be found in the *1951 Convention Relating to the Status of Refugees* which remains the law in force even nowadays in relations with the status of refugees. This Convention was later one supplemented by a series of international regulations¹¹.

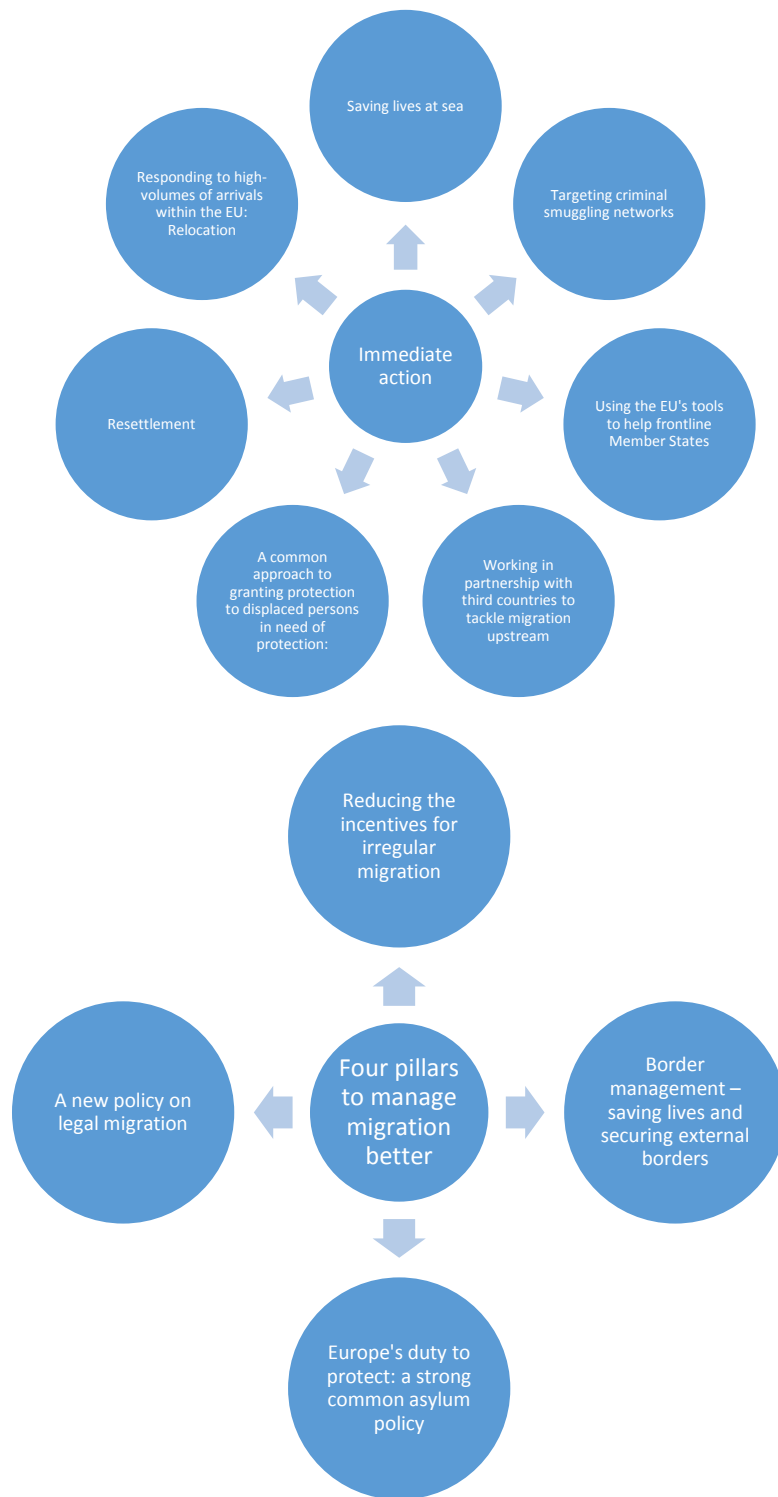
As regards the European Union it has created since 1999 a Common European Asylum System (CEAS)¹² which is yet fully operational as the current challenges have shown it needs further reforms and adaptations.

This can be seen clearly in the *2015 Communication A European Agenda for Migration*¹³ which sets up a series of short and medium term priorities in the area of migration.

¹¹ A complete list of these documents can be found in *The Protection Manual of UNHCR's* which is the repository of protection policy and guidance, available online at <http://www.refworld.org/protectionmanual.html> Last visited on December 30th 2015.

¹² *Common European Asylum System*, European Commission, available online at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/asylum/index_en.htm Last visited on December 30th 2015.

¹³ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration*, Brussels, 13.5.2015 COM(2015) 240 final, available online at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf Last visited on December 30th 2015.



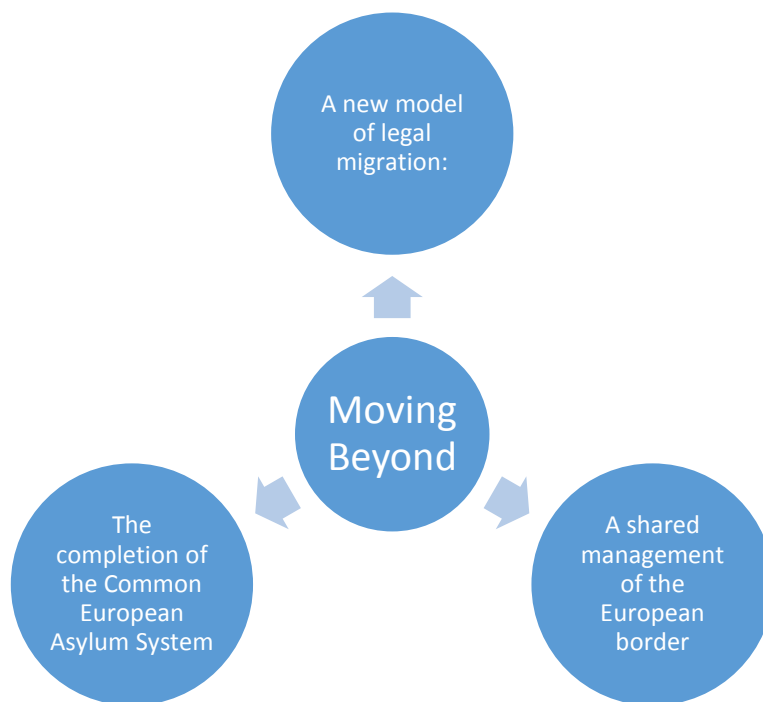


Figure 1. Short-, medium- and long-term priorities of the European Agenda for Migration¹⁴

Migrants in Romania. Preliminary figures

Romania has so far, within the European Union Member States, the **lowest percentage of the total population formed by immigrants** that raised from 0.6% (in 1990) to just 0.9% (in 2013)¹⁵

¹⁴ *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration*, Brussels, 13.5.2015 COM(2015) 240 final, available online at http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-migration/background-information/docs/communication_on_the_european_agenda_on_migration_en.pdf Last visited on December 30th 2015.

¹⁵ *International Migrant Stock, 2013*, Department of Economic and Social Affairs, Population Division, United Nations, available online at <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimatestotal.shtml> Last visited on December 30th 2015.

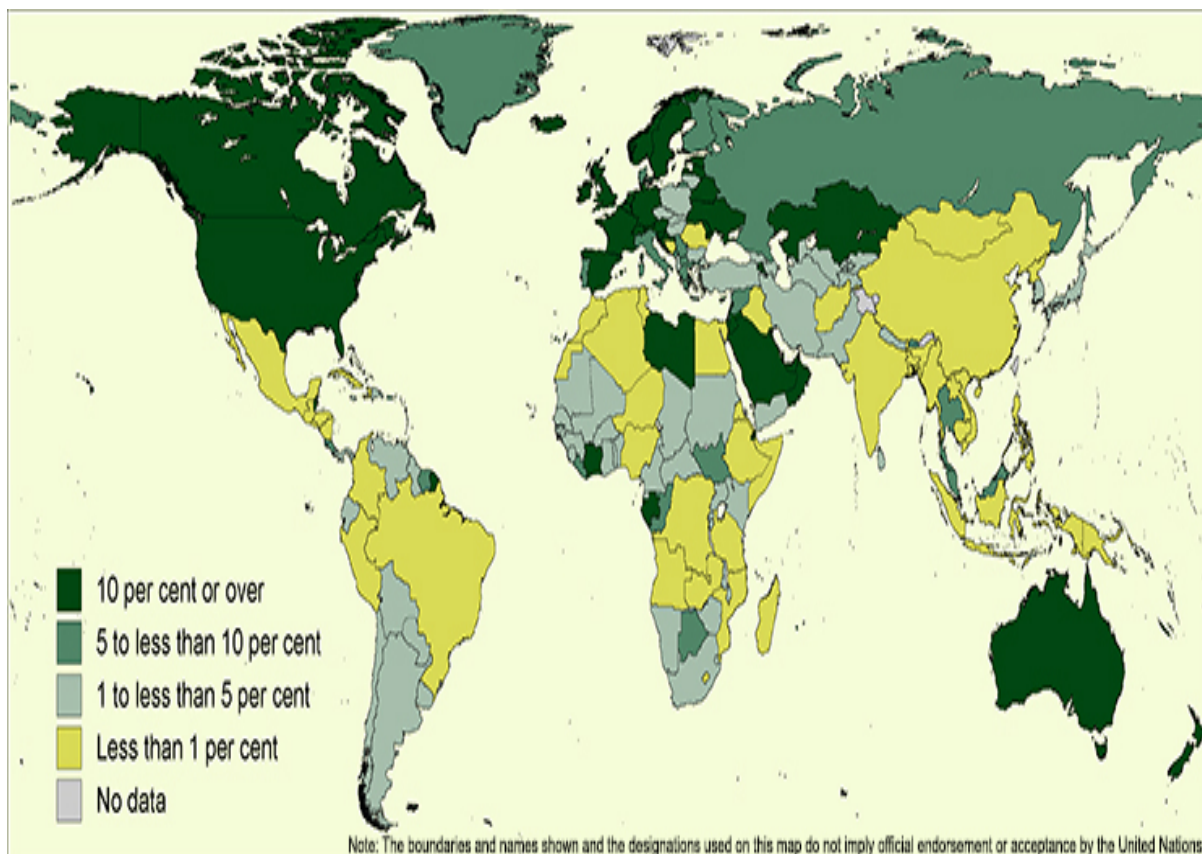


Figure 2. International migrant stock as a percentage of the total population (2013)¹⁶

This low percentage is due to the low number of persons who filled asylum requests in Romania: from **1991 until December 31st 2013** approx. **25 100 asylum requests** were registered in Romania out of which approx. **5 200 were approved**.

In **2014** Romania had **1 506 asylum requests** (plus 114 access requests to a new procedure) out of which 713 persons received the statute of refugee or another form of protection¹⁷.

As for the year **2015** Romania received from **January 1st until September 30th 2015** a total number of **944** asylum requests¹⁸.

¹⁶ *International Migrant Stock, 2013*, Department of Economic and Social Affairs, Population Division, United Nations, available online at <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimatestotal.shtml> Last visited on December 30th 2015.

¹⁷ *UNHCR in Romania*, available online at <http://www.unhcr-centraleurope.org/ro/despre-noi/unhcr-in-romania.html> Last visited on December 30th 2015.

The refugee crisis in the second half of 2015. Romania's reactions

Presidential administration

In face of this crisis Romania had a rather balanced position despite the numerous media news and online articles that were underlining the dangers posed by the refugee crisis.

One of the exponents of such balanced approach was the president of Romania Mr. Klaus Iohannis who took, even from his early September 2015 speeches, a more nuanced attitude based upon the **respect of both human values and the logistical constraints** our country had to uphold.

He stated **Romania's solidarity with the EU, yet a conditional solidarity**: "solidarity is required, but it is best for each Member State to establish on its own how many refugees it can take. It is what is called voluntary quotas"¹⁹.

It was on this occasion when he reiterated Romania's offer of taking into refugees namely **1 785 persons**²⁰ while underlying what has been since the key argument of Romanian officials in rejecting compulsory quotas – **the impossibility of integration of refugees**: "Romania doesn't have the capacity to integrate these refugees into society"²¹.

¹⁸ The speech delivered by Prime Minister Victor Ponta in the plenary of the Chamber of Deputies at "Prime Minister's Hour" October 5th 2015, available online at <http://gov.ro/en/news/the-speech-delivered-by-prime-minister-victor-ponta-in-the-plenary-of-the-chamber-of-deputies-at-prime-minister-s-hour> , Last visited on December 30th 2015.

¹⁹ *Press conference of Klaus Iohannis*, Romania's President, September 7th 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/conferinta-de-presa-sustinuta-de-presedintele-romaniei-domnul-klaus-iohannis1449683916> Last visited on December 30th 2015. ["este nevoie de solidaritate, dar este mai bine ca fiecare stat membru să stabilească singur câți refugiați poate să primească. Este ceea ce se numește cote voluntare."].

²⁰ This number was established following a pure administrative procedure: "These places are available in six welcoming centers, that exist in nowadays Romania" *Press conference of Klaus Iohannis*, Romania's President, September 7th 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/conferinta-de-presa-sustinuta-de-presedintele-romaniei-domnul-klaus-iohannis1449683916> Last visited on December 30th 2015. ["Aceste locuri sunt disponibile în șase centre de primire, care există în România în ziua de astăzi."].

²¹ *Press conference of Klaus Iohannis*, Romania's President, September 7th 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/conferinta-de-presa-sustinuta-de-presedintele-romaniei->

In the later speeches the president once more tried to clarify the distinction between housing the refugees and their integration into the Romanian society. We don't really have a problem in the housing capacity but our problem runs deeper and is a problem of integrating them.

“We, if we accept migrants, we don't receive them on a hotel basis, so they stay until the winter is over and then we shall see. We, if we take them, we must assume them. These people need to be educated, they must learn Romanian, and their children must go to school and learn in the Romanian language. They need to be integrated in society. Society is not somewhere above and waits, society is us, they need to go somewhere in a town, there they must be accepted, there they must find houses on their own money, not on the state money, there they must find jobs, because we do not want to create new and new social cases. This means receiving migrants”²²

This attitude of **favoring voluntary quotas instead of compulsory quotas had as main result the vote against the compulsory quotas by Romania** at the JAI Council in September 2015, which placed our country in the same line with Hungary, Slovakia and the Czech Republic.

This vote created a difference of opinion between the Presidential Administration and the Government represented by the former Prime-minister Victor Ponta, who, in a speech held in front of the Chamber of Deputies said it was a mistake to vote against it as it put us in the same league as Hungary and Slovakia.

“I think we were right to support the principle of not having compulsory quotas, but I also think that we made a mistake by voting along with Hungary and Slovakia, contrary to the

[domnul-klaus-iohannis1449683916](http://www.presidency.ro/ro/media/agenda-presedintelui/conferinta-de-presa-palatul-cotroceni-sala-unirii) Last visited on December 30th 2015. [“România nu are capacitatea să integreze pe acești refugiați în societate”].

²² *Press conference of Klaus Iohannis*, Romania's President, September 14th 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/conferinta-de-presa-palatul-cotroceni-sala-unirii> Last visited on December 30th 2015. [“Noi, dacă primim imigranți, nu-i primim în regim de hotel, ca să stea peste iarnă și pe urmă vedem. Noi, dacă îi primim, ni-i asumăm. Acești oameni trebuie școlarizați, trebuie să învețe limba română, copiii trebuie să meargă la școală și să învețe în limba română. Ei trebuie să fie integrați în societate. Societatea nu este undeva pe sus și așteaptă, societatea suntem noi, trebuie să meargă undeva într-o localitate, acolo să fie acceptați, acolo să își găsească locuințe pe banii lor, nu pe banii statului, acolo să își găsească locuri de muncă, fiindcă nu vrem să creăm noi și noi cazuri sociale. Asta înseamnă primirea imigranților.”]

rest of the European Union, and I do believe that it is the time to have, I emphasize, a European, constructive and solidary position.”²³.

However the decision was accepted as a *de facto* one and Romania gave up any attempt to file a complaint at the European Court of Justice on this topic like the other opposing countries have done: “We shall wait for the results of these complaints”²⁴.

²³ The speech delivered by Prime Minister Victor Ponta in the plenary of the Chamber of Deputies at “Prime Minister’s Hour” October 5th 2015, available online at <http://gov.ro/en/news/the-speech-delivered-by-prime-minister-victor-ponta-in-the-plenary-of-the-chamber-of-deputies-at-prime-minister-s-hour> , Last visited on December 30th 2015.

²⁴ *Press conference of Klaus Iohannis*, Romania’s President, September 23rd 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/transcrierea-conferintei-de-presa-sustinuta-de-presedintele-romaniei-domnul-klaus-iohannis> Last visited on December 30th 2015. [“Vom aștepta rezultatul acestor contestări”].

The non-sustainability of any action regarding the compulsory quotas of refugees in the European Court of Justice

In accordance to a series of Romanian legal scholars any action at the European Court of Justice is doomed to failure due to the fact that the European law wasn't breached by the JAI Council decision given the current interpretation of the European law.

“European law is revised and enters on the interpretation of general applicable principles, like that of subsidiarity, by delegating the decision regarding the migration policies toward the EU, followed by the taking over at the Members States level of what is discussed; in that case an action in Court would most surely fail from a legal point of view. It is a problem of establishing and reestablishing competency, who has the right to decide, the Commission or the Member States at the national level.

The principle of subsidiarity, contained in article 5 of the Lisbon Treaty, establishes in what situations does the EU have the competency to legislate and make decisions in the interest of the citizens. The area of security and foreign affairs are in the area of special competences of the EU. The migration crisis can be easily considered as belonging to the area of competence of CFSP. Moreover, the Lisbon Treaty has in the article 352 also a flexibility clause that would allow the EU to act beyond the authority given by the Treatises, if the situation requires so.”²⁵.

Figure 3. The non-sustainability of any action regarding the compulsory quotas of refugees in the European Court of Justice

²⁵ Claudia POSTELNICESCU, *România și criza migrației. Contra UE, de mână cu Viktor Orban*, Expert Forum, *Policy Brief*, no. 39, October 2015, available online at <http://expertforum.ro/wp-content/uploads/2015/10/Pol-Brief-39.pdf> Last visited on December 30th 2015. [“Dreptul european se revizuieste și se intră pe interpretarea unor principii generale aplicabile, cum ar fi cel al subsidiarității, prin delegarea deciziei privind politicile de migrație către UE, urmate de preluare la nivelul statelor-membre a ceea ce se discută; în acest caz o acțiune în instanță în mod sigur va eșua din punct de vedere juridic. Este o problemă de stabilire și restabilire a competenței, cine are dreptul să decidă, Comisia sau statele membre la nivel național ? Principiului subsidiarității, cuprins în art. 5 al Tratatului de la Lisabona, stabilește în ce situații UE are competența de a legifera și a lua decizii în interesul cetățenilor. Domeniul securității și al politicii externe intră în sfera de competențe speciale a UE. Criza migrației poate fi ușor considerată ca aparținând domeniului de competență al PESC (Înaltul Reprezentant pentru Politică Externă și Securitate Comună). Mai mult decât atât, Tratatul de la Lisabona cuprinde în art. 352 și o clauză de flexibilitate care îi permite UE să acționeze dincolo de puterea atribuită prin tratate, dacă situația impune acest lucru.”].

This opened the door to presenting what can be called as the “**Romanian vision**” regarding the refugees crisis as it results from the official position of the Romanian president who reiterated it in a speech addressing the issue.

Thus we had to address the elephant in the room that nobody’s speaks about – **meaning the decision to have boots on the ground**. We need to go to the roots of the crisis and have a decisive intervention to the source of the crisis – meaning Syria but not only in order to end this conflict and bring back peace.

Secondly **we must reinforce the support granted to the safe areas from around the crisis zone**, meaning an increase support for countries such as Jordan, Lebanon or Turkey – helping these countries in dealing with the refugees already there has a greater impact than helping the individual refugees (for instance Romania would offer 300 000 euros, in the following three years for the World Food Programme directed at assisting the refugees)²⁶.

And last but not least dealing with the refugee crisis means dealing with the **security issue** – and **reinforcing the outer border of the European Union** must become a top priority in conjunction with fighting against the networks of human trafficking that smuggle refugees across borders.

Moreover **the so-called “hot-spots” could be transformed into European centers** as this is a European issue while creating an **integrated mechanism for solving the refugee crisis**.²⁷

²⁶ This financial aid shall be supplemented by a direct assistance of 1 000 000 lei (approx. 230 000 euros) granted by the Romanian government to the Hashemite Kingdom of Jordan at the end of September 2015. See more at *Humanitarian aid to be granted to the Hashemite Kingdom of Jordan, in the refugee crisis*, Romanian Government, September 30th 2015, available online at <http://gov.ro/en/news/humanitarian-aid-to-be-granted-to-the-hashemite-kingdom-of-jordan-in-the-refugee-crisis> , Last visited on December 30th 2015.

²⁷ *Press Statement of Klaus Iohannis*, Romania’s President at the end of the reunion of the Extraordinary Informal European Council, September 24th 2015 available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/declaratia-de-presa-a-presedintelui-romaniei-domnul-klaus-iohannis-sustinuta-la-finalul-reuniunii-consiliului-european-extraordinar-informal> Last visited on December 30th 2015.

Actions of the Romanian government regarding the refugee crisis

What is to be noticed is the fact that amidst a complicated internal situation both the former socialist government led by Victor Ponta and the Presidential administration had, most of the time, a common position as regards the migration issue.

We had from the very top offices a **strong discourse of condemnation of any type of xenophobic speeches** of various politicians as Romania wanted to be and still wants to be a part of Europe. Therefore no type of anti-refugees speech is to be encouraged. Moreover the former Prime-minister endorses the President's speech in regards with the number of refugees that Romania can receive offering an estimate of between 1 500 – 1 700 refugees citing the same concerns regarding their future integration²⁸.

It is in this tense context that the Romanian Government finally adopted, on September 16th 2015 the *National Immigration Strategy for the period 2015-2018*²⁹. The purpose of this Strategy is to create a **flexible admission system**, but at the same time **to pay special attention to citizens from countries with migration potential or who may affect national security**.

We have now finally defined more clearly what are the **general policy objectives** that Romania is pursuing relating to migration and thus what is the road map it must adopt in order to fulfill them.

- “1. The promotion of legal migration for the benefit of all parties: the Romanian society, immigrants and their states of origin;
2. Strengthening the legality of third-country nationals stay in Romania and the proper enforcement of removal and restrictive measures;
3. Improving the national asylum system in order to improve legal standards and ensure compliance with national, European and international rules;

²⁸ The speech delivered by Prime Minister Victor Ponta in the plenary of the Chamber of Deputies at “Prime Minister’s Hour”, September 7th 2015, available online at <http://gov.ro/en/news/prime-minister-victor-ponta-participated-in-the-ora-premierului-in-the-plenum-of-the-chamber-of-deputies1441730462> Last visited on December 30th 2015.

²⁹ *National Immigration Strategy for the period 2015-2018, and the Action Plan for 2015*, approved by the Government, Romanian Government, available online at <http://gov.ro/en/news/national-immigration-strategy-for-the-period-2015-2018-and-the-action-plan-for-2015-approved-by-the-government> Last visited on December 30th 2015.

4. Romania's active participation in the efforts of the international community and the European Union Member States in finding durable solutions for persons in need of international protection, and the social integration of third-country nationals. In this respect, the policy of social integration of third-country nationals is aimed at enabling persons who are resident or are domiciled in Romania to have baggage minimum knowledge and skills, mainly through Romanian language courses, programs of cultural orientation and counseling to enable them to access the services and social policies in conditions similar to those for Romanian citizens.”³⁰.

Infringement procedures against Romania on asylum issues

We need to mention that Romania hasn't yet fully implemented the European procedures regarding the asylum policies being the subject of two infringement measures on September 23rd 2015:

1. *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*³¹

“This Directive establishes common procedures for granting and withdrawing international protection and sets clearer rules on how to apply for asylum. It applies to all applications for international protection made in the territory, including at the border, in the territorial waters or in the transit zones of the Member States.”

2. *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection*³²

This Directive “sets out common minimum standards for the reception of applicants for international protection across Member States. It provides a legal obligation for Member

³⁰ *National Immigration Strategy for the period 2015-2018, and the Action Plan for 2015, approved by the Government, Romanian Government*, available online at <http://gov.ro/en/news/national-immigration-strategy-for-the-period-2015-2018-and-the-action-plan-for-2015-approved-by-the-government> Last visited on December 30th 2015.

³¹ *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, available online at <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=EN> Last visited on December 30th 2015.

³² *Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection*, available online at <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32013L0033> Last visited on December 30th 2015.

States to ensure that material reception conditions are available to applicants when they apply for international protection. These include access to housing, food, health care and employment, as well as medical and psychological care. It also restricts the detention of vulnerable persons, in particular minors.”³³.

The Romanian Government is currently undertaking the necessary steps in order to have them transpose in the national legislation and as soon as the process is done (as it is the responsibility of the Interior Minister) the European Commission shall be notified³⁴.

Figure 4. Infringement procedures against Romania on asylum issues

What really brought this crisis was **a change in the attitude toward civil society** – given the share scale of the problem, the government, very publicly, organized for the first time **a meeting of the officials with the civil society and local authorities’ representatives on the issue of the refugees** on October 2nd 2015³⁵.

Given the **novelty status of this situation**, “our public authorities have not been accustomed to date, we have neither all legal means, nor the logistic ones, we want to prepare ourselves, given that it is a new experience, it will surely be more difficult at the beginning”³⁶.

With this opportunity the authorities **draw a separation line between the refugees and the economic migrants**, while underlining that **the first are predominant** and that we indeed have a “refugee crisis” that involves children with internationally guaranteed rights as well as other obligations that the state must fulfilled.

³³ *More Responsibility in managing the refugee crisis: European Commission adopts 40 infringement decisions to make European Asylum System work*, European Commission - Press release, Brussels, 23 September 2015 available online at http://europa.eu/rapid/press-release_IP-15-5699_en.htm Last visited on December 30th 2015.

³⁴ “Avocatul Romaniei la CJUE, despre procedura de infringement privind acordarea de azil”, *Ziare.com*, September 23rd 2015, available online at <http://www.ziare.com/invazie-imigranti/romania/avocatul-romaniei-la-cjue-despre-procedura-de-infringement-privind-acordarea-de-azil-1383914> Last visited on December 30th 2015.

³⁵ “Primul-ministru Victor Ponta s-a întâlnit cu reprezentanți ai societății civile și ai autorităților publice locale pe tema gestionării crizei refugiaților”, *Romanian Government*, October 2nd 2015, available online at <http://gov.ro/stiri/primul-ministru-victor-ponta-s-a-intalnit-cu-reprezentanti-ai-societatii-civile-i-ai-autoritatile-publice-locale-pe-tema-gestionarii-crisei-refugiatiilor> Last visited on December 30th 2015.

³⁶ “Prime Minister Victor Ponta met with representatives of civil society and local public authorities, on the refugee crisis management”, *Romanian Government*, October 2nd 2015, available online at <http://gov.ro/en/news/prime-minister-victor-ponta-met-with-representatives-of-civil-society-and-local-public-authorities-on-the-refugee-crisis-management> Last visited on December 30th 2015.

Following a positive mindset stating that is a “shame to waste a good crisis” this first formal meeting lead to the conclusion that **“we do not deal with a crisis, but with an opportunity to create a functional system for the integration of refugees**, both on short term and for the future”³⁷.

This being said it was created a so-called **“National Coalition for the Integration of the Refugees”** reuniting both state authorities and non-governmental organizations with responsibilities in the area of refugees. Having as objective “improving the institutional and legislative framework in the field” the Coalition is an *ad-hoc* body, having monthly meetings.

Having as core structure a Secretariat within the Coalition “were appointed officials in charge of the major directions of activity: primary logistics, healthcare, education, legislative adjustment, medium and long term integration, public information”³⁸.

This Coalition had it last meeting this year on October 26th where the participants tackle mostly the problem of creating the “mechanisms that allow refugees' access to learning Romanian” as well as “the simplification of the procedure for granting identity documents, including an identification number”³⁹. This was the last meeting in this format as, given the political changes and the approaching of the end of the year, its meetings were adjourned.

We can speak of a **Government vision** in the issue of the refugee crisis if we take notice of a public speech held by the former Prime-minister Victor Ponta in front of the Chamber of Deputies on October 5th 2015.

First and foremost he **reiterated Romania’s decision to uphold all the obligations that it encumbers following the international conventions we are a member off as well as all the European decisions taken, even if we may disagree with them.** “Romania must

³⁷ “Decisions on the nationwide management of the refugee flow”, Romanian Government, October 2nd 2015, available online at <http://gov.ro/en/news/decisions-on-the-nationwide-management-of-the-refugee-flow> Last visited on December 30th 2015.

³⁸ “Decisions on the nationwide management of the refugee flow”, Romanian Government, October 2nd 2015, available online at <http://gov.ro/en/news/decisions-on-the-nationwide-management-of-the-refugee-flow> Last visited on December 30th 2015.

³⁹ “Prime Minister Victor Ponta has met with representatives of the National Coalition for the Integration of refugees”, Romanian Government, October 26th 2015, available online at <http://gov.ro/en/news/prime-minister-victor-ponta-has-met-with-representatives-of-the-national-coalition-for-the-integration-of-refugees> Last visited on December 30th 2015.

show solidarity towards the other EU members, support and cooperate with them on this issue that represents an enormous challenge for the European Union”.⁴⁰

Romania’s greatest advantage so far is that it was outside the main migration routes, which allow for a space of maneuver for the authorities and thus allowing them to try to figure out solutions on a calmer basis. We assist here also to a **moment of convergence in Romania’s foreign policy** as regards the best solution for this crisis with **two levels proposals for an end to this situation**.

Thus the **short and medium term solution** is “**granting the financial and logistic support for the countries which have already sheltered refugees, mainly Turkey and Jordan**. It is easier, cheaper and more efficient to support the financial efforts of those countries than to build walls”.

The **long term solution** is “**fighting against terrorism in Syria, the recovery of the Syrian state structure and the support for Syria’s rebuilding**. From the diplomatic point of view, Romania will join EU and USA’s efforts concerning this long term solution”.

As regards Russian intervention into Syria “[it] cannot solve the conflict, but on the contrary just to aggravate it and to create new and new sufferings for the civilian population”⁴¹

Romania underwent a major political change in November when the Socialist government led by Victor Ponta resigned being replaced by a new independent government led by Dacian Cioloș, former EU Commissioner on Agricultural Policies⁴².

This new government has so far continued the measures initiated by the former government. The current Governing program⁴³ briefly mentions the migration crisis without entering into details and doesn’t have any specific provisions to address it.

⁴⁰ The speech delivered by Prime Minister Victor Ponta in the plenary of the Chamber of Deputies at “Prime Minister’s Hour”, October 5th 2015, available online at <http://gov.ro/en/news/the-speech-delivered-by-prime-minister-victor-ponta-in-the-plenary-of-the-chamber-of-deputies-at-prime-minister-s-hour> Last visited on December 30th 2015.

⁴¹ Prime-minister speech at the “Prime-minister hour”, Chamber of Deputies, October 5th 2015, available online at <http://gov.ro/ro/stiri/discursul-primului-ministru-victor-ponta-la-ora-premierului-in-plenul-camerei-deputatilor> Last visited on December 30th 2015.

⁴² See more about it in Mihai SEBE, “A #Collective driven change – Romania’s 2015 autumn protests and their implications”, *Ukraine-Romania International Experts’ Consortium – Newsletter No. 5*, November 20th 2015, available online at <http://www.gsbs.org.ua/wp-content/uploads/Newsletter-5- eng.pdf>

⁴³ “Programme for Government”, Romanian Government, available online at <http://gov.ro/en/objectives/programme-for-government> Last visited on December 30th 2015.

As regards any recent explicit declarations we need to mention the participation of the new Prime-minister Dacian Cioloș to the European Council in Brussels in December 2015 where he reiterated Romania's concern regarding the need to control the migratory flux as well as the fact that our solidarity comes at in certain conditions, namely to treat the cause of the problem and not its symptoms⁴⁴.

Romania's relation with the neighboring countries in regards of the refugee crisis

Hungary

We have also assisted to a “declaration warfare” between Romania's and Hungary's government due to the actions of Hungarian counterparts who have decided to build a wall to stop the migrants an action seen as a non-European one by the Romanian authorities⁴⁵

This only got worse as the Hungarian project of raising fences at the Romanian border to stop the migratory flux went on⁴⁶. As the construction progressed and the fears for assisting to a modification of the migratory circuits grew we started to have more and more official reactions to this event.

One of the tensest criticism was brought by the former foreign affairs ministry, Mr. Bogdan Aurescu on September 19th who openly criticized the Hungarian plans for building fences, including at the Romanian borders. “In my opinion, raising fences that would delimitate

⁴⁴ “Dacian Cioloș, despre cotele obligatorii de refugiați: Solidaritatea României vine în anumite condiții” in *Calea Europeana*, December 18th 2015, available online at <http://www.caleaeuropeana.ro/dacian-ciolos-despre-cotele-obligatorii-de-refugiati-solidaritatea-romaniei-vine-in-anumite-conditii/> Last visited on December 30th 2015.

⁴⁵ “Romanian Government's position on the treatment of immigrants by the Hungarian authorities is in line with the positions expressed by the EU states, EU institutions and other international bodies”, Romanian Government, September 17th 2015, available online at <http://gov.ro/en/news/romanian-government-s-position-on-the-treatment-of-migrants-by-the-hungarian-authorities-is-in-line-with-the-positions-expressed-by-the-eu-states-eu-institutions-and-other-international-bodies> Last visited on December 30th 2015.

⁴⁶ “The Cabinet has come to a decision regarding preparations for the possible construction of a border security fence along the Hungarian-Romanian border ‘up to a rational distance’ from the Hungarian-Serbian-Romanian triple border” in “Security fence to be constructed along Hungarian-Romanian border”, Ministry of Foreign Affairs and Trade, Hungarian Government, September 15th 2015, available online at <http://www.kormany.hu/en/ministry-of-foreign-affairs-and-trade/news/security-fence-to-be-constructed-along-hungarian-romanian-border> Last visited on December 30th 2015.

civilized Europe, within brackets, from the rest of the world is a rather autistic and unacceptable gesture outside the European spirit”⁴⁷.

We also had a heated response from the then Prime-minister Victor Ponta who in a public interview disavowed the Hungarian stance while criticizing its leadership for the non-European stance and even expressing concerns regarding a possible unfortunate scenario where Hungarian armed forces open fire upon women and children⁴⁸.

This generated a fierce and disproportionate reaction on the part of the Hungarian Ministry of Foreign Affairs and Trade: “we would expect more modesty of the Foreign Minister of the prosecuted Romanian Prime Minister”⁴⁹. This spiral of verbal confrontation continued with renewed declarations from both sides and summoning for explanations of the both countries diplomatic representatives by the respective Foreign Affairs Ministries.

Bulgaria and Serbia

Romania had a close cooperation with the Bulgarian and Serbian government on the refugee crisis given our geographic proximity and the cooperation relationships that existed at the government level.

One meeting that stand apart was the trilateral meeting from October 24th 2015, in Sofia, Bulgaria, between the Prime-ministers of Romania, Bulgaria and Serbia on the topic of the refugees. The three countries stated their resolve to identify a common, European solution to this crisis. They express the willingness to have an active contribution but only if the burden sharing really works and these countries aren’t left alone to face the refugee flux. It was on this occasion that a first shift of the open door policies appeared given the hint that these three

⁴⁷ Press statement of H. E. Bogdan Aurescu, Ministry of Foreign Affairs, Romanian Government, on September 19th 2015, available online at

<http://www.digi24.ro/Stiri/Digi24/Extern/EXODUL/B+Aurescu+despre+planul+Ungariei+de+a+construi+un+gard+la+granit> Last visited on December 30th 2015. [“În opinia mea, ridicarea de garduri care să delimiteze Europa civilizată, între ghilimele, de restul lumii, este un gest mai degrabă autist și inacceptabil în afara spiritului european.”].

⁴⁸ “Victor Ponta Televised Interview”, *Ziare.com*, September 15th 2015, available online at <http://www.ziare.com/victor-ponta/premier/victor-ponta-atac-fara-precedent-la-adresa-ungariei-facem-si-noi-un-zid-daca-impusca-femeile-si-copiii-1382659> Last visited on December 30th 2015.

⁴⁹ “Péter Sziijártó criticised his Romanian counterpart’s statements” Ministry of Foreign Affairs and Trade, Hungarian Government, September 20th 2015, available online at <http://www.kormany.hu/en/ministry-of-foreign-affairs-and-trade/news/peter-szijarto-criticised-his-romanian-counterpart-s-statements> Last visited on December 30th 2015.

countries, can, if the situation aggravates, adopt a more defensive stance, including building physical barriers and closing the borders. “If there are countries that close their borders, and build walls, then we have the right to equally defend ourselves”⁵⁰.

This led to a counter-reaction from Romania’s President, Mr. Klaus Iohannis who publicly stated that the then Prime-minister didn’t have a mandate for this trilateral meeting. “The Prime-minister hadn’t a consultation with me, he had a trip to Sofia, meeting other Prime-ministers, a matter interesting as a week-end preoccupation. Mr. Ponta didn’t have a mandate to engage Romania in any way. These declarations that he had made are totally not binding to me”⁵¹.

Ukraine

No impact on the bilateral relations.

Republic of Moldova

No impact on the bilateral relations

Figure 5. Romania’s relation with the neighboring countries in regards of the refugee crisis

The Romanian Parliament and the refugee crisis

The Romanian Parliament had a relatively low level of implication in the refugee crisis due to its limited attributions in the area of foreign affairs (mostly the area of the Romanian

⁵⁰ “Press conference following the trilateral meeting of the Heads of the Governments of Romania, Bulgaria, Serbia”, Romanian Government, October 24th 2015, available online at <http://gov.ro/ro/stiri/conferinta-de-presa-dupa-intalnirea-trilaterala-a-efilor-de-guverne-din-romania-bulgaria-i-serbia> [“Dacă sunt țări care își închid granițele și își fac ziduri, atunci avem dreptul să ne apărăm în egală măsură.”]. Last visited on December 30th 2015.

⁵¹ Press Statement of Klaus Iohannis, Romania’s President, October 25th 2015, available online at <http://www.mediafax.ro/politic/iohannis-despre-declaratiile-lui-ponta-privind-inchiderea-frontierelor-nu-s-a-consultat-cu-mine-s-a-plimbat-la-sofia-nu-a-avut-mandat-sa-angajeze-romania-14861315> Last visited on December 30th 2015. [”Domnul prim-ministru nu s-a consultat cu mine, s-a plimbat până la Sofia, s-a întâlnit cu alți prim-miniștri, chestiune care este interesantă ca preocupare de weekend. Domnul Ponta nu a avut niciun mandat să angajeze România în vreun fel. Aceste declarații pe care le-a făcut sunt total neangajante pentru mine”].

President) and in the purely administrative sector that is more an attribute of the Romanian Government.

However it is worth mentioning the *Decision no. 59 of June 30th 2015 of the Chamber of Deputies regarding the approval of the opinion concerning Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration*, Brussels, 13.5.2015 COM (2015) 240 which stipulates the official position of the Chamber of Deputies.

It is an endorsement of the later one position of the Romanian Presidency and Government as it clearly stipulates that the **principle of solidarity must be endorsed by the principle of voluntarism** while the measures for burden sharing must be on a **temporary basis**. Another important topic that is addressed here is that of the **democratic control over the envisaged measures**, in order to avoid any unnecessary tensions. The reforms must also have in mind a prospective aspect that takes into consideration the European Union security in social and economic terms as well as regards the labor market problems.

Moreover it also mentions the **Ukrainian issue** underlining the potential risk of a massive influx of Ukrainian refugees if the Ukraine's internal situation deteriorates which would put Romania into the frontline of the refugee flux.

The **refugee problem needs to be tackle in the origin countries** while also underlining the need for a balanced aid as not to disturb the EU Member States internal balance in the context of the rise of anti-immigration political forces. Other indicators regarding the redistribution should also be take into consideration such as the participation at Frontex and the prior engagements in relocation activities⁵².

The Memorandum regarding the management proposals at the EU level of the challenges determined by the migration phenomenon – Romania's position

In dealing with the Parliamentary proceedings for the adoption of the aforementioned Decision, the European Affairs State Secretary George Ciamba had, early June 2015, a

⁵² *Decision no. 59 of June 30th 2015 of the Chamber of Deputies regarding the approval of the opinion concerning Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. A European Agenda on Migration* available online at http://www.parlament.ro/eu/examinare_pck.fisa_examinare?eid=389&prn=1 Last visited on December 30th 2015. (Only in the Romanian language).

presentation in front of the joint Committees of Foreign Affairs of the Romanian Parliament.

Although the document wasn't publicly available the media had succeeded in obtaining a series of information concerning the Romanian Ministry of Foreign Affairs official position.

Romania had ever since a reserved position citing the difficulties of integrating African and Middle East migrants given, among other things, the low level of preparedness of the Romanian society in dealing with migrants.

Financing the relocation programme is of outmost concern as there needs to be a balance between the financing v. responsibility sharing. Also the indicators for relocation need to be reevaluated as the asylum capacity is different among Member States and moreover the Romanian state wants to be involved in the selection process of the migrants, due to national security concerns⁵³.

Figure 6. Romanian MFA position regarding the migrant crisis, June 2015

What stand apart in this debate was also the attitude toward the Christian minorities from Northern Africa and Middle East that echoed other European opinions regarding this topic. We had for instance a representation of the National Liberal Party (the main opposition party) who criticized the relocation quotas, seen as a bureaucratic solution while opting for individual based granted asylum, based on nondiscrimination. Also he raised the issue of the Christian communities from the above-mentioned area urging the Romanian state to undertake a series of actions destined to help them⁵⁴.

Finally amidst the most recent documents adopted by the Romanian Parliament is the *Decision no. 82/2015 of October 21st 2015 of the Chamber of Deputies regarding the approval of the opinion concerning the Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending*

⁵³ Anne-Marie BLAJAN, "O temă ocolită: România se pregătește de primirea migranților. Problema nu sunt doar banii, ci și mentalitatea", *Cursdeguvernare.ro*, June 4th 2015, available online at <http://cursdeguvernare.ro/romania-se-pregateste-de-primirea-migranților-problema-nu-sunt-doar-banii-ci-si-mentalitatea.html> Last visited on December 30th 2015. (Only in the Romanian language).

⁵⁴ Andrei Daniel GHEORGHE, *Political Statement "European Commission Quotas"*, Chamber of Deputies, June 4th 2015, available online at <http://www.cdep.ro/pls/steno/steno.stenograma?ids=7521&idm=1,009&idl=1> <http://mae.ro/node/1582> Last visited on December 30th 2015.

Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person.

This Decision reaffirms once more the need to use **the principle of voluntary character for any transfer mechanism** as the solidarity cannot be forced. The Parliament also raises the question of the necessity of a permanent transfer mechanism that would imply that the massive flux of migrants would become a permanent one. Also it express the doubts concerning the possibility of “financial sanctions” against the Member States that don’t fulfil their obligations. What is also important is that specifically demands to have a separate approach regarding the issue of children refugees and their social status in order to avoid any risk of exploitation – an issue that can and must be tackle in conjunction with UNICEF. Finally it recommends an EU wide consultation with the business sector and the civil society in order to identify the best solutions for the refugee crisis, by reducing the financial burden on the state budgets and by stimulating the social inclusion of the refugees⁵⁵.

The issue of “compulsory refugees quotas” and the Romanian Constitution

If the current Romanian officials have a more reserved attitude regarding the compulsory quotas, the former Romanian president, Mr. Traian Băsescu and the current leader of the opposition party *Popular Movement (Mișcarea Populară*, in Romanian) has adopted in the last couple of months a more confrontational attitude toward the issue of refugees and that of compulsory quotas.

By affirming that the refugees are unable to adopt the European values he is trying to tap a potential influent nationalistic electorate that would help his party entry the Romanian Parliament in the 2016 parliamentary elections. Moreover he raised the issue of the

⁵⁵ *Decision no. 82/2015 of October 21st 2015 of the Chamber of Deputies regarding the approval of the opinion concerning the Proposal for a Regulation of the European Parliament and of the Council establishing a crisis relocation mechanism and amending Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third country national or a stateless person* available online at <http://lege5.ro/Gratuit/haytkobrga/hotararea-nr-82-2015-privind-aprobarea-opinieii-referitoare-la-propunerea-de-regulament-al-parlamentului-european-si-al-consiliului-de-instituire-a-unui-mecanism-de-transfer-in-situatii-de-criza-si-de-> Last visited on December 30th 2015.

unconstitutionality of the compulsory refugees' quotas as he recalled the fact that the Romanian constitution at the article 3 paragraph 4 stipulates: "No foreign populations may be displaced or colonized on the territory of the Romanian State."⁵⁶.

His views are endorsed also by some Romanian scholars who beside the above-mentioned article also cite the article 25 paragraph 1 of the Constitution: "The right of free movement within the national territory and abroad is guaranteed. The law shall lay down the conditions for the exercise of this right."⁵⁷

In their interpretation: "This right concerns *any human being*, therefore it is regarded by the Constitutional provision as concerning not only the Romanian citizens but any other person that is on the Romanian territory or is transiting it. No refugee or immigrant cannot be stopped inside the borders of the Romanian state against his/her will. If he/she expresses his/her wish to transit Romania's territory having as destination country another EU state, the Romanian state cannot stop him/her."⁵⁸

Figure 7. The issue of "compulsory refugees quotas" and the Romanian Constitution

The Schengen saga and the refugee crisis.

The Schengen area accession has always been a difficult subject to debate in Romania given its sensitive nature. Having fulfilled all the technical requirements for accessing the Schengen Area, as recognized by the technical evaluation missions (2009 – 2010 missions), having received the favorable opinion of the European Parliament (2011) and having fulfilled

⁵⁶ *Constitution of Romania*, available online at

http://www.cdep.ro/pls/dic/site.page?den=act2_2&par1=1#t1c0s0sba3 See for instance his televised statements from September 6th 2015 available online at <http://www.b1.ro/stiri/externe/basescu-despre-primirea-de-refugiati-in-romania-daca-eram-presedinte-spuneam-ca-am-articolul-3-din-constitutie-dragi-colegi-nu-sunt-in-schengen-nici-nu-va-mai-cer-acum-sa-intru-foarte-repede-asa-ca-pe-mine-lasati-ma-video-123781.html> Last visited on December 30th 2015.

⁵⁷ *Constitution of Romania*, available online at

<http://www.cdep.ro/pls/dic/site.page?id=371&idl=2&par1=2> Last visited on December 30th 2015.

⁵⁸ Mădălina Virginia ANTONESCU, *Poziția României în problema crizei imigranților: câteva comentarii*, Policy Paper, no. 18, September 2015, Romanian Diplomatic Institute, Bucharest, Romania, p. 12, available online at <http://www.idr.ro/publicatii/Policy%20Paper%2018.pdf> Last visited on December 30th 2015.

all the complementary measures required⁵⁹ Romania is still on the holding list given to what many perceived as political reasons instead of technical ones⁶⁰.

It is on this background that the refugee crisis has put under stress the Schengen Area as it is currently defined. This has put on hold any attempt to negotiate on this topic as the idea on mixing the two of them together raises concerns about the seriousness of Romania's intentions as the entire Europe is in crisis and the Schengen area as such is under serious strains.

In a series of formal declaration Romania's president officially declared that the Schengen Area is *de facto* not working⁶¹, while also firmly declaring that there is no causality link between the Schengen Area accession and the refugee crisis. "**Schengen file shall not be connexed with the migration file, because they are two different things** and, consequently, it is obvious we shall not discuss Romania's adhesion to Schengen with this occasion"⁶².

Actually **the Schengen area has always been related more or less to the migration issue** even from as early as 2011-2012 when first talks emerged about the possibility of a

⁵⁹ As recognized in the minute of the European Council of December 13th – 14th 2012: „*The European Council, in response to concerns raised by RO and BG regarding the Commission report on Schengen governance and its references to measures which would contribute to the succesful enlargement of the Schengen area, noted that when the Mixed Committee discussed this matter on the 6-7th of December, the Presidency recalled that it had reported on the implications of those measures in October 2012 and stated that the progress made on their implementation was such as to enable the process to be considered as now completed. The European Council invites the Council to revert to this issue in March 2013.*” Available online at <http://mae.ro/node/1582> Last visited on December 30th 2015.

⁶⁰ Moreover we have to emphasize the bizarre case of Romania and Bulgaria who have been technical evaluated based on a Schengen Governance that no longer exists. See more at Ciprian CIUCU, Roxana ALBIȘTEANU, *La spartul târgului? Opțiunile României vizavi de Spațiul Schengen*, CRPE Policy Brief no. 38, September 2015 <http://www.crpe.ro/wp-content/uploads/2015/09/La-spartul-targului-Optiunile-Romaniei-vizavi-de-Spatiul-Schengen11.pdf> Last visited on December 30th 2015.

⁶¹ *Press Statement of Klaus Iohannis*, September 14th 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/conferinta-de-presa-palatul-cotroceni-sala-unirii> Last visited on December 30th 2015.

⁶² *Press Statement of Klaus Iohannis*, September 23rd 2015, available online at <http://www.presidency.ro/ro/media/agenda-presedintelui/transcrierea-conferintei-de-presa-sustinuta-de-presedintele-romaniei-domnul-klaus-iohannis> Last visited on December 30th 2015. [“Dosarul Schengen nu va fi conexasat cu dosarul migrației, fiindcă sunt două lucruri diferite și, în consecință, este clar că nu vom discuta aderarea României la Schengen cu această ocazie.”].

gradual integration of Romania and Bulgaria into the Schengen area – first with aerial and maritime borders⁶³.

The summer of 2012 Romanian political crisis just added new constraints to the Schengen issue – its correlation with the Mechanism for Cooperation and Verification⁶⁴ and the relation between the judicial and legislative power, fighting corruption, etc.

What came as an evidence was the impossibility to separate Bulgaria and Romania one from the other in regards with the accession to the Schengen Area. “The short response is that Bulgaria can be decoupled from Romania only on the long term and under extraordinary circumstances. The long answer proves that this is almost impossible”⁶⁵.

Ever since 2012 the migration issue and more precisely the situation of Greece as a Schengen exclave was the untold issue that hinder the Schengen accession. Greece, due to its geographical location and territorial characteristics (high number of islands, etc.) was in 2012 the entry point for approx. 90% of EU illegal immigration as well as a large refugee camp in open air (with approx. 1 000 000 persons living there illegally) that were estimated to use Romania and Bulgaria (if they entered into Schengen area) to reach the more prosperous Northern and Western European countries⁶⁶.

Yet back then there was still hope as the provisions pointed out toward the autumn 2013 – spring 2014 for the integration into Schengen Area with the maritime and aerial borders and the year 2015 for the integration with the terrestrial borders.

⁶³ Ciprian CIUCU, *Schengen: de ce nu se poate decupla Bulgaria de România și unde este problema reală*, CRPE Policy Brief, no. 16, September 2012, available online at <http://www.crpe.ro/wp-content/uploads/2012/09/Policy-Brief-nr.-16-Schengen.-De-ce-nu-se-poate-decupla-Bulgaria-de-Romania-si-unde-este-problema-reala.pdf> Last visited on December 30th 2015.

⁶⁴ The *Cooperation and Verification Mechanism* deals with the judicial reform and the fight against corruption. See more at http://ec.europa.eu/cvm/progress_reports_en.htm Last visited on December 30th 2015.

⁶⁵ Ciprian CIUCU, *Schengen: de ce nu se poate decupla Bulgaria de România și unde este problema reală*, CRPE Policy Brief, no. 16, September 2012, available online at <http://www.crpe.ro/wp-content/uploads/2012/09/Policy-Brief-nr.-16-Schengen.-De-ce-nu-se-poate-decupla-Bulgaria-de-Romania-si-unde-este-problema-reala.pdf> Last visited on December 30th 2015. [“Răspunsul scurt este că Bulgaria poate fi decuplată de România doar pe termen lung și în situații cu totul și cu totul excepționale. Răspunsul lung demonstrează că acest lucru este aproape imposibil.”].

⁶⁶ Ciprian CIUCU, *Schengen: de ce nu se poate decupla Bulgaria de România și unde este problema reală*, CRPE Policy Brief, no. 16, September 2012, available online at <http://www.crpe.ro/wp-content/uploads/2012/09/Policy-Brief-nr.-16-Schengen.-De-ce-nu-se-poate-decupla-Bulgaria-de-Romania-si-unde-este-problema-reala.pdf> Last visited on December 30th 2015.

After the continuous disappointments generated by the continuous postponement of Schengen area adhesion **two major options started to dominate the Romanian debate.** Following a **series of informal meetings between civil society representatives and government officials and public sources analyses a study was released and the options revealed are the following:**

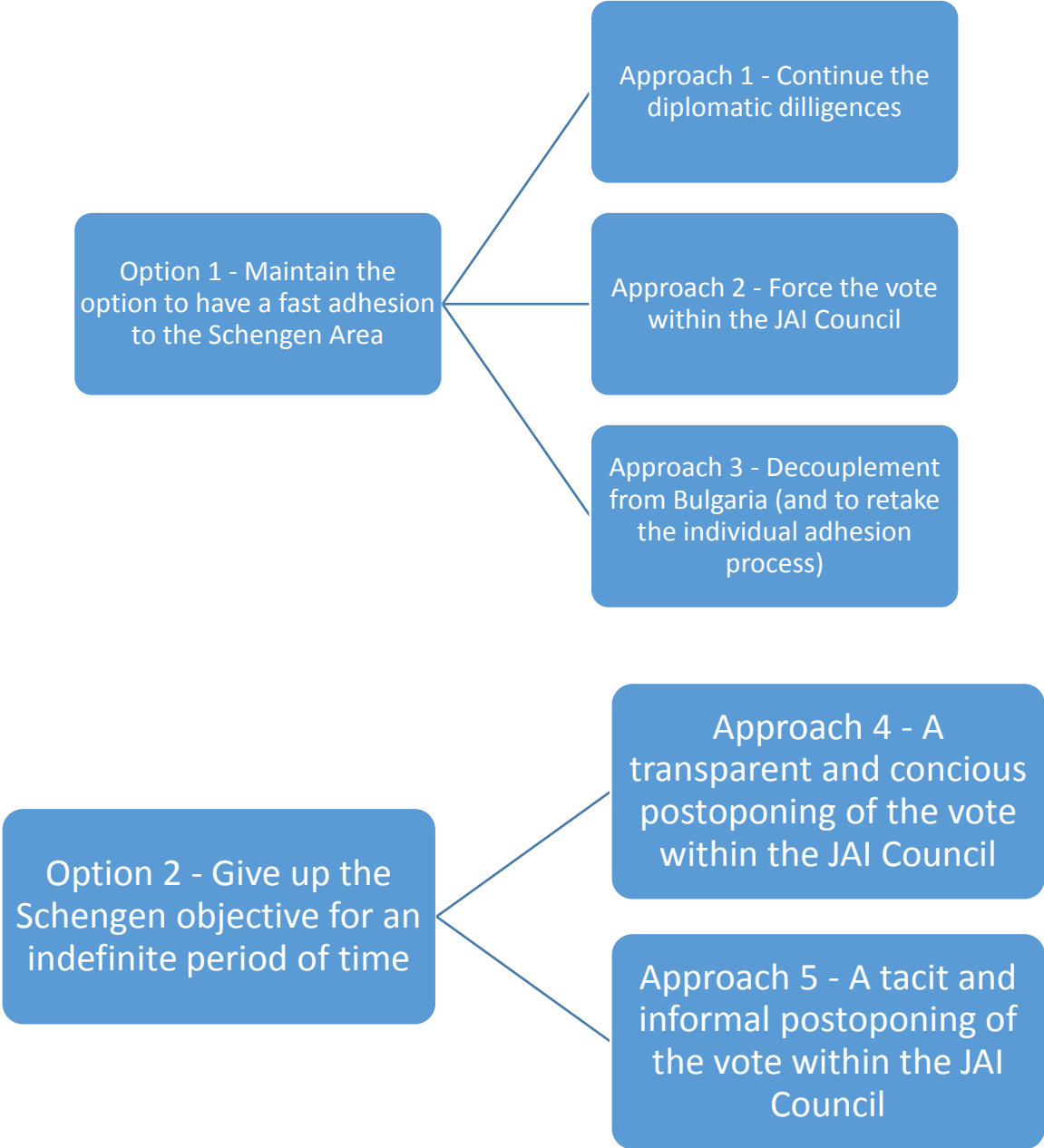


Figure 8. Romania’s option in regards with the Schengen Area⁶⁷

⁶⁷ Ciprian CIUCU, Roxana ALBIȘTEANU, *La spartul târgului? Opțiunile României vizavi de Spațiul Schengen*, CRPE Policy Brief no. 38, September 2015 <http://www.crpe.ro/wp-content/uploads/2015/09/La-spartul-targului-Optiunile-Romaniei-vizavi-de-Spatiul-Schengen11.pdf> Last visited on December 30th 2015.

Option 1 has as defining premises the fact that things are going to change and the migration issue would become less relevant while Option 2 presumes that the Schengen Area as we know it shall dramatically change. Following the informal meetings and the situation on the ground one cannot ignore that the external frontiers of the Schengen Area have all too often violated by the refugee flux and that the harsh criteria imposed to Romania and Bulgaria were not the same with those applied to other states. Moreover **not being in Schengen proved to be an advantage in dealing with the refugees** – who have avoided these two countries.

The Option 2 has the advantage to be a negotiated solution that takes into consideration the refugee crisis and the need for the full involvement of all the Member States in managing the external borders of the Schengen Area. Also it doesn't attract any migratory pressure and eliminates other external conditionality (such as the MCV). Also another important conclusion of these meetings is **that connecting the refugee's quotas with our admission in the Schengen Area would a terrible strategic mistake as the two are separate issues.**⁶⁸

Favoring as personal option the Option 2 I must also mention the debate generated by the launch of this above mentioned Policy Brief that offered the Ministry of Foreign Affairs the opportunity to reiterate that **“Romania's accession to the Schengen Area remains an important objective on the diplomatic agenda.** For its fulfillment Romania shall continue its efforts, underlying the added value our country brought through modernizing the security system of the borders. Also, another aspect discussed was **the reception of refugees on the Romanian territory which is not conditioned by the acceptance of admission to the Schengen Area**”⁶⁹.

⁶⁸ Ciprian CIUCU, Roxana ALBIȘTEANU, *La spartul târgului? Opțiunile României vizavi de Spațiul Schengen*, CRPE Policy Brief no. 38, September 2015 <http://www.crpe.ro/wp-content/uploads/2015/09/La-spartul-targului-Optiunile-Romaniei-vizavi-de-Spatiul-Schengen11.pdf> Last visited on December 30th 2015.

⁶⁹ *CRPE Debate* from October 7th 2015 generated by the launch of Ciprian CIUCU, Roxana ALBIȘTEANU, *La spartul târgului? Opțiunile României vizavi de Spațiul Schengen*, CRPE Policy Brief no. 38, September 2015, available online at <http://europedirectbucuresti.ier.ro/evenimente/dezbatere-crpe-optiunile-romaniei-vizavi-de-spatiul-schengen/> Last visited on December 30th 2015. [“aderarea României la Spațiul Schengen rămâne în continuare un obiectiv important în agenda diplomatică. Pentru îndeplinirea lui, România va continua eforturile, subliniind valoarea adăugată pe care țara noastră a adus-o prin modernizarea sistemului de securizare al frontierelor. Totodată, un alt aspect pus în discuție a fost primirea refugiaților pe teritoriul românesc care nu este condiționată de acceptarea aderării la Spațiul Schengen.”].

Instead of Conclusions

The refugee crisis acted for all the Member States, and the European Union as such, as an indicator of the structural stress the European construction can endure. We have seen in the same both the worst and the best of European ideals put into practice.

This crisis had also a similar effect on the Romanian political landscape as it made us reevaluate our own values and ideals and have exposed our fears as well as dreams. We have assisted to the increase of the lack of confidence of citizens in the state and European institutions given the sometimes more than chaotic approach of the refugee crisis and there are fears that this could favor the anti-European political parties and movements. This is obvious if we take into consideration the dramatic increase of the percentage of Romanians who are **against receiving refugees in Romania**: from **52.6%** in September 2015 to more than **75.8%** in December 2015.

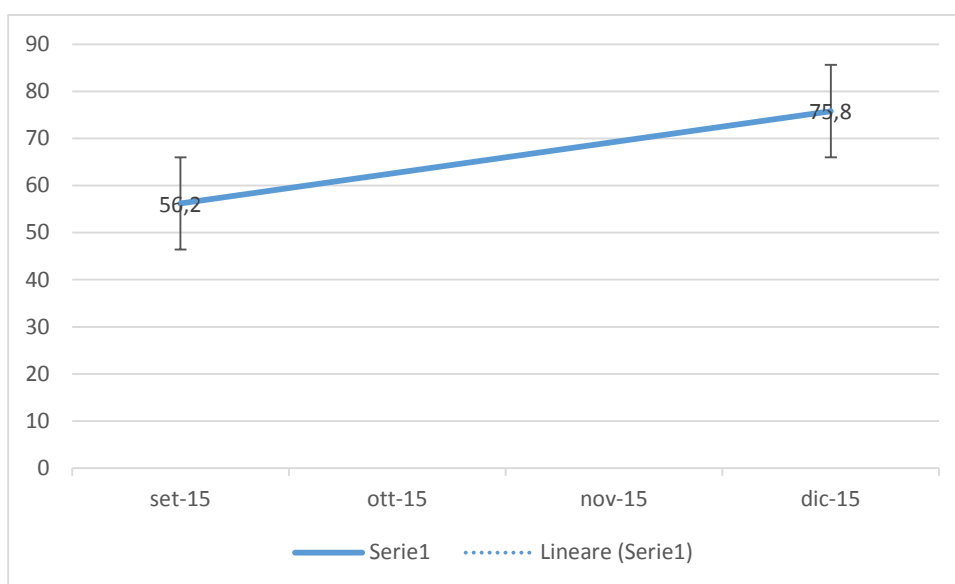


Figure 9. Percentage of Romanian citizens who are opposed to the idea of receiving refugees/immigrants in Romania within the quota system envisaged by the European Commission

Source: own calculations based upon the data provided in INSCOP Opinion Polls⁷⁰

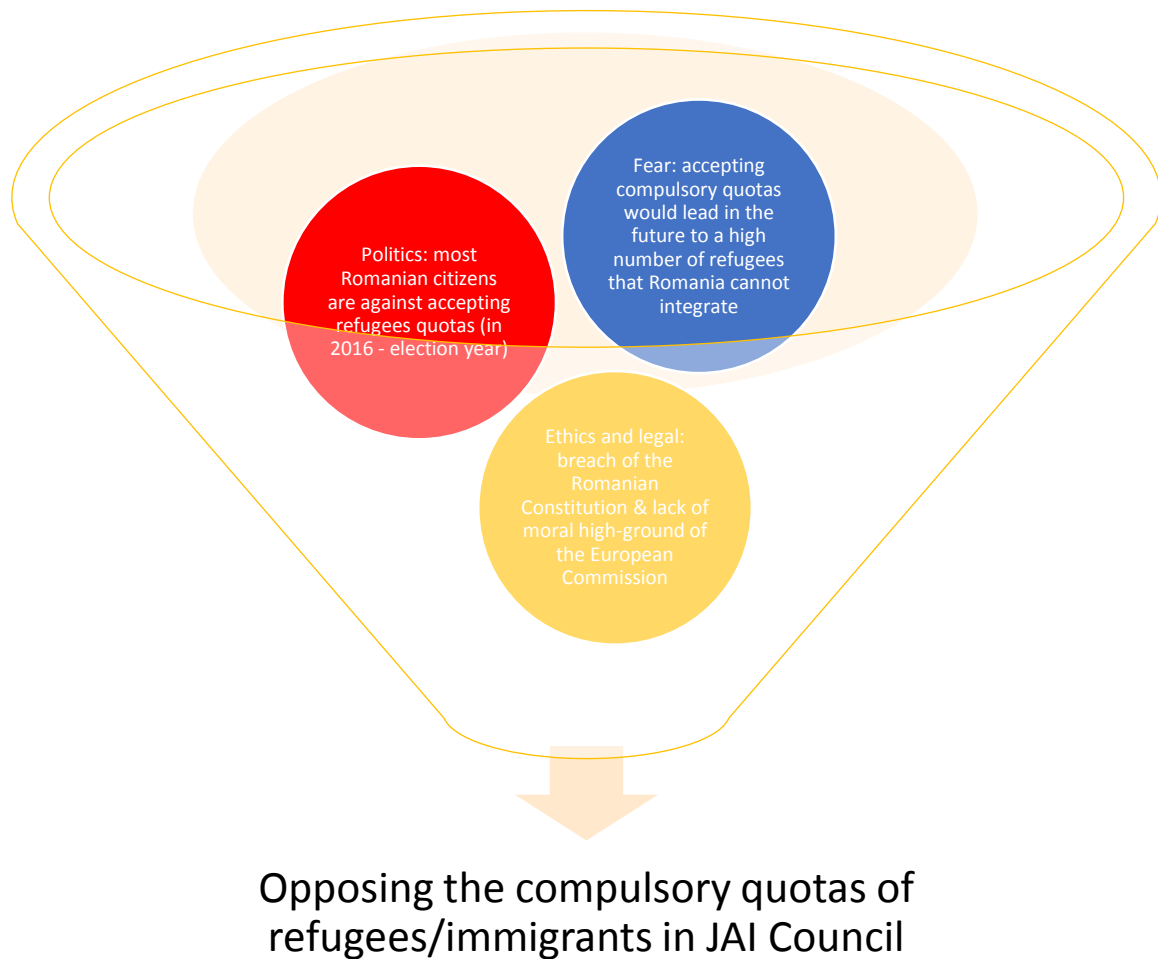


Figure 10. Possible reasons for voting against the compulsory refugee quota⁷¹

⁷⁰ INSCOP Opinion Polls available online at <http://www.inscop.ro/category/studii/> Last visited on December 30th 2015.

Following Romania's stance shown above we can now clearly stipulate the following:

- The short term solution for the refugee crisis is to heavily invest in the countries that have received so far the majority of Syrian refugees – namely: Lebanon, Turkey and Jordan.
- The long term solution is to secure the state of Syria, eliminate the radical presence there and rebuild the state.
- EU external borders must be reinforced.
- Europe's need a common migration policy that must take into consideration the Member States needs and capabilities to assimilate the immigrants.
- The Eastern European States have difference capabilities and sensitives in regards with the immigrants then the Western Europe and these specific differences must be taken into consideration when we analyses the current situation.
- Besides the humanitarian aspect must also be analyzed the security, social and economic aspects of the refugee crisis.
- We need to create a European wide procedure and working instruments to deal with the immigrants.
- There is no single magic bullet that can solve the current problem – the quota solution must not be considered as a permanent mechanism as this crisis must not be allow to become a permanent one.
- Romania continues to define itself as a European country but a country for each solidarity must come into pair with an equally shared responsibility.
- The refugee crisis is not just about finding the financial solutions but also about the issue of mentality, morality, humanism and shared common values.
- The main challenge for Romania is going to be to integrate the refugees from a social and economic point of view, given the fact that we already have a series of underprivileged groups that need to be integrated (e.g. the Rroma population).
- The refugee crisis must not lead to ignore the Ukrainian crisis, as the situation there is just barely stabilized and can, at any moment, escalate.

⁷¹ George VIȘAN, "Dezastrul de la Consiliul JAI", *Civitas Politics*, October 2nd 2015, available online at <http://civitaspolitics.org/2015/10/02/dezastrul-de-la-consiliul-jai/> Last visited on December 30th 2015.

- The current solutions envisaged by the European Commission must be negotiated solutions and that solutions imposed from above who lack the democratic credibility and are not adapted to the national needs.
- Stronger emphasis should be put on developing partnerships with the local communities where the refugees are going to be allocated. A public-private partnership alongside community support might just be the key for having a successful integration in a medium term.
- The Schengen Area as we know it needs to be reformed.
- The refugee crisis must not be linked with any financial sanctions or threats.

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