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REGIO

ACCESSION TO THE EU AND CHANGING NATIONAL IDENTITIES

STUDIES

REVIEWS

ACCESSION TO THE EU AND CHANGING NATIONAL IDENTITIES

The set of the publications on dual citizenship, national identity, neutrality of the state, minority rights in the European Constitution, and ethnical preferences in the nationality law may illustrate the deeper cleavages inside the political elite and between political parties in Hungary. Three events inspired the researchers to analyze discourses of ethnicity, identity and minority protection: the domestic and international debate around the Hungarian status law in the 2000–2003 period, the referendum on dual citizenship in December 2004 held in Hungary, and the ongoing eastern enlargement of the EU. The interpretations of the researchers are much more colorful than those of decision makers on the possible or unintentional impacts of these events on the CEE region and in European policy. Although the authors deal with rather local events, the conclusions are not provincial but rather pan-European. As the authors are from Hungary, they especially reflect upon the Hungarian debates. This is in part due to the numerous international debates sparked by Hungary's status law, and hence, their conclusions may be relevant for other states. The task of the *Challenge* (EU6 framework research programme *"Challenge – The Changing Landscape of European Liberty and Security"* 2004–2008) is to form certain proposals for decision makers indirectly through further discussions, exchanges and analysis.

<div align="right">Judit Tóth – Zoltán Kántor</div>

BALÁZS MAJTÉNYI

Special Minority Rights
and Interpretations of the Nation
in the Hungarian Constitution

Interpretations of the nation and the neutrality of the state

The question of special minority rights arises in the Hungarian Constitution not only on the level of fundamental right but also on that of state organization. In order to interpret the latter and, simultaneously § 68(1)[1] on minority rights, it is worth examining the concepts of nation the Constitution utilizes and the meanings it attaches to the appellation of 'people' and 'nation', as well as why it refers back, in said paragraph, to § 2(2), which sets out popular sovereignty.[2] Analysis of the above is all the more important because – as we will see – it also signals the confines of minority protection and the outer boundaries of measures aimed at enhancing the situation of minorities. It is expedient to begin from the following in the interpretation of the terms 'people' and 'constituent part of the state': in the interest of strengthening the sense of belonging to a political community and of guaranteeing the authority of law, democratic constitutions generally use or at least refer by various names ('people', 'nation') to the concept of political nation (or state nation). The founding documents of political commu-

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[1]   § 68 (1) The national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people: they represent a constituent part of the State.
(2) The Republic of Hungary shall provide for the protection of national and ethnic minorities and ensure their collective participation in public affairs, the fostering of their cultures, the use of their native languages, education in their native languages and the use of names in their native languages.
(3) The laws of the Republic of Hungary shall ensure representation for the national and ethnic minorities living within the country.
(4) National and ethnic minorities shall have the right to form local and national bodies for self-government.
(5) A majority of two-thirds of the votes of the Members of Parliament present is required to pass the law on the rights of national and ethnic minorities.

[2]   §2(2) In the Republic of Hungary supreme power is vested in the people, who exercise their sovereign rights directly and through elected representatives.

nities also often declare a commitment to those living beyond the borders (and members of the cultural nation that gives the state its name) and name individuals belonging to various cultural nations and resident in the territory of the country (national or ethnic minorities).[3] Alain Dieckhoff defined political and cultural nations in the following manner: the political nation is a free association of citizens that links the concept of nation to a real or at least desired sense of belonging and that refers to the embodiment of a historical community. "This civic, contractual, elective nation is the basis of the French idea of the nation, conceptualized by the philosophers of the Enlightenment and realized by the great revolution"[4] In contrast, the cultural nation is expressive not of a common law relationship between individuals, but of the expression of a feeling of identity,[5] a natural order that was, for example, the basis of the division-born German understanding of nation. According to this approach, nations are defined by a common language, culture and literature. (Comparison (and contrast) of the above-mentioned two concepts of nation first appeared with Friedrich Meinecke, according to whom the cultural conception builds on "some jointly experienced cultural heritage (language, religion, etc.), while the political nation, in turn, relies on "the unifying force of a common political history and constitution".[6]

The most important question that arises in the course of legal interpretation is which of the two definitions of nation or which possible combined use of them can be made to coincide with one of the basic principles of modern democracies: the moral equality of all members of the political community. In other words, the question is whether the concept of nation can be institutionalized in the legal order of democratic states; and, if so, with which interpretations. According to many, the most appropriate course of action would be if the public law documents of democratic political communities made no reference to the nation whatsoever; this could come about in a state neutral in respect of the nation. (The Constitution of such a state would men-

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[3]   For a detailed discussion of the subject, see Iván Halász: A nemzetfogalom nyelvi-kulturális elemei a modern kelet- és közép- európai demokratikus alkomtányokban. In Iván Halász, Balázs Majtényi, László Szarka (eds.): *Ami összeköt? Státustörvények közel s távol*. Budapest: Gondolat, 2004. 27–41.

[4]   Alain Dieckhoff: Beyond Conventional Wisdom: Cultural and Political Nationalism Revisited. Alain Dieckhoff and Christophe Jaffrelot (eds.): *Revisiting Nationalism: concepts, structures, processes*. Hurst (UK), 2003.

[5]   Dieckhoff, op. cit.

[6]   Friedrich Meinecke: *Cosmopolitanism and the National State*. Princeton University Press, 1970. 10.

tion the concept of the nation only when declaring the neutrality of the state in this regard. Combined with other forms of neutrality, a possible declaration could run as follows: The state rests on democratic values and is not bound to either a religion or a nation.) This is little more than an illusion, however, as Will Kymlicka and János Kis have pointed out.[7] The birth of the majority of contemporary states is bound up with national movements, which cannot break away from concepts of nation, since even democratic states with rule of law cannot be neutral in a few essential questions. In order to come to this conclusion let us just think: if we accept that there is a need for the creation of some sense of belonging within the political community, any attempts geared toward its formation must necessarily be linked to the nation. States, namely, necessarily have an official language (or languages), while cultural and historical particularities can be found in all legal systems; and common state symbols are also tied to the nation. National tradition necessarily leaves its mark on common political culture also, as a result of which the demarcation of the political community in democratic states refers, almost without exception, to belonging to the political nation. Thus, as János Kis assessed: an analogue to the religious neutrality of the state is simply not applicable to the division of state and nation.[8] (According to him, we are best off analyzing the model of the partner-nation state, putting aside the notion of the ethnically neutral state. In my view, the Hungarian Constitution outlines one version of this theoretical model.) It is enough to consider the following in order to admit how far from reality the ethnically neutral state is: assuming conservation of Hungary's [*Magyarország*] present-day state organization, the country could be called Central-Carpathia, its inhabitants Central-Carpathians; its new Constitution could presumably designate Esperanto as the official language.

The appearance of a conception of the nation in democratic constitutions

Contemporary democratic political communities are thus not neutral in respect of the nation and are (through their designations, anthems and other symbols, as well as history and official languages) linked, albeit to differing

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7   In this connection, see Will Kymlicka and Christine Straehle: Cosmopolitanism, Nation-States, and Minority Nationalism: A Critical Review of Recent Literature. *European Journal of Philosophy,* Vol 7, Nr.1, 1999. 65–88, and János Kis: *Beyond the nation state. Social Research*, Nr. 63, 1996. 191–245.

8   János Kis, op. cit.

degrees, to the political nation, which encompasses all citizens and is reconcilable with the principle of equality. The political nation is, in turn, in a particular manner historically and as yet unalterably connected to the identity of the cultural nation that gives its name to the state (Hungarians in Hungary, Germans in Germany) for the majority of states. Naturally, exceptions are also possible in the context of political nations based on supra-national identities: the Swiss political nation, for example, does not rely to a significant extent on elements of identity linked to the German cultural nation. Use of the concept of political nation in public law has one undeniable advantage over that of cultural nation, given that the former does not refer to an ethnic conception of nation and that description of all the citizens of the state is conceivable only by means of this former. Its primary use is explicable by the following: if we join, to the two conceptions of nation, the principle of democratic constitutions whereby each member of the political community is equal, regardless of ethnic identity, it becomes clear that use of the concept of nation in reference to every member of said political community is necessary. Use of the concept of nation is, namely, acceptable only if it is reconcilable with the demand that the legal order of the democratic political community respect the equal dignity of every one of its citizens. The law-maker thus cannot act against the moral equality of citizens; and must exhibit equal attention to and respect toward each member of the political community.[9] (Use of the political nation without regard for the principle of equality, such as when only the members of a particular social class /nobility, workers, members of a caste, etc./ may belong, naturally also does not fulfill this demand.)

Because of the principle of moral equality, utilization of only the concept of cultural nation to describe the political community in a democratic constitution is highly problematic: it does not extend to those citizens who consider themselves members of various minorities. Its exclusive use in an ethnically non-neutral political community may thus mean breach of the principle of moral equality, since, as we saw, contemporary democratic political communities are not ethnically neutral and, albeit to differing degrees, are (through their designations, anthems and other symbols, history and official languages) linked to the (cultural) nation. All this makes it at least questionable whether a state connected to one cultural nation can give equal attention and grant equal respect to the aspirations of those belonging to another cultural nation. In such an instance, if the state shows no attachment to its minor-

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9   On this, see Mátyás Bódig and Tamás Győrfi (eds.): *Államelmélet.* II. Miskolc: Prudentia Iuris, 2002. (especially 144–148.)

ities, the question of what possible basis for state loyalty these national minorities may have and of why these groups should consider themselves members of the given political community arises. This problem is not solved even if the state attempts to grant compensation for reliance on the cultural nation by means of a wide range of special minority rights. In my opinion, regulation that relies only on the cultural nation is thus hard to reconcile with the demand of moral equality.

If we accept the assertion that the concept of cultural nation is not capable of describing all individuals joined in a democratic community – since it has no regard for members of ethnic and national, or immigrant and already naturalized minorities – we can infer that this tenet may (still) appear as an accessory element in the national legal system: for example, in describing national communities resident in the state, in supporting those beyond the borders, in regulating admission to the political community (preferential naturalization) and in other situations. We may even consider appearance of the cultural nation in some manner natural and necessary in these latter cases, given that the following question arises during determination of the political community: what happens to those who do not become members of the political community in legal terms but belong to the cultural nation?[10] If the majority of the political community wishes to support the ambitions of the latter, it is practical to already mention the group in the basic law. (This is what the Hungarian Constitution does, when it states in § 6(3) that: "The Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary"). On the other hand, when it notes that national minorities are part of the political nation, the state already recognizes, in at least indirect form, that individuals belonging to different cultural nations are resident in its territory.

Any appearance in the legal system of preferential treatment for those who belong to the cultural nation is often disapproved of by commentators, so that many reject, in general terms, constitutional responsibility clauses and legal regulation supportive of those beyond the borders, adopted because of said clauses. Such reasoning relies on a view whereby "ethnic- (cultural-) based nationalism" is generally considered bad, while "civic nationalism" is good.[11] The proponents of this viewpoint (somewhat) surprisingly accept as a necessary fact

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[10] On this question, see Mátyás Bódig: "Nemzeti történelem" és a jog autoritásának igazolása. *Állam és Jogtudomány,* Nr. 1–2, 2000. 18.

[11] For an overview and rejection of this viewpoint, see Kai Nielsen: Cultural Nationalism, Neither Ethnic nor Civic. *The Philosophical Forum,* Vol. 28, Nr. 1–2, 1996–1997. 53–72.

the common definition, by states, of the political nation by means of elements of the majority cultural nation's identity, however. Since complete separation of the two conceptions of nation is not always possible – the two are often intertwined –, as is clear from the discussion above, their sharp opposition is not useful.

In my view, the state may deviate from revered, but presently unattainable neutrality regarding members of the political community if it creates a conception of the nation that can apply to all citizens. Still, construction of some concept of the political community seems unavoidable in any case, to secure the authority and power of the state. For this, a strengthened sense of belonging among members of the community is necessary, so that durable political links may develop between people and individuals may – if conditions are otherwise given – define themselves as members of this community.[12] (Naturally, states may, besides guaranteeing legal equality, consider various conceptions of equality just and may, accordingly, pair different meanings of it with the concept of state nation, as we will discuss below.) The result of all this is that in most cases constitutions name not just the community of citizens as the primary source of power, but the sovereign people or nation.[13] In most cases use of the designations 'people' and 'nation' in basic laws is with reference to the political nation; and, in this context, may name or automatically include the majority cultural nation and national or ethnic minorities as constituting entities. The Polish Constitution, for example, takes this route when it mentions "the Polish nation – every citizen of the Republic"[14] as (the source of) constitutional power, as does the Ukrainian one, according to which the Constitution has been adopted in the name of the "the Ukrainian people – Ukraine's citizens of all nationalities".[15] The Russian Constitution of 1993 is also similar, since it was adopted in the name of "the multi-national people of the Russian Federation". Article 2 of the Spanish Constitution, in turn, states "The Constitution is based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed and the solidarity among them all."[16] The Hungarian Constitution also follows this solution, when it determines,

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[12] In this respect, see Mátyás Bódig: A mérsékelt állam intézményes szerkezete. In Mátyás Bódig and Tamás Győrfi (eds.): *Államelmélet,* (especially 106–109.)

[13] For a detailed analysis of this question, see Iván Halász: A nemzetfogalom nyelvi-kulturális elemei a modern kelet- és közép- európai demokratikus alkotmányokban. In *Ami összeköt?* 27–41.

[14] See the Polish Constitution at the following web-site: <www.sejm.gov.pl.>

[15] For a detailed discussion of these constitutions, see Halász: A nemzetfogalom, op. cit.

[16] See the Spanish Constitution at the following web-site: <www.senado.es>

in §68(1) that: "The national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people: they represent a constituent part of the State." In other words, in referring back to popular sovereignty, the Hungarian Constitution found it necessary to highlight, as the basis for confirmation of minority rights, that the bearer of sovereignty is the multi-cultural people. (We can also find examples from outside Europe for the practice of placing declarations of belonging to a common political nation beside differentiation of "sub-communities" within this political community by virtue of national identities. Thus, Canada's public law structure shows such a distinction.)[17]

We encounter only one example among the constitutions of democratic states of a solution that is substantially different – that of the Slovak Constitution, which renounces national neutrality and uses only the concept of cultural nation.[18] Thus, the Preamble of the Slovak Constitution considers the Slovak cultural nation, which adopts the Constitution together with national and ethnic minorities, the (source of) constitutional power. The sense of belonging to the nation does not extend in this Constitution to all the citizens of the state, so that we look for a reference to the political nation, in any form, in vain: the formulation "we the people" and the sense of identity expressed therein do not appear. This in itself does not breach the legal equality declared in the Constitution, but is nonetheless problematic since the Slovak state is not neutral even in name (the country is not called Upper-Carpathia, for example) and not all citizens may, regardless of identity, belong to the privileged nation. (It this respect it is of no consequence whether Hungarians in Slovakia are willing to consider themselves part of the Slovak political nation; what matters is whether the state offers them this possibility. Granted, the state may in this context refer to special minority rights as compensation to national minorities, for which it expects the loyalty of said groups.) The Slovak cultural nation mentioned in the Constitution also appears in the name of the country (Slovak Republic) or that of the law-making entity (National Council of the Slovak Republic). Although the Slovak basic law establishes in article 1 that the state aims for ideological and religious neutrality, it makes no mention of national neutrality. All this makes it at least doubtful whether the state of the Slovak cultural nation follows the aspirations of those with non-Slovak identity with equal attention and whether it grants these equal respect. In my opinion, such

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17 David Miller: *On Nationality.* Oxford: Clarendon Press, 1995. 142.
18 See the Hungarian translation of the Slovak Constitution in Károly Tóth (ed.): *Kelet-Európa új alkotmányai*. 302–329.

regulation is hard to justify, since it can (be made to) correspond to the demand of moral equality only with difficulty.

Naturally, cases in which basic laws make mention of members of the cultural nation for the purpose of support for said individuals beyond the borders or of securing special minority rights – for example, as in the Hungarian, Croatian or Romanian constitutions – are different from the mode of regulation chosen by the Slovak basic law. I believe it is better if in any instance of support for those beyond the borders – and except for preferential immigration politics or other cases when these individuals enter the territory of the kin-state – no direct public law relationship comes into existence between them and the kin-state. (Thus, I do not find it fortunate when measures based on § 6(3) of the Hungarian Constitution overstep this line.) After all, let us consider that those beyond the borders belong to the political community of another state, must succeed there and must reform the given conception of the given state nation to their own advantage. Any maintenance of direct contacts without a territorial component may, however, create an illusion among members of the kin-minority that the kin-state could address their problems in the state of residence. This is obviously not possible in a world organized around the principle of territoriality – and supportive of the inviolability of borders – if the goal is not resettlement (support of immigration) to the kin-state, but of success in the home-state. The state in any case needs a territorial connection for the grant of any legal status – citizenship, membership in a national or ethnic minority, refugee status, etc. – in other words, those with a particular status need to be present in its territory.[19] (The general trend is, however, toward a convergence of the categories of resident and citizen.[20] Despite such developments, the two categories will presumably never overlap completely, so that citizens will continue to be treated in a manner distinct from residents, at least in the area of political rights, enjoyed in part only by the former.)

The discussion above does not cast doubt on the observation that the concept of cultural nation has a stronger tradition in public political thought in Hungary (than the alternative), but only proves that this concept of nation is not capable of describing the political community of the democratic state, each member of which holds an equal status under public law. (According to

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[19] For a detailed analysis of various constitutional legal statuses, see Judit Tóth: *Státusjogok*. Budapest: Lucidus, 2004.

[20] See, for example, Rogers Brubaker (ed.): *Immigration and the Politics of Citizenship in Europe and North America.* London: University Press of America, 1989.

this assertion a cultural-linguistic understanding of the nation, rather than the tradition of political nation, became dominant in Hungary, as in the other states of East-Central Europe, during the 20th century. In other states (Canada, the United States and France), a different process of development took place, resulting in primary acceptance of the concept of political nation.)[21]

Use of the designations 'nation' and 'people' in the Hungarian Constitution

We encounter various elements of links to the political nation in the Hungarian Constitution also, in accordance with the practice already discussed. It appears in the names of the institutions (Hungarian National Bank) and national symbols (flag, crest, crown) of the country, like in the designation of the state (Republic of Hungary). These references to the ascriptive nation – despite common remarks to the contrary in daily political life – cannot be connected to other than every member of the political community of Hungary, to Hungarian citizens and, accordingly, to the concept of state nation. This is the case because the crest is a common symbol for all Hungarian citizens; because the Republic of Hungary belongs to all of us; and because the Hungarian National Bank is associated with the political nation, rather than the cultural one. Based on all this, we may agree that § 29(1) of the Constitution – which states that "Hungary's Head of State is the President of the Republic, who represents the unity of the nation and monitors the democratic operation of the State" –, though often misinterpreted, can only refer to the concept of state nation. (In a (nonexistent) country that has successfully realized neutrality, the clause would perhaps run as follows: the President represents the political community of citizens.) Article § 68(1) of the Constitution, which declares minorities a constituent part of the state, can also be reconciled only with the concept of state nation. ("The national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people: they represent a constituent part of the State.") The appearance of the concept of people in § 68(1) may be understood to refer to the political nation, comprising every citizen of the Republic. (Appearance of the word 'people' elsewhere in the Constitution may carry a different

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[21] In this regard, see, for example, Bernard Yack: The Myth of the Civic Nation. *Critical Review,* Vol. 10, No. 2, 1996. 193–211.

meaning, though only when it does not refer to the "people" of Hungary. In § 6(2), for example, its use may allude to a people without its own state.)[22]

Naturally, the responsibility clause of the Hungarian Constitution [§ 6(3)] does not render this conclusion doubtful when it states: "The Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary." Even this formulation does not include more than a declaration that the Republic cares for members of the cultural nation from beyond the borders; but does not create a public law relationship with them, nor makes them members of the Hungarian political community. Incidentally, this provision (presumably) deliberately makes no mention of the nation or the people, since use of these designations to refer to the cultural nation does not appear elsewhere in the Constitution either. The cultural nation thus appears as a supplementary element in the Hungarian Constitution and, generally, in Hungarian public law, through the fact that the state supports those belonging to the cultural nation: it helps their naturalization and grants them other benefits and support. The notion that the Republic of Hungary wishes to occupy itself only with Hungarians outside its borders and not the foreign "compatriots" of those "from Hungary" obviously rests on the majority and ascriptive quality of the Hungarian nation. Still, if we take seriously the contention that minorities in Hungary are constituent parts of the state and that the Hungarian state aims at the creation of a multi-cultural political community, a clause declaring responsibility for the compatriots of all those from Hungary – in other words, also those belonging to national and ethnic minorities in Hungary – would be more theoretically defensible.[23] Hence, there seems, at least at first sight, to be a contradiction between § 6(3), which forms the theoretical basis for kin-minority politics, and § 68, which lays the foundation for legal regulation of minority rights in Hungary. In fact, a multi-culturalist politics of minorities beyond the borders – one that would support all sometime Hungarian citizens now living as minorities – would, perhaps, be more successful, and more easily acceptable and justifiable than present practice. (We can find examples of such practice in other countries. The Austrian regulation accepted in 1979,[24] for example, granted not only

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22 For more detailed discussion of § 6(2), see Gábor Sulyok's commentary of this Paragraph. (Manuscript)

23 Iván Halász and Balázs Majtényi: A Magyar Köztársaság Alkotmányának „nemzeti felelősségi klauzulája" (Egy értelmezési kísérlet) In *Ami összeköt?* 93–104.

24 Bundesgesetz vom 25. I. 1979 über Gleichstellung von Südtirolen mit österreichischen Staatsbürgern auf bestimmten Verwaltungsgebieten. For a more in-depth discussion of

German- but also native Ladin-speakers benefits and protection in South-Tyrol. The Russian compatriot law adopted in 1999[25] also dealt with aid to "those from Russia" and not ethnic Russians.) Nonetheless, this mode of regulation is perhaps justifiable with the argument that the politics of minorities beyond the border hopes to help the situation of the descendants of those who became minorities through circumstances beyond their control, as a result of changed borders. (Changed borders theoretically had no negative effect on the situation of the compatriots of minorities in Hungary, since these individuals had already been living as minorities.) Alternatively, it is possible to argue that most of the minorities already have a kin-state that can also take measures on their behalf. (In applying this principle, however, the Hungarian state would be acting consistently only if it (also) supported those of the recognized national and ethnic minorities, like the Ruthene and Roma, who are lacking kin-states.)

In somewhat surprising manner, although the Hungarian Constitution names Hungarians beyond the border, it does not do the same for members of the ascriptive cultural nation residing within the borders of the state. As Iván Halász notes: our Constitution mentions only national and ethnic minorities as constituent parts of the state, but not the majority Hungarian nation.[26] Still, given that the Hungarian nation is the ascriptive one of the country and that the national symbols of the Hungarian political nation are also associated with defining elements of the Hungarian cultural nation's identity, we may assume that the Hungarian national majority is, besides the recognized state-constitutive national and ethnic minorities, "implicitly" (but indisputably) a constituent part of the state.

The necessity of using the concept of nation

In summary of the above it may be stated that, until we find a more 'acceptable' concept than state nation – a possible substitute –, we cannot consider it either outmoded or the product of an earlier age. The concept of nation is thus presently a category used out of necessity in public law – a fact recognized by the drafters of the basic laws of democratic states, who have not

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the question, see Iván Halász: Tirol – egy tartomány szerepe az osztrák „határon túli" politikában. In *Ami összeköt?* 157–180.

[25] Russian Federation Federal Law On the State Policy of the Russian Federation in respect of compatriots abroad Adopted by the State Duma on 5 March 1999 Approved by the Federation Council on 17 March 1999.

[26] Iván Halász and Balázs Majtényi: A Magyar Köztársaság Alkotmányának „nemzeti felelősségi klauzulája" (Egy értelmezési kísérlet) In *Ami összeköt?* 93–104.

neglected the fact that it is primarily culture that mediates the individual-community relationship, and the language, history and traditions of the community that make the individual who she is.[27]

Simple substitution of terms will, in itself, also not make use of the concept superfluous, so that we do not advance by changing the words 'nation' and 'nationalism' to 'community' and 'culture'. Nonetheless, these terms doubtless sound more peaceful, so that their acceptance may also run an easier course. (I find use of the designation constitutional patriotism for political nation downright confusing, since some degree of overlap between the concepts 'state' and 'nation' is unavoidable. The concept of constitutional patriotism thus cannot express clearly enough what political loyalty is based on, given that some degree of overlap between the concepts 'state' and 'nation' is inescapable until the state becomes neutral.[28] Naturally, we may nonetheless analyze constitutional patriotism and even consider it a best possible solution, but in this case, it might happen that we will be unable to bridge the gap between theory and practice. [29]This method is thus of no help if we are looking to answer the question "what political philosophy is to be found in our institutions".[30] Constitutional patriotism may today be used only in describing "political communities" based on supra-national identities. For example, the principle may perhaps be used in the case of the United States to define belonging within the political community.) Thus, we may also greet Sandel's observation, whereby the national republic ran its course during the 20th century, with certain doubts.[31] (It is true, however, that the author reached his conclusions after having used the constitutional system of the United States as his starting point.) And even though, as Rogers Brubaker notes, any use of the concept of nation as a "substantial, enduring collectivity"[32] may be attacked – and that, in general terms, every concept is artificial and changes through history – we have not thereby shut out of our analysis, in any way,

27 Zoltán Bretter: A közösség meghatározásának nehézségeiről. *Regio,* Nr. 4, 2002. 40–52.

28 Jürgen Habermas: Citizenship and National Identity. In Ronald Beiner (ed.): *Theorizing Citizenship.* Albany: Suny Press, 1995; For a commentary in Hungary in support of constitutional patriotism, see András Bragyova: Az *új alkotmány egy koncepciója*. Budapest: Közgazdasági és Jogi Könyvkiadó – MTA Állam- és Jogtudományi Intézet, 1995.

29 Michael Sandel: Procedual Justice and the Unencumbered Self. *Political Theory,* Nr. 12, 1984. 81–96.

30 Sandel, op. cit.

31 Sandel, op. cit.

32 Rogers Brubaker: Rethinking nationhood as institutionalized form, practical category, contingent event. In Rogers Brubaker: *Nationalism Reframed. Nationhood and the National Question in the New Europe*. Cambridge University Press, 1996. 21.

use of the concept of nation as "as an institutionalized cultural and political form".[33] This is so because varied interpretations of the concept of state nation appear in legal documents also; and it cannot be doubted that we live in a world where the concept of nation (whether considered good, bad or neutral) is necessarily institutionalized in the practice of states and in the operation of state structures.

More than one author has expressed the view that the appearance of nationalism was an unfortunate circumstance that took the development of democratic sates down the wrong path. This idea may be refuted, at least in part, by the argument that it was thanks to nationalism, with the help of attachment to the nation, that the members of political communities became capable of seeing each other as equals.[34] Of course, one may argue about whether a system of beliefs other than nationalism could have institutionalized equality in society in a better way, but this discussion is not particularly fruitful when describing the present-day state system. According to Anthony D. Smith "The modern world has become inconceivable and unintelligible without nations and nationalism".[35] In this way, at least today, no normative analysis can afford to ignore the concept of nation. Nonetheless, the view that – rather than re-using concepts from the 19th century – something new should be invented is obviously acceptable; but such re-thinking would require more of us than just a change of terms. To summarize, if the drafter of a constitution attempts to describe the political community, the concept of political nation may, in my view, be made to correspond to the moral equality of citizens.

The state nation and protection of minorities

The opinion of democratic states differs as to whether there is truly a need for special minority rights. States have thus arrived at different points of view on the question of which kind of social integration is desirable for minorities within the political nation. Some – like France and Greece – support assimilation and in any case try to avoid any assumption of duties that would grant to citizens who are members of national minorities any special rights beyond those human rights universally accepted. These states ignore linguistic and cultural differences between citizens for the purposes of state regulation (with the exception of prohibiting discrimination). In contrast, for a number of other states (such as

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[33] Brubaker, Rethinking, op. cit.
[34] Liah Greenfeld: Nationalism and Modernity. *Social Research*, Vol. 63, Nr. 1, 1996.
[35] Anthony D. Smith: The Origins of Nations. *Ethnic and Racial Studies*, Vol. 12, Nr. 3, 1989.

Hungary and Germany) the unity of state and nation is of lesser significance – albeit due to varied considerations. Accordingly, protection of (resident) national minorities by means of special minority rights, in the frame of the political nation, appears as a state goal in official politics – so that preservation of the country's ethnic and cultural diversity may even appear as a constitutional duty.[36] (It is a declaration of this intention that we find in § 68 of the Hungarian Constitution).

Thus, the problem of the manner in which the concept of state nation may be made acceptable to minorities still awaits us. Can a state biased from the national point of view, in which belonging to the political nation is often determined through elements of the identity of the cultural nation, treat various national identities completely equally (in actual terms) by equalizing opportunities? In my opinion – and in light of our discussion about the national neutrality of states – the answer can only be no for most states, since even if multi-nationalism and the existence of a multi-cultural political community may fit with the concept of state nation, neutrality cannot. (This observation is not necessarily true for states with political nations based on supra-national identities.) This also means that the factual equality of minorities within the frame of the political nation cannot be completely guaranteed in most states; and draws the outer boundaries of measures taken with the aim of bettering the situation of minorities. Such measures, brought in the name of granting real equality to members of minorities, can never fully reach their aim in states where elements of the identity definitive of the cultural nation are also used in determining the political one. (This observation is true for most European states, except perhaps Belgium and Switzerland.) Acceptance of the concept of political nation means simultaneously assuming that the state considers certain elements of assimilation or at least acceptance of the idea of attachment to the political nation desirable within the political community.[37] This is the case because belonging between individuals is strengthened when the majority of citizens declare themselves members of the same political nation; and politically efficient relationships develop with more difficulty among people when linguistic or cultural differences divide the latter.[38] Still, various identities may naturally exist within a political community; and states may develop public institutions in which citizens' minority communities play a role, in order to realize just equality. The basis for development of

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[36] For more detailed discussion of this question, see Balázs Majtényi and Balázs Vizi: Bevezető. In Balázs Majtényi and Balázs Vizi (eds.): A *kisebbségi jogok nemzetközi okmányai*. Budapest: Gondolat, 2003.

[37] See János Kis's concurring opinion in Beyond the nation state

[38] Bódig, "Nemzeti történelem" …, 18.

minority-interest public institutions may be that democratic states must aim to make it possible for each of their citizens to lead a valuable life (also) as a member of a community and to pursue happiness – since community-belonging is also a prerequisite for a good life. Special action aimed at placing minorities in a situation equal to the majority may be necessary everywhere, since individuals who "joined the given political community later as strangers who dropped in from outside (immigrants) and do not share in certain elements of the common culture" [39] may be found everywhere.

To justify such politics of minority affirmative action, we may recall that John Rawls, in his work A *Theory of Justice*, does not grant any community a constitutive role in the process of justifying social institutions and imagines a well-structured society as a kind of social union.[40] Everyone may take part in a just social union according to her inclination; the individual may thus freely choose (in this case also) among various national communities without the state pushing her in any particular direction at the moment of choice. The state may, in such a social union, be capable of understanding the diversity of individual identities and of national communities within the frame of the concept of political nation. A multi-cultural community may come to fruition and function in such a union.[41] (However, the multi-cultural community may exist only in the cadre of the political nation.) This state may attempt to incorporate into the concept of political nation elements of the traditions and culture of resident minorities and to rely as little as possible on elements defining the identity of the majority nation. (This kind of conception of nation goes beyond the already-mentioned Hungarian concept of political nation, formulated by the liberal tradition of the 19th century.) Here, national and ethnic minorities also get public legal recognition in the state, in the frame of the political nation, so that they exist as "sub-political communities" within the former. This reasoning may justify the recognition of minority collective rights in the Hungarian Constitution. Creation of a concept of the state nation in this manner may be expected of states for one to even envisage that national minorities may consider

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[39]   Bódig, 13.

[40]   John Rawls: A *Theory of Justice*. Cambridge, Massachussets: Harvard University Press, 1971.

[41]   For more detail on multi-cultural political communities, see János Kis: Beyond the nation state, op. cit. According to János Kis the political community "becomes monocultural (a single-nation community) if it is created in competition and strife between ethnic groups living on the same territory in such a way that one group succeeds in taking possession of the state. The political community will be multicultural if it is formed from a union of ethnic groups living together."

themselves part of the state's political community.[42] Use of the (concept of) political nation assumes, however, agreement with some degree of assimilation, as János Kis has noted.[43] Pressure to assimilate may be all the stronger the more dominant elements of the majority cultural nation-linked identity are in describing the state nation; but a demand for identification can, in the same manner, also be found in political nations based on supra-national identities (Canadian, Swiss, New-Zealander, etc.).

Even if the state cannot be neutral – despite declaring legal equality – it can aim to create a minority friendly environment within the frame of the political nation. The reference in the Hungarian Constitution to minorities as constituent parts of the state also cannot refer to other than an intention to create a multi-cultural political community. In theory, minority legal regulation in Hungary (however inconsistent) also aims to attain this goal. It is questionable, however, whether a more or less homogenous society is the adequate model for the creation of an essentially multi-cultural political community. In my opinion, this is not the case. Widespread dispersion of the model of a multi-cultural political community in the states of East-Central Europe is made doubtful by the circumstance that the states of the region are still – even since the change to democracy – on a triumphant march toward the maintenance of only one "cultural" nation within the state. In other words, the political nation is hoped to be circumscribed, in ever more perfect manner, by elements of the identity of the cultural nation.

Conclusion

If the state cannot be neutral it must formulate the concept of political nation in reference to every member of the political community. This, having taken into account the moral equality of each member of the political community and in the interest of ensuring the power and prestige of the state. Thus, the state may take the first step away from much-revered but presently unattainable neutrality as regards each member of the political community only if it creates a political concept of nation that can pertain to each citizen.

The concept of cultural nation cannot comprehend every member of the political community and hence may be used in the constitutions of modern democratic states (only) next to the concept of political nation. (For example, it may be utilized when regulating access to the political community, when

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42   Tamás Győrfi: A kommunitarizmus alkotmányelmélete. *Fundamentum*, Nr. 1, 2004. 8.
43   Kis, op. cit.

supporting those beyond the borders or when mentioning the special rights of national and ethnic minorities.)

The political nation may be transformed into one acceptable to those belonging to minorities by ensuring that belonging (to the former) is limited to acceptance of minimal identification, so that a "multi-cultural political community" may develop within the cadre of said political nation. This is possible if the state shapes decisive (political) identity in such a manner as to try and integrate into the concept of the political nation as many of the traditions and cultures of resident minorities as it can, while relying as little as possible on elements of the identity determinative of the majority (ascriptive) cultural nation. Formulation of such a concept of state nation may also be expected (of states) for one to even envisage that national minorities may consider themselves part of the given political community.

The drafters of the Hungarian Constitution presumably aimed to realize all of the above when they declared, besides use of the concept of political nation, that "[t]he national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people." (Therefore, these groups were recognized as kinds of apolitical communities organized on the basis of nationality.) It is of course questionable whether a more or less nationally homogenous society, like the Hungarian one, is the right model for the realization of this objective.

Multi-culturalism and multi-cultural political communities may fit with the concept of state nation, also used by Hungarian law-makers; but not national neutrality cannot. (The observation is not necessarily true for states with political nations based on supra-national identities.) This also means that real equality of minorities within the political nation cannot be ensured to the fullest extent in most states; and sets the outer boundaries of special minority rights aimed, like § 68 of the Hungarian Constitution, at placing minorities in a situation equal to that of the majority. Corrective measures brought in the interest (and for the real equality) of those belonging to minorities can never fully reach their goal in states (including Hungary) in which elements of the identity defining the cultural nation are utilized when determining the political one; and where the state considers some minimal level of identification with the political nation desirable for every citizen.

Translated by Enikő Horváth

JUDIT TÓTH

Principles and Practice of Nationality Law in Hungary

The European enlargement has certain impact on nationality law. The case of Hungary may illustrate how migratory movements, Diaspora policy, national identity and legal regulation would be challenged by accession to, or fear of exclusion from, the wider European Union. This complexity can only be partially described in following pages[1], through the short history of nationality policy, its major principles and legal practice.

History of nationality policy in the past seven decades

Nationality policy can be divided into the following epochs according to important reforms in historical[2], legal and international circumstances: (a) post-WW II period of 1945–48 (b) 1948–1956 (c) 1956–1989 (d) 1989–1993 (e) 1994–2005.

(a) The Agreement on Armistice concluded in Moscow (1945)[3] annulled all modifications of nationality related to territorial changes to the state border of Hungary between 1939–1944.[4] It meant *loss of Hungarian nationality* for millions living under the new sovereign power of adjacent states. The Peace Agreement after WW2 defined the border of the state[5] as that which existed in the last day of

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1   Based on a conference paper on Hungarian nationality law presented to the Austrian Academy of Sciences (30 June – 1 July 2005, Vienna).

2   In nutshell: the first Act on Hungarian Nationality was adopted in 1879, the second in 1947, the third in 1957 and the fourth passed in 1993.

3   Concluded in Moscow, 20 January 1945 and it was published in Act V of 1945.

4   Due to the occupation of ex-territories of the Hungarian Kingdom in Czechoslovakia, Trans-Carpathia, Romania and Yugoslavia various acts and governmental regulation were adopted – inter alia – on citizenship issues (Acts VI of 1939, XXVI of 1940, XX of 1941, Decree 2.200 of 1939).

5   Concluded in Paris, published in Act XVIII of 1947, entered into force by Government Decree 11.800 of 1947.

the peace. Temporary regulation on nationality[6] between 1945 and 1948 considered all persons residing in the actual territory of Hungary in 1945 as nationals unless they could obtain another nationality. Furthermore, this was the period of *deprivation of nationality*[7] through bilateral agreements (e.g. Czech-Slovak State population exchange as lawful ethnic cleansing, expulsion of German minority to Germany). Non-returned, presumed war criminals, opponents to the Republic, and enemies of democratic state were deprived of their nationality by domestic regulation together with confiscation of their property in 1946–1948.[8] Finally, communists who had emigrated and wanted to return to Hungary[9] were rehabilitated. In brief, nationality was a political tool of exclusion during this epoch.

(b) The *civil rights and equality of child* birth out of wedlock was introduced in 1946[10], but only the Act on Hungarian Nationality passed in 1948 provided acquisition of nationality through family and personal status changes in a coherent way. Thus equal treatment for children born out of wedlock was ensured. Moreover, the Act intended to *register all nationals* who resided abroad but without proper executive rules, techniques and consular office relations. The Act *legitimated Hungarian nationality* of pending, undocumented persons if they resided in Hungary during a certain period.

(c) This epoch meant *emancipation of spouses* on the basis of the New York Convention (1957) on married women[11] and its principle was inserted into the third Act on Nationality adopted in 1957. Due to the *strong powers of political discretion* the executive rules of the Act were not published (e.g. emigrants had to renounce nationality together with social insurance rights when obtaining a passport according to a confidential order). After the revolution in 1956 and mass emigration, a wide *amnesty* was proclaimed for returnees together with registry of nationals staying abroad permanently.[12]

(d) It was a time of marching towards a rule of law, Constitutional reform and a new Act on nationality. At first the *ban of the deprivation of nationality* was regu-

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[6] For instance, see the Decree of the Prime Minister 5.700 of 1945.

[7] See details in Czech-Slovak-Hungarian Agreement published in Act XV of 1946 or Government Decree 12.200 of 1947.

[8] In particular Act X of 1947 and Act XXVI of 1948.

[9] For instance the Decree of the Prime Minister 9.590 of 1945.

[10] Act XXIX of 1946.

[11] Published in Law-Decree No.2 of 1960.

[12] Law-Decree No. 11 of 1955, No.7 of 1956, Ministerial Decree of the Interior 2 of 1956, 11 January.

lated in the modified Constitution[13]. Because of this, the legal title for loss (of dissident persons) and deprivation of citizenship as arbitrary ceasing of nationality for unlawful departure, used from 1939–1989, were abolished by the amended Constitution. Parallel to this, *rehabilitation of expatriated nationals* who arbitrarily were deprived from nationality was regulated upon request as the initial steps of democratic Hungary.[14] The Geneva Convention (1951) inspired the *preferential naturalisation* of refugees that was introduced into the nationality law. The fourth Act on Nationality passed in 1993 made preconditions for *naturalisation more restrictive,* but ethnic and family preferences intended to compensate for this. The executive rules on proceedings provide neither legal remedy against, nor explanation of rejection. Hungary terminated bilateral agreements which excluded *dual citizenship* in the region in 1989–1993.

(e) The last decade was the period of undertaking international obligations, accession to the EU and sharp political debates on ethnic Hungarians living beyond the borders. The Act on nationality in force was amended three times[15] due to ratification of the European Convention on Nationality (1997) and the UN Convention on Stateless persons (1954).[16] Furthermore, the circle of preferential naturalisation began to stretch towards EEA citizens without stormy objection and to ethnic Hungarians after vivid debates[17]. The last amendment of the Act[18] defeated of granting nationality ex lege for all ethnic Hungarians living in adjacent states.

Major rules of acquisition and loss of nationality

Hungarian nationality can be acquired on the basis of legal titles as follows:
– by birth from a Hungarian national (ius sanguinis);
– by presumption if baby was born from an unidentified or settled stateless parent in Hungary (ius soli),
– by naturalisation, re-naturalisation, and
– by declaration.

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[13] Act XXXI of 1989 introduced a substantially new Constitution but formally it was only a modification.

[14] Provisions of Act XXVII of 1990 and Act XXXII of 1990 were inserted into the third Act on Nationality in 1993.

[15] Act XXXII of 2001 and LVI of 2003 modified the Act on Nationality LV of 1993.

[16] These were published in Acts II and III of 2003.

[17] Bill on modification of Acts on Nationality as well as Entry and Residence of Foreigners in Hungary No. T/15818. It was submitted to the Parliament in April 2005 by the Government.

[18] Act XLVI of 2005 on modification of the Act LV of 1993 on Hungarian nationality and Act XXXIX of 2001 on entry and residence of aliens in Hungary was passed on 6th June 2005. It enters into force on 1st November 2005.

Basic, *non-preferential* requirements for *naturalisation* shall be required by:
- permanent residence in Hungary for 8 years in possession of obtaining a permanent residence permit or EEA citizens' residence permit;
- clean criminal record and no current criminal proceedings;
- proven means of livelihood and residence;
- naturalization doesn't violate national interest of Hungary, and
- successful examination taken on basic constitutional issues in Hungarian language.

Requirements for *preferential* naturalisation are as follows:
(a) Permanent residence requirement can be reduced to 5 years if:
  – applicant was born on Hungarian territory or
  – established residence in Hungary before reaching legal age or
  – is stateless

(b) Permanent residence requirement can be reduced to 3 years if:
  – applicnt declares him/herself an ethnic Hungarian, or

(d) Permanent residence requirement can be waved if:
  – applicant is a minor and his/her application was submitted along with a qualified parent, or
  – applicant is a minor and has been adopted by a Hungarian citizen.
  – applicant is considered of "overriding interest" to the Republic of Hungary by the President or Minister of Foreign Affairs.

Requirements for *re-naturalisation are* based on:
- permanent residence permit of the applicant whose nationality was terminated;
- clean criminal record and no current criminal proceedings;
- proven means of livelihood and residence, and
- naturalization doesn't violate national interest of Hungary.

Requirements for *declaration* submitted to the President of the Republic of Hungary are met:
- if the applicant was deprived of the nationality according to previous acts, or
- applicant was born in Hungary and has not acquired other nationality of his/her parents by birth provided that at the time of his birth he re-sided in Hungary, s/he lives continuously in Hungary for at least 5

years at the time of submission of the declaration, and s/he is no older than 19 years, or

- applicant was born to a Hungarian national mother and foreign father before 1st October 1957 and did not become a Hungarian national by birth.

The Minister of the Interior issues a certificate on the acquisition of nationality, and final refusal of the declaration may be revised by the Metropolitan Court of Budapest.

As can be seen, the regulations creates special groups of people eligible for nationalisation:

- ethnical preference in naturalisation provided for *ethnic Hungarians*;
- re-naturalisation of *ex-nationals*;
- rehabilitation of *expatriated nationals* who can acquire terminated nationality by declaration;
- *recognised refugees and stateless persons* residing in Hungary prior to naturalisation for a shorter period;
- genuine link principle of *bringing up children* in Hungary;
- *child of immigrant*, stateless parent residing long-term in Hungary or unknown parent shall be considered a Hungarian national until this presumption is no longer rebutted;

On the principle of family unification, *spouse and adopted child* are also preferentially treated in naturalisation.

Loss of nationality shall be based on

- *Renunciation*: the national residing abroad may renounce his/her nationality if s/he possesses another nationality or relies on the probability of its acquisition,
- *Withdrawal*: if s/he acquired nationality by naturalisation violating the law, in particular by misleading authorities by submitting false data or omitting data or facts, without 10 years elapsing since naturalisation.

Statistical trends

Undoubtedly, data on trends of acquisition and termination of citizenship are materials of public interest according to Act LXIII of 1992. Despite this fundamental right[19], defined in 1989, statistical data related to the acquisition and ter-

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[19]   Art. 61 of the Constitution provides right to free expression and obtaining information of public interest as well as free dissemination thereof.

Year	Naturalisation/re-naturalisation	Removal
1958	170+182 = 352	124
1959	128 +205 = 333	135
1960	136 +201 = 337	226
1961	126+ 249 = 375	323
1962	100+315 = 415	796
1963	1164	904
1964	n.d.	n.d.
1965	658	448
1966	738	798
1967	560	578
1968	469	471
1969	375	522
1970	416	739
1971	461	869
1972	745	2071
1973	427	1328
1974	399	1249
1975	425	1280
1976	453	1194
1977	548	1220
1978	546	1181
1979	598	1280
1980	589	1325
1981	1176	1086
1982	1641	1027
1983	1173	1462
1984	783	1446
Total	16 156	24 082
Yearly average	622	926

mination of Hungarian citizenship have been available in part, in various structures only since 2001.[20] Because of this, neither long-term analysis, nor similar data structures exist. Demographic-history exclusively contains certain statistics on naturalisation, re-naturalisation and removal from the nationality.

During the period between 1958–1984 the *number of cases* of emigration proves higher than immigration[21].

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[20] Twice modified Art.19 of the Act on Hungarian Nationality adopted in 2001 and 2003 (see the Act XXXII of 2001, LVI of 2003).

[21] The table is made on the basis of Tóth Pál Péter: *Haza csak egy van? Menekülők, bevándorlók, új állampolgárok, 1988–1994*. Budapest: Püski, 1997.

There was no change in citizenship law during this time. Legal and political practice could explain why the emigration or removal rate was higher after 1967. Furthermore, marriage to males from restrictive European states with prohibited dual citizenship meant removal upon request by female spouses from Hungary, which occurred in a relatively large proportion.

Data related to acquisition of nationality since 1985 on the basis of various legal titles are not always available. The upper table can be continued till 1994 with additional information on *share of cases*.[22]

Year	Naturalisation/ re-naturalisation		Removal/ Renunciation	
1985	850		842	
From them	Czechoslovak	32	Czechoslovak	3
	Yugoslav	10	Yugoslav	20
	Austrian	6	Austrian	159
	Romanian	198	Romanian	–
	Soviet	440	Soviet	2
	East-Germ.	78	East-Germ.	13
	Non-European	4	Non-European	–
1986	948		1236	
	Czechoslovak	40	Czechoslovak	6
	Yugoslav	8	Yugoslav	61
	Austrian	–	Austrian	119
	Romanian	345	Romanian	–
	Soviet	366	Soviet	–
	East-Germ.	126	East-Germ.	11
	Non-European	10	Non-European	3
1987	1 012		1510	
	Czechoslovak	46	Czechoslovak	8
	Yugoslav	11	Yugoslav	22
	Austrian	1	Austrian	156
	Romanian	408	Romanian	–
	Soviet	331	Soviet	1
	East-Germ.	144	East-Germ.	25
	Non-European	6	Non-European	1

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[22] The table is made on the basis of Tóth Pál Péter, op. cit.
Legal title for loss of nationality was changed in 1993; thus renunciation replaced removal of nationality.

Year	Naturalisation/ re-naturalisation		Removal/ Renunciation	
1988	897		1358	
	Czechoslovak	33	Czechoslovak	10
	Yugoslav	19	Yugoslav	36
	Austrian	2	Austrian	177
	Romanian	412	Romanian	–
	Soviet	237	Soviet	1
	East-Germ.	111	East-Germ.	8
	Non-European	29	Non-European	5
1989	n.d.		n.d.	
1990	3 170		1184	
	Czech/Slovak	63	Czech/Slovak	2
	Yugoslav	21	Yugoslav	18
	Austrian	11	Austrian	169
	Romanian	2661	Romanian	1
	Soviet	156	Soviet	1
	East-Germ.	35	East-Germ.	70
	Non-European	96	Non-European	1
1991	5 893		441	
	Czech/Slovak	25	Czech/Slovak	2
	Yugoslav	22	Yugoslav	3
	Austrian	18	Austrian	80
	Romanian	5114	Romanian	–
	Soviet	306	Soviet	–
	Stateless	13		
	Non-European	186	Non-European	1
1992	21 880		1 149	
	Czech/Slovak	249	Czech/Slovak	7
	Yugoslav	1	Yugoslav	3
	Austrian	7	Austrian	211
	Romanian	20624	Romanian	–
	Ex-Soviet	569	Ex-Soviet	–
	Stateless	7		

Legal title for loss of nationality was changed in 1993; thus renunciation replaced removal of nationality.

Year	Naturalisation/ re-naturalisation		Removal/ Renunciation	
	Non-European	60	Non-European	3
1993	11 521		2 084	
	Czech/Slovak	55	Czech/Slovak	5
	Yugoslav	309	Yugoslav	–
	Austrian	20	Austrian	314
	Romanian	9956	Romanian	–
	Ex-Soviet	843	Ex-Soviet	–
	Stateless	7		
	Non-European	75	Non-European	3
1994	9 238		1 688	
	Czech/Slovak	40	Czech/Slovak	7
	Yugoslav	888	Yugoslav	–
	Austrian	1	Austrian	346
	Romanian	6254	Romanian	–
	Ex-Soviet	1730	Ex-Soviet	–
	Stateless	1		
	Non-European	120	Non-European	2
Total	55 409		11 492	
Yearly average	5 541		1 149	

Since the 1990s, statistics show a growth of successful naturalisation cases. Why? In part due to the increasing number of ethnic Hungarian applicants from adjacent states, and in part changing interpretations of legal rules in force. The Constitutional reform establishing the rule of law in the Hungarian Republic also influenced the legal practices of the Ministry of the Interior: if an applicant met the legal requirements the minister almost automatically proposes the President to grant naturalisation This "self-limitation" practice of power of discretion, however, could not compensate the more restrictive preconditions of naturalisation adopted by the Act on Hungarian Nationality in 1993. Furthermore, the number of non-European applicants grew but has remained marginal since the 1990s.

What is the *ratio of cases, applications and persons concerned*? The following table may help to assess the possible proportions and to understand the mixture of data on nationality.[25]

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[25] www.bmbah.hu/statisztikak.php

	1998	1999	2000	2001	2002	2003	2004
Application for naturalisation, re-naturalisation (cases)	3593	3160	3963	4282	4453	4916	5761
From them applicants with (%) Romanian citizenship					61	60	63
Yugoslav/Serbian citizenship					17	15	13
Ukraine citizenship					11	15	13
Other European					6	14	14
Non-European					5	5	3
Stateless					1	1	1
Naturalised, re-naturalised persons	6203	6066	7538	5934	3890	n.d.	n.d.
Application for re-obtaining nationality upon declaration of expatriated, prior national (persons)	232	200	208	194	212	151	144
Application for Certificate of existing nationality (persons)	3934	4264	3935	3924	4401	4803	5984
Reinstatement of nationality (persons)	–	–	–	1	1	1	1
Application for renunciation of nationality (cases)	893	728	748	684	609	463	236
Accepted waivers of nationality (persons)	1070	995	955	791	857	n.d.	n.d.

Briefly, Hungary became a *country of immigration primarily for ethnic Hungarians*. This development occurred along 3 major channels:

(a) foreigners acquire Hungarian nationality through naturalisation;

(b) prior nationals, expatriated persons re-obtaining Hungarian nationality after historical loss by declaration or re-naturalisation, and

(c) expatriated nationals or their descendants living abroad prove Hungarian citizenship through a verification procedure of existing citizenship (Certificate on Nationality) in growing number. The statistics indicate the existence of "latent nationals abroad" in great extent.

Finally, the *ratio of naturalisation according to legal titles* is available only in 2002. The total number of persons naturalised was 3890 (100%). Its sub-groups were as follows:[26]

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26   www.bmbah.hu/statisztikak.php

Type of legal titles	Act on Nationality	Person	%
Non-preferential applicant ("basic decision")	4 § (1)	244	6.27
Preferential ("applicant was born in Hungary")	4 § (4) a.	3	0.0
Preferential ("applicant as minor immigrated to Hungary")	4 § (4) b.	2	0.0
More preferential ("applicant's spouse is Hungarian national")	4 § (2) a.	325	8.35
More preferential ("applicant's minor is Hungarian national")	4 § (2) b.	49	1.25
More preferential ("applicant is a recognised refugee")	4 § (2) d.	17	0.4
Most preferential ("applicant is a minor")	4 § (5)	9	0.2
Most preferential ("applicant is a minor adopted by a national")	4 § (6)	30	0.7
Most preferential ("ethnic Hungarian")	4 § (3)	2447	62.9
Re-naturalisation	5 §	764	19.6

As it can be seen, the "main rule" and "exception" means in legal practice the exact opposite of general grammar or logics. Beyond ethnic immigration from the Carpathian basin, the family unification and repatriation (rehabilitation) of prior nationals has formed the mainstream of newborn nationals by law.

Major principles in nationality law

The universally adopted principles on nationality law are fully respected with the exception of neutral definition of nationality as laid out in the European Convention (Art 4). The genuine link (effective relationship) to the country of citizenship, as well as multiple citizenship is hardly differentiated in the case of Hungary.

The Constitution contains only a few provisions of *guarantee* relating to Hungarian citizenship[27], while the other rules pertaining to formation and cessation are settled in the act adopted by a two-thirds majority vote. This repre-

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[27] Act XX of 1949 on the Constitution of the Hungarian Republic, as it was reformed by the Act XXXI of 1989 established the rule of law including an Article on Hungarian citizenship.

sents the compulsion of *consensus* which makes regulations[28] difficult to amend (it happened on four occasions in the course of twelve years). Strangely enough, there is no such restriction relating to international agreements pertaining to citizenship. The *prohibition of arbitrary deprivation* of citizenship and the prohibited withdrawal of the *right to change* citizenship are included in the Act on Hungarian Nationality and in the Constitution. This expresses the relative respect of freedom of the individual will and includes the human right to the preservation of citizenship. Therefore, withdrawal of citizenship is an exemption, whereas the more common procedure is waving citizenship if one lives abroad, and thus would presumably not become stateless[29].

The equality of rights of citizens ensures that citizens should have the same legal standing irrespective of the legal title of the acquisition of citizenship. The European Convention on Nationality requires participating states to refrain from discrimination against their citizens, irrespectively of their acquisition of citizenship by birth or by any other means (Paragraph (2) Article 5).

Discrimination is forbidden among Hungarian nationals, irrespective of the legal title under which their citizenship was granted. The Act on Hungarian Nationality makes only one exception in the field of withdrawal of citizenship: for it may not be applied to persons who acquired citizenship by birth. (For, in the course of the procedure of naturalisation, applicants could hardly commit fraud or behave in a wild manner in order to obtain citizenship fraudulently.)[30]

Domestic law insures the granting of citizenship to *children* by birth (ius sanguinis) as well as the legal standing of *married women* and children of the appropriate maturity as their own right, by declaration. Hungary stands against the termination of statelessness by preferential naturalisation, granting citizenship, and, as in the case of *refugees*, encourages preventing statelessness. Moreover, the Act on Nationality assists family reunification (in respect to legal standing) by different preferences of naturalisation.

The *prevention of statelessness*, which has been referred to in several examples above, restricts both the right of the individual to self-determination and the sovereignty of the state (successor state) in accordance with the conventions of the UN and the Council of Europe. In fact, there is only one legitimate reason for withdrawal of citizenship: if it was acquired in

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[28] Act LV of 1993 on Hungarian Citizenship in accordance with the Constitution. It entered into force on 1st October 1993 and has been amended four times.

[29] The Act of Nationality was liberalised in 2001 thus even the criminal proceedings under way represent no obstacle to resignation (Act XXXII of 2001).

[30] Act LX of 1993 on Hungarian Nationality, 9.§.

a (manifestly) fraudulent manner. The UN endorsed a separate Convention on the Reduction of the Cases of Statelessness (1963) as it may occur in a wide range of situations and eliminating it is not a simple task.

The regulatory *principles* and the citizenship system in Hungary are in harmony with international legal theories, as the aforementioned points demonstrate. Hungary is a signatory of all conventions of great significance that define the framework of the development of the law.

Hungarian regulation is specific to the extent that it grants *preference* to former Hungarian nationals and ethnic Hungarians in acquiring citizenship. On the other hand, it tolerates *multiple citizenship*, in favour of ethnic Hungarians. The *bilateral agreements regulate several legal relationships with respect to persons of multiple citizenship*. The European Convention for example, settles the military service of persons of double citizenship and, as a general provision. It declares (Article 17) that persons having a second citizenship are entitled to the same rights and obligations on the territory of the participating country as any citizen of the participating state, except for diplomatic and consular protection and the application of the rules of international private law.

The *principle of genuine link* requires a factual, genuine and close relationship between the state and its citizen, and it has been deeply discussed with regards to dual citizenship and the cessation of expatriated Hungarians or Diaspora members nowadays. The International Court transformed a well established principle into an international standard by declaring that, in the case of doubt, only formally existing citizenship may be neglected. It is used not only when judging double citizenship but also when judging citizenship in foreign relations. The relationship between the citizen and the government also includes the protection of the citizen by the state when staying abroad. Citizenship is a kind of legal relationship, the basis for which is an actual social bond, a relationship bound to a real way of life, interests, emotions, coupled with mutual rights and obligations. It is a legal expression of the fact that the individual who obtains this citizenship, directly through the law or as a result of action by the authorities, is in fact more closely related to the people of the state whose citizen he is than to the people of any other state.[31] The genuine link principle is strongly targeted by desire or political promise for granting nationality ex lege for ethnic Hungarians living across the borders.

Hungarian law has generally accepted multiple citizenship. It has not made obligatory – except for the period between 1949–1989 – the terminating

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[31] Lichtenstein v. Guatemala, 1995 WL 1 (ICJ) is known as Nottebohm case.

the other citizenship in naturalisation. In the case of children, it was never an issue whether they were granted citizenship on the basis of the territorial principle. The infamous Nottebohm-case, however, provides assistance only in judging nominal citizenship, and it demonstrates how difficult it is to simultaneously belong to two countries in an effective way. Therefore the provision of the European Convention on Nationality, otherwise neutral concerning the issue at hand, has increased in value. It indicates, in an indirect manner, that no state was able to rule out the emergence of multiple citizenship through its internal regulation. Therefore the minimum expectations of the state legally granting multiple citizenship is limited (Art 14–16). For this reason, multiple citizenship is not to be tolerated in each and every case. However, the state must remain within the rules of termination discussed above in order to terminate it. It may only demand the forfeiting one citizenship as a condition of retaining the other, if it is possible and reasonable.

Hungarian citizenship shall be certified with a *valid document* (identity card, passport, citizen's certificate). In case of doubt, attestation is done by the authorities or a certificate is issued. Upon request, the Minister of the Interior issues a citizen's certificate on the existence of citizenship, its cessation or that the person concerned has never been a Hungarian national. The certificate is valid for one year from the date of issuance. A lawsuit disputing the certificate's assertions may be initiated before the Municipal Court (by the person interested, his lawful representative, the public prosecutor as well as the guardian authority). If doubt is raised as to whether the person in question is a Hungarian citizen, in a legal procedure the competent authorities request verification from the Minister of the Interior. [32]

The ethnic preference

In order to clarify the ethnic preference, allow me to summarise its nature in a broader context. Hungarian citizenship and migratory rules have been equally based on ethnic principles, at least in part. What are the major elements of these provisions in force[33]?

i.   *Issuing visa.* Although the list of states and *visa obligation* criteria became part of the Community competence, bilateral agreements on visa-free travelling were maintained until the accession. Furthermore, visa issuance, including the national visa (in the terminology of the Schengen regime) has been re-

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[32]   Act on Hungarian Nationality 10–12. §.
[33]   Tóth, Judit: Hungarian citizenship – contribution to debates on nationality. In Multicultural Centre – Prague www.mkc.cz.

formed in favour of Hungarian minorities living in adjacent, third coun-
tries. The text of visa agreements is neutral but the desire to reform them
can reflect certain ethnic, national priorities towards Romania, Ukraine and
Serbia-Montenegro[34]. In brief, the visa policy has to serve, as much as possi-
ble, allowing kin-minority free-visiting entry into Hungary in order to com-
pensate the EC law and security requirement.

ii. Bilateral agreements ensure preferential preconditions of residence in Hun-
gary, on the basis of minority protection, in general, and in order to provide
lawful study and work of minority members in Hungary. Like visa regula-
tions, the residence permit authorisation[35] is ethnically neutral, but in practice
*commuting workers, seasonal workers, trans-border, informal traders, as well as youth at-
tending secondary schools and universities* in Hungary are recruited from ethnic mi-
norities living across the borders. For instance, all forms of the authorisation
procedure are available only in Hungarian (with the exception of the visa
questionnaire, which is available in foreign languages). Hungary and Poland
in the EU Commission working group have endorsed Acquis under prepara-
tion for a small border crossing for inhabitants in the border zone providing
frequent entry and limited period of residence.[36]

iii. The set of *benefits and allowances for minorities* across the borders. Despite
stormy political debates, in 2001 the Parliament adopted an Act introduc-
ing a specific certificate for ethnic Hungarians living in Slovakia, Roma-
nia, Ukraine, Slovenia, Serbia-Montenegro and Croatia. Because of con-
stitutional and international inconsistency, the law was modified in 2003
terminating some individual benefits (employment, social insurance
and public health) in Hungary that were available with the possession of
the Ethnic Hungarian Certificate.[37] In December 2004 an additional sup-
port system for community building was adopted.[38] Naturally, this set of

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[34] Before accession Hungary had agreements on visa-free travelling to six neighbours, and
a voucher system was defined with Ukraine. Due to legal harmonisation agreements
were modified introducing visa requirement to Ukrainian, Serbian citizens, while agree-
ment with Romania was restricted.

[35] Act XXXIX of 2001 on entry and residence of aliens in Hungary, its executive rules (Gov-
ernment decree 170 of 2001, 26 September) together with further technical and proce-
dural provisions by Decrees of Ministers of the Interior, Foreign Affairs, Justice and Pub-
lic Health.

[36] Before accession Hungary terminated these agreements with Ukraine and Romania.

[37] Act LXII of 2001 on Hungarians Living in Neighbouring States. It was amended by the
Act LVII of 2003. Its executive rules on financial, technical and procedural issues can be
found in about ten Government and Ministerial decrees.

[38] Act II of 2005 on the Homeland Fund that covers various community-building projects
for kin-minorities living in adjacent states.

direct, ethnically based, assistance of Diaspora law can legalise and inspire migratory movements toward Hungary.

iv. *Long-term resident status*[39]. Instead of three years continuous, lawful stay in Hungary prior to submission of the application, a former Hungarian citizen or a foreigner with an ancestor who possessed Hungarian citizenship can submit a request for a long-term resident permit on the basis of a non-defined but shorter previous, lawful residence. The discretionary power of the immigration office includes evaluating the ethnic membership of the applicant.

v. *Preferential naturalisation*. Family reunification as preferential treatment has been developed not only in immigration (visa, residence permit and long term resident authorisation) but in citizenship law as well. More preferential naturalisation may be granted to a person whose ancestor was a Hungarian citizen as long as s/he makes a declaration of Hungarian ethnic membership. In this case, the applicant has to reside continuously in Hungary for at least a period of one year with possession of the long-term resident permit instead of a period of eight years preceding the submission. Another harsh political debate on ex lege or discretional naturalisation of all ethnic Hungarians living in adjacent states without long-term resident status occurred last autumn. From a legal point of view the genuine link to the state of requested citizenship was endangered by the referendum on "dual citizenship", which took place on 5th December 2005. Finally, the motion failed. The majority of voters rejected the ex lege, super-preferential naturalisation of ethnic Hungarians living across the borders. However, new cleavages developed in the political community between the government and the opposition, domestic Hungarians and those abroad, as well as patriots and cosmopolitans. Finally, the amendment of the Act passed in June 2005 provides simple, formal, proceedings and a shorter waiting period for ethnic Hungarians.[40]

vi. *Never-ending citizenship*. There are millions of hidden, Hungarian, citizens all over the world as their *legal bondage to Hungary was never terminated*. Although deputies have urged the reform of citizenship of expatriated

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[39] A foreigner having an open-ended, permanent residence permit is subjected to numerous national regulation, rights and obligations. For instance, eligible for employment, accession to free public education, and family allowances.

[40] What are the achievements of the modification? In possession of the permanent residence permit, the ethnic Hungarian can submit an application for naturalisation. An examination on constitutional issues is not necessary for applicants who attended a public school with curricula in Hungarian (e.g. in neighbouring states). Length of proceedings is up to about 19 months.

persons and their descendants numerous times, regardless of the absence of social, economic, family contacts, or of formal registration, Hungarian citizenship has been smoothly inherited ius sanguinis since 1929.

There are some additional components of migration and citizenship law, which may trump the ethnic principle.

i.   *Multiple citizenship* has been tolerated purely to favour the Diaspora (expatriated, emigrated nationals and loss of population due to peace agreements). Successful applicants for Hungarian citizenship are thus not required to forego their previous citizenship. Since the first Act on Hungarian Citizenship in 1897 this principle continued with the exception of bilateral agreements on exclusion or prevention of dual citizenship concluded on the basis of socialist friendship[41]. The Hungarian party terminated these agreements in 1993.

ii. As in many countries, *re-naturalisation* is a preferential naturalisation for prior citizens: the period of residence for those in possession of long-term resident status is practically absent, and s/he is exempt from the examination on constitutional knowledge. Naturally, these applicants are ethnic Hungarians.

iii. *EU citizens* also benefit in naturalisation, although it remains little known among the public. It is wrapped into a technical provision of the Act modified just before accession to the EU[42]. For the purpose of the Act on Citizenship "resident" shall mean a foreigner who resides in Hungary and has been granted a long-term immigrant or refugee status, or as a national of another Member State of the EU who has an EEA residence permit. (Section 23). This interpretative regulation opened the door for easy naturalisation of EU citizens as compared to third country nationals. In practice, Hungarian citizenship is attractive as a second citizenship for ethnic Hungarians who have citizenship in one of the Member States of the EU – such as expatriates, emigrants, expelled Hungarian nationals, or "honourable Hungarians" living with a Hungarian spouse or family members. Furthermore, this gesture could mean a nation build-

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[41] Although the nationality law since 1879 has tolerated multiple nationality, exclusion of dual citizenship was the rule between 1946 and 1989 through bilateral agreements with Romania, Soviet Union, Poland, Bulgaria, East Germany, Mongolia and Czechoslovakia. Lawful emigrants, mixed couples and their children had to choose the nationality of the country of residence and terminate the others.

[42] Art 4 of the Act LVI of 2003, and it entered into force with the Act promulgating the Treaty on the Accession of the Hungarian Republic to the European Union.

ing policy toward kin-minorities living in candidate or newly accessed countries in the neighbourhood.

iv. *Recognised refuges* have also received preferential naturalisation since 1989. The starting point is formally related to the Geneva Convention in which naturalisation is noted as an instrument of durable solution. In the case of Hungary this provision was also an ethnically motivated gesture due to the fact that a majority of recognised refugees in 1989–1993 were kin-minority from across the borders. Gradually, the composition of asylum seekers has changed and this benefit has survived in parallel with a decrease in the number of recognised refugees in recent decades. Some believe that asylum could legalise the "law of return" to the motherland.[43]

v. The continuous principle regarding migrants' integration has been the *ethnic approximation*. The long-term residence permit and naturalisation are accessible for Hungarian speaking, working, self-sufficient and non-dangerous persons. Who are they? In 90–95% of all applicants, these applicants come from the neighbourhood. They are ethnic Hungarians and bilingual family members.[44]

vi. The well-known principles of naturalisation (such as no one shall be arbitrarily deprived of his nationality or his right to change nationality, respecting the freedom of the individual, unity of the family, and the reduction of cases of statelessness and protection of personal data) are systematically ensured in regulation as well.

Conclusion

The term nation has been interpreted and inserted into regulation as part of the cultural/ethnic/linguistic community, and its substance is not definable by law[45]. This is the basis of contradictions between laws and the Constitution. On one side, Art.6 of the Constitution refers to the kin-state's re-

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[43] Maryellen Fullerton: Law of Return? In Fullerton-Sik-Tóth (eds.): *Refugees and Migrants: Hungary at a Crossroads – Yearbook of the Research Group on the International Migration.* Budapest: Institute for Political Science of HAS, 1995. 110–123, and Tóth Judit: Egy amerikai kutató írásának margójára. [To the margin of an American reseracher's paper] In Sik Endre – Tóth Judit (eds.): *Migráció és politika.* [Migration and Politics] Budapest: MTA Politikai Tudományok Intézete, 1997. 137–139.

[44] Judit Tóth: Who are the Desirable Immigrants in Hungary under the Newly Adopted Laws? In Fullerton-Sik-Tóth (eds.), op. cit. 57–68

[45] Judit Tóth: Diaspora in Legal Regulations: 1989–1999. In Kiss, I. – McGovern, C. (eds.): *New Diasporas in Hungary, Russia and Ukraine: Legal Regulations and Current Politics.* Budapest: Open Society Institute/COLPI, 2000. 42–95.

sponsibility for kin-minority living across the borders[46]. However, the definition of membership in a minority or ethnic community is vague, and various preferential provisions legally discriminate others despite the fact that the state is party to dozens of international treaties.

Furthermore, minorities living in Hungary form a distinct component of state power, in possession of subjective and collective rights according to the Constitution, although verification of their membership in the given ethnic or national entity cannot be defined in the same manner. Due to this logic, neither statistics on membership of minorities living in Hungary, nor hard data analysis of immigrants coming to and enjoying legal preferences[47] in Hungary are available. "Historic traditions and the distinction between ethnic and civic nationhood are increasingly irrelevant for explaining legislative changes"- said R. Bauböck[48]. Despite a standard level of immigration, in the case of Hungary this visible irrelevance is taking a much longer time to disappear than in the EU[49]. The recent and failed referendum (5 December 2005) on ex lege citizenship being granted to ethnic Hungarian minorities living in adjacent states provides clear evidence of this.

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[46] Kántor – Majtényi – Ieda – Vizi – Halász (eds.): *The Hungarian Status Law: Nation Building and/or Minority Protection*. Sapporo: Slavic Research Center, Hokkaido University, 2004.

[47] Judit Tóth: Diaspora Politics: Programs and Prospects. In Kiss, I. – McGovern, C. (eds.), 96–141.

[48] www.migrationonline.cz/news

[49] Tóth, Judit and Sik, Endre: Joining an EU identity. Integration of Hungary or the Hungarians? In Spohn, W. and Triandafyllidou, A. (eds.): *Europeanisation, National Identities and Migration. Changes in Boundary Constructions between Western and Eastern Europe.* Routledge Advances in Sociology. Routledge, 2003. 223–244.

ZOLTÁN KÁNTOR

Re-institutionalizing the Nation – Status Law and Dual Citizenship

The redefinition and re-institutionalization of the nation and the re-configuration of the state usually accompanied breakdown of regimes, revolutions, and transitions. As Mark Beissinger notes, "the goal of nationalism is the definition or redefinition of the physical, human, or cultural boundaries of the polity."[1] Or, as Culic states, "State building and nation building in Central and Eastern Europe are also part of a larger process re-institutionalizing and re-organizing political space and political phenomena. Both their innovative concepts and legislation are constitutive to these processes."[2]

Most Central and Eastern Europe states defined themselves through their constitutions as national states. The laws and the administration of the states were nationalized, and nationalism as a discourse became legitimate. The clause regarding the support of the state for co-nationals (kin-minorities) living in other states became the rule.

Approximately one or two years after the breakdown of the communist regimes, Central and Eastern Europe completely forgot the internationalist settings of the communist world. The states of this region continued the national politics in which they were engaged before WWII. This paper presents the logic of nationalism, explains why it was so obvious that Central and Eastern European states became institutionalized on a national basis, and reflects upon the new developments at the turn of millennium, wherein we may observe a second wave of national redefinition.[3]

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[1]   Mark R. Beissinger: How Nationalisms Spread: Eastern Europe Adrift in the Tides and Cycles of Nationalist Contention. *Social Research*, Vol. 63, Nr. 1, 1996. 101.

[2]   Irina Culic: State Building and Constitution Writing in Central and Eastern Europe after 1989. Regio, 2003. 58.

[3]   See details Zoltán Kántor: The Concept of Nation in the ECE „Status Laws." *Central European Political Science Review,* Vol. 5, Nr. 16, 2004. 29–39.

Ethnicization and nationalism[4]

Constitutions, electoral laws, laws on education, and language laws in the Central and East European region all prove that the 'nation' and 'ethnicity' are of central salience for these newly formed states, both for the titular nation and national minorities. The claims of national minorities were, and are, nationally driven. Even positive recognition of the rights of minorities by the state shows the importance given to the national issue. Many people were taken by surprise by this "ethnic revival" which many believed had disappeared. Their surprise can only be explained by the ignorance of the observers, who truly believed that nationalism was not present in the communist regimes. This is not the case. From the time that nationalism appeared in the 18–19th century, societies have been organized on a national basis. This is true for both the majority and the minority. We may observe parallel nation building processes, and usually concurrent/conflictual institutionalizations on national basis.

In the early 1990s, several authors noted the replacement of communism with nationalism. Some authors even stated, "[t]he ideology that made the defeat of communism possible was nationalism."[5] Others argue: "nationalism is back. Across Europe, the Cold War's end has unleashed nationalist sentiments long suppressed by bipolar competition and, in the east, by communist coercion."[6] These explanations are false. One may say that a nationalist rhetoric replaced the communist one. Alternatively, one may argue that certain communist leaders suddenly became nationalists. However, this change is no more than a continuation of past politics in a new – more or less democratic – framework. Nationalism, as an ideology, as a sentiment, as a principle of organizing society has been present since the 18–19 century. It is a facet of modern European history. One may also interpret the history of modern Europe as the history of national-based institutionalizations. All European states are based in some way or another on the principle of nationality. In different places, in different historical

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[4] The concept *nationalism* is used in a neutral sense meaning the process of institutionalization of societies on national basis.

[5] Sugar, Peter F.: Nationalism, The Victorious Ideology. In Sugar, Peter F. (ed.): *Eastern European Nationalism in the Twentieth Century* Washington: The American University Press, 1995. 429.

[6] Kupchan, Charles A.: Introduction: Nationalism Resurgent. In Kupchan, Charles A (ed.): *Nationalism and Nationalities in the New Europe*. Ithaca and London: Cornell University Press, 1995. 1.

periods nationalism was, and is, present in various forms. The rhetoric of communism only affirmed that it is not based on the ideology of nationalism. The fact is that communism institutionalized nationalism in another manner, and often used it for the legitimation of the system (or the leaders of the system). Walker Connor observed "Marxists not only learned to accommodate themselves to an expediential coexistence with a world filled with nationalisms, but they also developed a strategy to manipulate nationalism into the service of Marxism."[7] The explanation is simple: communist (socialist) ideology or legitimization (backed by secret services) suddenly became vacant. No fraction of the population could have been mobilized invoking socialism or communism.[8] Stalin and Lenin based the conception of the national issue partially on the ideas of Marx and Engels, and developed it through the Austro-Marxists Otto Bauer and Karl Renner. The underlying assumption was that socialism/communism will resolve the national question, and national values will loose their salience. This was false. Nationalism's roots are much deeper. Thus, it is highly questionable whether European integration will create a new non-national identity.

Nationalism, as a perpetual project, institutionalizes the polity invoking the nation and involves a permanent definition and redefinition of boundaries. Since modernity, societies are institutionalized on a national basis, which is valid for both majorities and minorities. In Europe arguably everyone is nationalized. In Ernest Gellner's words: modern man is nationalist, and he/she is nationalist because he/she has to be. Nationalism is more than discourse or ideology, it is also institutionalization: a definition with consequences for the organization of society.

The modern state is the protagonist of nationalism, and minorities answer with the same means. We can hardly encounter any group in Europe that does not define itself in national terms. Tom Nairn's remark shows how central nationalism is in the contemporary world: "[Gellner] demonstrated how industrialization produced modern political nationalities; yet did not go on to suggest that the true subject of modern philosophy might be, not industrialization as such, but it's immensely complex and variegated aftershock – nationalism."[9]

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7   Connor, Walker: *The National Question in Marxist-Leninist Theory and Strategy.* Princeton University Press, 1984. 6.

8   It is needless to mention that, without the totalitarian or authoritarian control of society, even before 1989 the population were not enthusiastic supporters of the communist regimes.

9   Tom Nairn: *Faces of Nationalism: Janus Revisited.* London & New York: Verso, 1997. 1.

Nationalism, according to most scholars, came into being in the 18–19th century. Since then societies have been organized based on the principle of nationality. The invocation of the "nation" is perhaps the main legitimizing principle. Nationalism is inherently related to culture. Nationalism comes into being when culture replaces structure.[10] George Schöpflin states: **"**All cultures are collective; they include and exclude; they give us a particular set of identities; they allow us to make sense of the world; they offer us collective regulation and collective forms of knowledge; and they are bounded. These boundaries may shift but they will not vanish. They protect the culture in question and act as a filter through which new ideas are received and integrated. In addition, all cultures rely on broadly similar mechanisms to keep themselves in being. If threatened, they will redouble their efforts to protect cultural reproduction."[11]

Nationalism emerged first in Western Europe as a consequence of major transformations, the explanation for which differs among major authors. Gellner considers nationalism the outcome of the transition from agrarian society to industrial society,[12] while Benedict Anderson detects the emergence of national consciousness – the nation as an imagined community – as a result of the "convergence of capitalism and print technology on the fatal diversity of human language".[13] In all these cases, the state gained new legitimacy by institutionalizing nationalism as a principle of organizing society. From the time that nationalism emerged, the organization of societies has also been based on the principle of nationality. In this respect, we may consider every European society nationalist. In the age of modernization, states tended to ethnically homogenize their societies by various means. Eugene Weber, in his famous book, describes the way France linguistically (and nationally) homogenized the inhabitants of the country. Similar processes can be observed in other parts of Europe.

States, societies and culture became increasingly institutionalized. The standardization of language, the creation of high culture, the introduction of compulsory education and the nationalization of culture served the titular nation. Non-dominant ethnic groups intended to create their own nation, with leaders from their particular nation, and intended for their own state. The na-

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[10] Ernest Gellner: *Nations and Nationalism*. Oxford UK & Cambridge USA: Blackwell, 1983.
[11] George Schöpflin: Nationhood, Modernity, Democracy. Paper presented at the Conference "Manifestations of National Identity in Modern Europe" University of Minnesota, May 2001.
[12] Gellner, op. cit.
[13] Anderson, Benedict: *Imagined Communities: Reflections on the Origin and Spread of Nationalism*. London: Verso, 1983.

tionalists' programs and projects of nation-building/nationalizing usually were formulated and established in opposition to dominant groups/nations and other nationalizing processes. This is the reason why one can speak of ancient hatreds or old and lasting conflicts. The transformation of state authority and borders created newer and newer frameworks. The former masters became servants and received the same treatment they administered in their former positions. The breakdown of empires, the division of states and transitions reconfigured political power and offered new frameworks for nationalist politics.

According to Walker Connor, in Europe there are only two ethnically homogeneous states: Ireland and Portugal.[14] All other states contain national minorities or ethnic groups. The majority of European states have co-nationals living in other states. This is due to the peculiarity of European history. Those states that have co-nationals in other states have adopted a policy that supports – financially, culturally, or even politically – their kin-minorities. The support of kin-minorities is based on the idea of the nation as an ethno-cultural entity rather than a political conception of the nation. It is assumed that co-nationals have, or should have a special relation with the external national homeland (kin-state). The historical process of nation-formation can easily explain this from the 18th century on. Nations have been formed and have been institutionalized. A sense of national identity emerged within the population, usually due to the (often painful and aggressive) process of nation-building. Forging the nation,[15] nationalizing culture[16] and fabricating heritage[17] are the concepts scholars use to describe the process of national/ethnic homogenization. The French process of making Frenchmen from peasants,[18] the Scandinavian culture-builders,[19] and the politics of the Polish nationalizing state all reflect the state-driven nationalizing processes. In the 19th and 20th centuries such politics created the modern European nation-states. Through these processes a strong sense of national identity developed within the national groups. Language standardization, official culture,

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[14] Connor, Walker: *Ethnonationalism: the quest for understanding.* Princeton University Press, 1994.

[15] Colley, Linda: *Britons: Forging the Nation, 1707–1837.* New Haven: Yale University Press, 1992.

[16] Orvar Löfgren: The nationalisation of culture. *Ethnologia Earopeaea*, 1989, XIX, 5–23.

[17] David Lowenthal: Fabricating Heritage. *History & Memory*, Vol. 10, No. 1, 1998.

[18] Weber, Eugene: *Peasants into Frenchmen: The Modernisation of Rural France, 1870–1914.* London: Chatto and Windus, 1979.

[19] Jonas Frykman – Orvar Löfgren: *Culture Builders: a historical anthropology of middle-class life.* New Brunswick and London: Rutgers University Press, 1987.

mass-education and ethnic cleansing led to further homogenization and strengthened the significance of national identity.

The history of nationalism is East-Central Europe can best be understood if we analyze the various – i.e. of the majority and of the minority – nation-building, or nationalizing processes. An important role in the nationalizing process of the national minority is played by the external national homeland. As the state borders have often changed, different groups have experienced at different times the assimilationist or dissimilationist politics of the titular nation. In other words, they were the suffering subjects of nation-building processes, frequently with disastrous outcomes. A description of such policies is presented by Michael Mann. While John McGarry offers a theoretical account[20] describing the mechanisms– the settlement of majority groups in peripheral regions inhabited by minorities, relocation of minority groups within the state, and expulsion of minorities from the state.[21] Basically, every national minority which was once a component of the majority nation expressed nation-building goals within the new state, or at least posed a threat to the nation-building/nationalizing of the majority, experienced one or several of the processes described.

One possible approach to national conflicts in Eastern Europe is to stress the parallel and often conflicting processes of nation-building. Once the ideal of the nation becomes important, there does not seem to be any sign that it will loose its significance. Nationalism may be transformed, but it remains an important organizational principle in our world. Nationalist politics are oriented partially on the strengthening of boundaries of the titular/majority nation, and by more or less hostile politics against national minorities.

Transition: Status laws and dual citizenship

After the breakdown of dictatorial regimes in ECE, it once again became legitimate to organize society on a national basis and to define the state in national terms.[22] This definition is reflected in both law and political practice,

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[20] Mann, Michael: The Dark Side of Democracy: The Modern Tradition of Ethnic and Political Cleansing. *New Left Review,* Nr. 235, May-June/1999. 18–45.

[21] John McGarry: 'Demographic engineering': the state-directed movement of ethnic groups as a technique of conflict regulation. *Ethnic and Racial Studies*, Vol. 21, No. 4, 1998, 613–638.

[22] It is misleading that socialist/communist societies/states did not have a national/ethnic component: the national discourse was illegitime. The anti-nationalist, but national institutionalization in the Soviet Union and Yugoslavia (Brubaker), or the national-communist regime in Romania (Verdery, Fisher-Galati) shows the national politics in these states.

though perhaps most importantly through constitutions. Irina Culic brilliantly demonstrates the centrality of the ethno-cultural definition of the polity for the 27 ECE states the following:

> In the preambles of the constitutions, as well as public, political, and cultural discourses and in the substance of other state policies, the most salient and powerful arguments are the evidence and elements of the historical existence and continuity of a Nation state and the need to emphasize its nationhood by promoting its language, traditions, cultural inheritance, heroic history and territory.[23]

From our perspective, two types of law are of central interest: the so-called "status laws" and the laws on citizenship. Both types of law imply a definition of who is eligible to acquire citizenship and hence special favors or benefits. They create a distinction between citizens of other states on a national/ethnic basis wherein people considered co-nationals or co-ethnics ("kin" in ethno-cultural terms) gain favorable treatment from their kin-state. Clearly, states perceive themselves as responsible for their kin and adopt kin-state practices reflecting the perception of states themselves as representatives of the titular nation understood in ethno-cultural terms. Hence, kin-states – the "core" nation – imagine their borders beyond those of the particular state.

The constitutional developments in the early 1990s set the basis of the new political regimes, while the process of consolidating the regimes logically raised the need to refine certain aspects of the polity. This also happened in regard to the national and national minority issue.

Two reasons explain the second wave of national redefinition. On the one hand, kin-states were unsatisfied with the rights their kin-minorities enjoyed in their home-states. Kin-states largely share the view that home-states do not protect those who are seen as co-nationals by kin-states. On the other hand, the EU enlargement process did not provide the minority protection kin-states and national minorities expected. For Hungary, a third reason is present: domestic ideological differences around the official conception of the nation.[24]

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[23] Culic, 47.

[24] Several European states treat preferentially their kin-minorities, and in the overwhelming majority of the cases there is a domestic consensus on the underlying principles of support.

Hungary is in many respects an exception from the rule. Hungary is one of the few states that remained ambiguous on the issue of the nation in the early nineties. While most ECE states declared themselves national states (implementing a policy based on the principle of the political nation) and parallely supported their kin-minorities (implementing a policy based on the principle of the ethnocultural nation), realizing a coherent – both internally and externally – "nation politics," Hungary by recognizing and supporting both its internal and external minorities remained incoherent on the issue of the nation.[25] By incoherence I mean only that different logics apply for internal and external minorities, from the point of view of nation-building. Hungary's position is completely coherent from the point of view of minority rights.

Following the revolution of 1989, the relationship between Hungary and the Hungarians living in the neighboring countries entered a new phase. During the communist period, official politics was characterized by the fiction of an ethnoculturally neutral state, and claimed that questions regarding nationality belonged to internal affairs, which were (or must be) solved within the framework of the state. Until the mid-1980s, Hungary did not show official interest in Hungarians living in other states. In the late 1980s, the problem of Hungarians living abroad, especially in Transylvania, was brought to the center of attention. After the breakdown of the communist regimes, the situation changed even more radically. Finally, concern for Hungarians living abroad materialized in legislation and governmental politics.

The status law framed in 2001 (amended in 2003) and the referendum on dual citizenship for Hungarians living in neighboring states are primarily an expression of the domestic debates in Hungary on the *official* institutionalization of the nation in Hungary. In short, the debate questions whether to further ethnicize the Hungarian polity or to de-ethnicize the state.

Laws similar to the Hungarian Status Law rest on two widely shared assumptions: first, the conception of the nation in ethnocultural terms, which

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[25] For national minorities abroad the Hungarian constitution states: 6 (3) The Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary. While for national and ethnic minorities in Hungary: *Article 68.* (1) The national and ethnic minorities living in the Republic of Hungary participate in the sovereign power of the people: they represent a constituent part of the State. (2) The Republic of Hungary shall provide for the protection of national and ethnic minorities and ensure their collective participation in public affairs, the fostering of their cultures, the use of their native languages, education in their native languages and the use of names in their native languages. (3) The laws of the Republic of Hungary shall ensure representation for the national and ethnic minorities living within the country.

assumes that a group of people who have once formed a nation and developed a strong sense of national identity – regardless of the borders that separate them at present – have something meaningful in common; and second, the perception that the home state (the nationalizing state) will not adequately protect and promote the rights of that nation's kin-minorities, and indeed – especially in East-Central Europe – that it usually seeks to assimilate them. This leads to the prevailing view that it is a legitimate right of kin-states to give special attention to their kin-minorities and to institutionalize their concern in legislation. While the practices of kin-states differ substantially, the underlying assumptions are the same. The only possible explanation for this is that the ties of nationality (understood in ethnocultural terms) are perceived by both the kin-state and the kin-minority as being stronger than other types of allegiance (notably citizenship, or the 'political nation').[26]

Dual citizenship reflects the same idea, but promotes a stronger bond between the state and the citizen, which is especially acute in the case of large numbers of citizens residing in another state. This especially involves the right to vote, which in certain cases (e.g. Hungary) could decide the outcome of elections.

The theoretical debate on the status law was basically reproduced in the debate around dual citizenship. Apart from the domestic and international political implications, the Hungarian Status Law has drawn attention to the issue of how a nation is defined.[27] While the law was conceived on the basis of an ethnocultural definition of the nation, the domestic opposition and, to some extent, that of international organizations (Venice Commission, High Commissioner for National Minorities, Parliamentary Assembly of the Council of Europe, EU) emphasized the political conception of the nation.[28] The contest between the two conceptions, the ethnocultural and political, or in George Schöpflin's terms, the particularistic and universalistic conceptions,[29] has surfaced on the European agenda as a result of the Hungarian Status Law.

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[26]   Zoltán Kántor: Status Laws and 'Nation Policy': theoretical aspects. In Zoltán Kántor, Balázs Majtényi, Osamu Ieda, Balázs, and Iván Halász (eds.): *The Hungarian Status Law: Nation Building and/or Minority Protection*. Slavic Research Center, Hokkaido University, Sapporo, 2004. 105–119.

[27]   For further details see the analysis of Balázs Majtényi: Special Minority Rights and Interpretations of the Nation in the Hungarian Constitution, published in this review, and Zoltán Kántor: Status Laws …, op. cit.

[28]   As a result of international pressure, the modified law shifted from an ethnocultural to a political conception of the nation.

[29]   George Schöpflin: Citizenship and Ethnicity: The Hungarian Status Law. In Zoltán Kántor et al. 87–96

Conclusions

The status laws and policies of dual citizenship reflect nothing more than the prolongation of nationalism. As previously stated, nationalism is the one of the basic forces of modernity. The manner in which it shapes societies differ, however, one can not find a society in Europe where nationalism, and the nation as one of its core values, is not present. Even the regimes that typically believed they could solve the national question were nationalist, or against their will, institutionalized groups on a national basis. In Western Europe, the states, more or less, succeeded in accommodating minority claims by recognizing their demands for autonomy. As a result, in both parts of the former Europe, nationalism was present before the breakdown of communist regimes. The democratizing states in ECE and the enlargement of the European Union also created new institutional frameworks to manage the issue of national minorities. One of the underlying principles of this process was – similar to that of Marxism – that the national question can be solved, and that the aforementioned processes lead in this direction. This premise was false. National politics of the region have proved that nationalism is still a force, and that the nation has remained a core value.

The domestic and the international debates around kin-state politics is now seen as a surprise for many observers. The way in which societies developed in the past few centuries has shown that there is nothing novel in the essence of these things, only the frameworks in which nationalism emerges is new.

MÁRIA M. KOVÁCS

The Politics of Non-resident Dual Citizenship in Hungary

In Hungary dual citizenship has recently emerged as a controversial issue and, for a few months in 2004, it even captured the center stage in politics. On December 5, 2004, six months after Hungary's accession to the European Union, voters were asked in a referendum to decide whether Hungary should offer extraterritorial, non-resident citizenship to ethnic Hungarians living outside Hungary by lifting all residency requirements from among the pre-conditions of obtaining a second, Hungarian citizenship. The novel aspect of the proposal was not the introduction of dual citizenship itself, since the option of obtaining a Hungarian second citizenship had long been available for permanent residents within the country.[1] The innovation would have been to remove all residency requirements from among the pre-conditions of obtaining a Hungarian second citizenship. The question posed at the referendum was as follows: The question posed at the referendum was as follows:

> "Do you wish that Parliament pass a law which would enable an applicant who declares himself/herself to be of Hungarian nationality, but is not a Hungarian citizen and does not live in Hungary, to enjoy the right of preferential naturalisation at his/her request, provided he/she can provide proof of his/her Hungarian nationality with the possession of a "Hungarian identity card"

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[1] According to the Hungarian law on citizenship (Law LV.4§ of 1993) the residency requirement for the „preferential naturalization" of ethnic Hungarians is a minimum of one year of legal residence in Hungary, after which the process of naturalization takes, on average, another year. For other applicants the residency requirement is 8 years of continuous residence, except if they were born in Hungary or if they are stateless, in which cases the residency requirement is reduced to 5 years. For non-citizen spouses of Hungarian citizens the residency requirement is 3 years and the same applies to parents of children who are Hungarian citizens, children adopted by Hungarian citizens and refugees.

issued on grounds of Law LXII.19, 2001, or in any other way to be determined by the law."[2]

Thus, ethnic Hungarians living outside Hungary's borders were to be granted the possibility of obtaining Hungarian citizenship merely upon declaring themselves to be of Hungarian linguistic affiliation at a Hungarian consular office, or upon possessing an identity card confirming their Hungarian nationality.[3] Although the referendum question left the criteria of eligibility open for future lawmaking, an approximation of potentially eligible claimants can be made on the basis of the size of trans-border Hungarian ethnic minorities whose numbers are estimated at around 3 million. If ethnic Hungarians from all over the world were included, the number of potentially eligible claimants was estimated to rise to 5 million.[4] In case of a success-

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[2] http://www.valasztas.hu/main_hu.html (05,05,2005) For the text of the law establishing the Hungarian ID see: http://www.hu-embassy.si/Index_files/hu_files/For_files/for.html (05,05,2005). From among the countries on Hungary's borders this law applied only to Hungarians living in Serbia-Montenegro, Croatia, Slovenia, Romania, Ukraine and Slovakia, but did not apply to Austria. However, unlike the law that established the Hungarian identity card for members of external minorities, the referendum question did not restrict the possibility of non-resident citizenship to Hungarians in neighboring states, thereby extending potential eligibility to Hungarians all over the world.

[3] Throughout the campaign related to the referendum, the future content of citizenship remained unclear.

[4] According to the numbers published in 2004 by the Government Office for Hungarian Minorities Abroad (Határon Túli Magyarok Hivatala), the number of Hungarians living in Romania, Ukraine, Serbia and Montenegro, Slovakia, Croatia and Slovenia as provided by the official censuses in these countries between 2000 and 2002 amounted to 2 429 000 Romania: 1 435 000; Ukraine: 156 000; Serbia and Montenegro: 293 000; Slovakia: 516 000; Croatia: 16 000; Slovenia: 8 500. http://www.htmh.hu/korszak.pdf (05, 05, 2005). The estimate for the number of trans-border Hungarians potentially eligible for Hungarian citizenship based on ethnic identification is higher than these numbers, which is explained by the assumption that more people would actually be able to fulfill the criteria of Hungarian affiliation than those who actually declare themselves Hungarian in government censuses. The number of potential claimants on such grounds globally was estimated at around 5 million by the Political State Secretary for Foreign Affairs, András Bársony. "Határok nélkül", *Kossuth Rádió*, January 16, 2003. http:/www.hhrf.org/hatnelk/4 030216kallampg.htm (05,05,2005). In the position paper of the Hungarian government submitted to the Venice Commission of the Council of Europe in 2001, the following estimates were given for the number of Hungarians in the censuses of neighboring states and the estimated number of ethnic Hungarians in those states around 1990. Hungarians in Slovakia: 567 296 (653 000); Hungarians in the Ukraine: 163 111 (200 000); Hungarians in Romania: 1 627 021 (2 000 000); Hungarians in Serbia: 343 942 (365 000); Hungarians in Croatia: 22 355 (40 000); Hungarians in Slovenia: 8 499 (12 000); Hungarians in Burgenland (Austria): 6 763 (7 000). Source: Census data: Ukraine – 1989, Slovakia, Serbia, Croatia, Slovenia, Austria – 1991, Romania – 1992. (according to the ethnicity; in Austria: everyday language). In parentheses are the estimates – according to the

ful referendum the number of those eligible for Hungarian citizenship would be augmented by between a third and a half of Hungary's current citizenry of 10 million, depending on whether the estimate only takes trans-border Hungarians into account, or whether Hungarians all over the world are included.[5] Assuming, for the argument's sake, that the majority of those made eligible by the reform would actually claim citizenship, the proportions of the resulting change would exceed the growth of Germany's citizenry after unification, but of course, without the corresponding territorial enlargement. Or to give another analogy, the resulting change would be proportionate to the entire population of Mexico being made eligible for United States citizenship. This in itself points to the first specificity of the Hungarian story, namely that the dimension of Hungary's kin-minority problem is unusually large: nearly a quarter of all Hungarians live outside Hungary's borders in neighboring states. Other European nations with comparably large kin populations living outside the political borders of the nation-state are Ireland, Italy, Finland, Austria, Belgium and Portugal, but from among these, it is only in the case of the Irish that a large Irish kin population is found in close geographical proximity to the state of Ireland in Great Britain.[6]

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language knowledge and ethnic origin – of the organisations of the minorities and the calculations of Károly Kocsis: *Hungarians in Transylvania include the Székely- and Csángó-Hungarians*. 1988.

[5]   According to the Hungarian Ministry of Interior, on January 1, 2004, Hungary's population was 10 207 006 and the number of Hungarian Identity Cards issued to transborder Hungarians was 774 288 at the 1st of January, 2004. http://www.okmanyirodak.hu/fixhtml/nepessegfuzet/2004/2004ertekeles.doc

[6]   Ireland (3,6 million resident population and 3 million non-resident citizens amounting to 83% of resident citizens and another 37 million ethic Irish), Italy (57,3 million resident citizens and cca. 5 million non-resident citizens amounting to 9% of resident citizens and another 25 million ethnic Italians), Finland (5,1 million resident citizens, and 1 million non-resident citizens and expatriate non-citizens)), Austria (7,4 million resident citizens and cca. 1 million non-resident Austrian citizens and expatriate non-citizens), Belgium (8,4 million resident citizens and cca. 1 million Belgians abroad), and Portugal (10 million resident citizens and cca. 4 million Portugese abroad). Willem Maas: Extending Politics: Enfranchising Non-Resident European Citizens. International Studies Association, 40th Annual Convention, Washington D.C., February 16–20, 1999, http://www.ciaonet.org/conf/maw01/ (31,05, 2005). As far as Ireland is concerned, see: http://www.foreignaffairs.gov.ie/information/publications/whitepaper/chp12.asp. The Irish Department of Foreign Affairs estimates that there may be almost three million Irish citizens living outside Ireland. Of that total, around two million are in Britain and half a million in the US. About 1,2 million of the total number of citizens abroad were born in Ireland.

The proposed reform failed to win popular mandate in the referendum of 2004.[7] Nevertheless, the movement towards citizenship reform has, by no means, been exhausted. Powerful endorsers of the reform within the Hungarian political establishment, among them the chairman of the main right-wing party (FIDESZ), Viktor Orbán, have pledged to pursue the reform and to create non-resident dual citizenship in case of the electoral victory of the right in the 2006 elections. The president of the republic, László Sólyom also expressed sympathy for the initiative.[8] Meanwhile, the Federation of World Hungarians, the organization that had initiated to 2004 referendum, announced plans for a new referendum to be held in 2006.[9]

Debates over the Hungarian citizenship reform raised a number of contentious issues present in citizenship debates worldwide, but also brought forth problems that are specific to the East-Central European region. The Hungarian initiative was directed at external co-ethnic minorities living in neighboring states and at the Hungarian diaspora living elsewhere in world. As such, the reform belongs to that type of citizenship reform that was identified by Christian Joppke as the "re-ethnicization" of citizenship, a process in which states provide preferential access to citizenship to people, including non-residents, who are considered ethnic or linguistic relatives.[10] Within Europe, such policies are pursued by a number of countries including Portugal, Spain, Italy and Greece. More recently, several countries in the East Central European region, among them, Croatia and Romania have introduced similar legislation. However, while such reforms in Western and East-Central Europe may look similar in terms of the legal techniques involved, they are intended to address different concerns and thus carry different political and social implications.

In Western Europe, citizenship reforms aimed at the preferential treatment of ethnic relatives abroad has mostly emerged in the context of migration and had been adopted without drawing much international attention. As Joppke put it, such reforms constituted a "little-noticed side plot" alongside more important reforms aiming at the de-ethnicization of citizenship, reforms that

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[7] In Hungary a referendum is valid if at least 25% of the electorate returns identical votes, or if participation reaches above 50% of the total number of eligible voters. In this case neither criteria was fulfilled.

[8] *MTI* (Magyar Távirati Iroda) [Hungarian Press Agency], August 4, 2005. (28,08,2005)

[9] Patrubány újra szavaztatna. [Patrubány suggests to repeat the referendum] *Népszabadság*, February 14, 2005.

[10] Christian Joppke: Citizenship between De- and Re-Ethnicization. http://www.russell-sage.org/publications/workingpapers/Citizenship%20between, (18,07,2005), 13. cf. also, Western European Countries Tend to Follow a Liberalizing Trend towards Citizenship Policies. Interview with Rainer Bauböck, http://www.migrationonline.cz/news_f.shtml?x=230291

ease up access to citizenship, by receiving sates, for ethno-culturally foreign immigrants. Even in a country like Spain where citizenship reforms have produced an elaborate regime for the preferential treatment of ethnic relatives from abroad, these reforms have happened together with measures easing up access to citizenship for ethnically foreign labor migrants.[11]

As compared to Western immigration countries, the context in which the issue of preferential treatment of ethnic relatives has been raised in East-Central Europe is fundamentally different. In this region the defining events of the first decades following the collapse of communist regimes had precious little to do with labor migration and even more to do with the dissolution of multinational federations and the formation of 12 new states.[12] Therefore, unlike in Western Europe, in East-Central Europe, questions of membership, of who does and does not belong to the nation touch upon sensitive issues of state sovereignty and evoke problems of historically disputed borders and trans-border ethnic kin minorities. For example, when, in 1991 Romania created non-resident second citizenship for ethnic Romanians in neighboring Moldova, the reform had been based on the expectation that Moldova, a successor state of the Soviet Union, would, in time, cease to exist as a sovereign entity and the country, that had used to be a part of Romania before its incorporation to the Soviet Union, would again be unified with Romania[13]. At the same time, the ethnic Russian popula-

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[11]   The newest reform of Spanish citizenship law passed in 2002 waived the residence requirement for children of emigrants and reduced the residence period before citizenship to one year for grandchildren of immigrants. These reforms put on the "fast track to citizenship" about one million descendants of Spanish emigrants. Christian Joppke: Citizenship between De- and Re- Ethnicization, op. cit. 17–18. For measures easing up access to Spanish citizenship for labor migrants, see: Spain stands by immigrant amnesty. *BBC News, World Edition*, 25 May, 2005, http://news.bbc.co.uk/2/hi/europe/4579127.stm (20,07,2005), reporting on an amnesty for 700,000 illegal labor migrants. For the concept of "de-ethnicization", see Christian Joppke: *Selecting by Origin, Ethnic Migration in the Liberal State*. Cambridge, Massachussetts and London: Harvard University Press, 2005.

[12]   Rogers Brubaker: Accidental Diasporas and External Homelands. *Political Science Series*, Nr. 71, Institute for Advanced Studies, Vienna, October, 2000. 1.

[13]   Article 37 of the Law on Romanian Citizenship of 1991 established a non-resident, extra-territorial Romanian second citizenship for those who had been Romanian citizens in the past and had been involuntarily stripped of their citizenship, as well as for their descendants. Iordachi, Constantin: Dual Citizenship and Policies toward Kin minorities in East-Central Europe: A Comparison between Hungary, Romania and the Republic of Moldova. In Zoltán Kántor, Balázs Majtényi, Osamu Ieda, Balázs Vizi, Iván Halász (eds.): *The Hungarian Status Law: Nation Building and/or Minority Protection*. Sapporo: Slavic Research Center, Hokkaido University, 2004. 246–47. Ethnic Romanians constitute two-thirds of the population of Moldova which amounts to 4,3 million people. Of these, 300 000 were granted Romanian citizenship between 1991 and 2000. The largest number of requests from Moldova for Romanian citizenship were recorded after the 1998 announcement of Romania's future accession to the EU.

tion of Moldova living in the separatist Transdnistrian-Moldovan region was allowed by Russia to retain Soviet passports. Eventually, in 2000 the authorities of the split Moldovan republic, 40 % of whose population holds a dual citizenship status of some sort, retaliated in despair to what they saw as an infringement on the sovereignty of Moldova. They passed a citizenship reform that mandated the denaturalization of holders of dual citizenship unless they acquired that status through mixed marriages.[14] Although no application of the law had been reported until its eventual revocation in 2003, the story of its adoption is a telling indication of the inter-state tensions created by the use of dual citizenship towards explicitly nationalist-revisionist purposes by external states, in this case, Romania.[15] In the light of the use of dual citizenship by Romania to further a revisionist agenda, it is hardly surprising that Romania would be extremely sensitive about the Hungarian offer of external citizenship to Hungarians in Romania, suspecting Hungary, rightly or wrongly, of intentions similar to those informing Romanian policies towards Moldova.

Political Debates

Political debates on the referendum initiative were tremendously polarized. In 2003, the initiative to call a referendum had not come from Hungarian parliamentary parties, but from an organization not well integrated into domestic Hungarian politics, the World Federation of Hungarians comprising members from among trans-border Hungarians as well as from among the Hungarian diaspora elsewhere. Before 2003, the federation had contested the policies of the Hungarian government on citizenship matters claiming that the government was not doing enough for minority Hungarians. The federation also set itself on a collision course with the more moderate Hungarian minority parties across the borders, leading to its rapid marginalization. In the year 2000, the presidency of the federation was assumed by the Transylvanian politician, Miklós Patrubány who made a series of moves gravely overstepping the limits of what was generally seen as acceptable by all shades of the Hungarian political establishment, creating an image of himself as a political gambler. Immediately on assuming office, Patrubány called for a revision of Hungary's so-called Trianon borders established after the First World War.

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14   Iordachi, op. cit., 255.
15   By 2003 an astonishing forty percent of the population of Moldova were dual citizens, mostly of Romania, and in smaller numbers, of Russia and Israel. Iordachi, op. cit., 257.

Tensions between the federation and the Hungarian government mounted in the following year when the Orbán government (1998–2002) introduced the so-called Status Law. The law established a form of state membership, or "Hungarian status" for trans-border Hungarians. The law created a National Identity Card for ethnic Hungarians living in neighboring states that entitled its beneficiaries to a set of cultural and economic benefits, including seasonal working permits in Hungary. However, the Hungarian ID does not confer political entitlements, such as the right to vote.[16] Since January 2002, approximately a quarter of all trans-border Hungarians applied for the Hungarian ID.

Mainstream Hungarian minority parties across the borders strongly supported the creation of the Status Law. The position of trans-border minority parties was formulated by Miklós Duray, a leader of minority Hungarians in Slovakia as follows: the Orbán government's proposal of the Status Law is the best option available to minority Hungarians. Minority Hungarians should accept this solution and not support the claim of full Hungarian citizenship for trans-border Hungarians because such a claim would raise insurmountable problems in the sensitive areas of citizenship law, taxation and voting rights, and would slow down Hungary's accession to the EU. Thus, according to Duray, while dual citizenship was not a realistic claim, the Status Law managed to avoid these obstacles.[17] Duray's stance was shared by most preeminent minority leaders in Transylvania, including Béla Markó. But already at this time, a few minority leaders rejected the notion that the Status Law would be an alternative solution to dual citizenship, and, although they also voiced their support for the law, they explicitly based this support on the expectation that the law would, in the course of time, prepare the ground for full citizenship rights for trans-border Hungarians. [18]

However, the World Federation of Hungarians with the leadership of Miklós Patrubány straightforwardly opposed the adoption of the law on grounds that it did not provide full Hungarian citizenship. According to the federation, the benefits provided by the law were no substitute for what mi-

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16   Act LXII of 2001 on Hungarians Living in Neighbouring States

17   Györgyi, Annamária: A mumusok és a kék madár, Mi történt? Miről beszél(t)ünk? [Monsters and the blue bird, What Happened, What Did We Talk About?] *Regio,* Nr. 4, 2004. 57.

18   "Határok nélkül", *Kossuth Rádió*, January 16, 2003. http://www.hhrf.org/hatnelk/ 4_030216kallampg.htm (05,05,2005)

nority Hungarians really needed which was full Hungarian citizenship.[19] Responding to objections that an extension of Hungarian citizenship to non-resident minorities would be incompatible with the terms of Hungary's accession to the European Union, in the spring of 2003, the federation called on Hungarian voters to say no to Hungary's accession to the Union.[20] At the time, Patrubány's controversial radicalism alienated not only the political public within Hungary proper, but also mainstream Hungarian minority politicians in neighboring states.

The Status Law provoked an angry response in neighboring states. Hungary was accused of irredentist nationalism, of creating a „veiled form of dual citizenship" the ultimate effect of which was to call the sovereignty of the neighboring states into question. Hungary was also criticized by the European Union for the unilateral adoption of the legislation without appropriate consultations with the states in question and for the fact that the law provided for a set of extraterritorial rights for ethnic Hungarians.

However, despite the negative response by the neighboring states and the EU, the World Federation of Hungarians insisted that Hungary must proceed on to the unilateral creation of non-resident trans-border citizenship for ethnic Hungarians in those states. What gave the issue special urgency, they claimed, was the fact that while Hungary's accession to the European Union, anticipated for 2004, would make hundreds of millions of non-Hungarian EU citizens legally „less alien" within Hungary, trans-border Hungarians would continue to qualify as „legal aliens" falling under restrictions in their labor opportunities, and to some extent, in their movement across borders.[21] The only way to remedy this situation, the Federation contended, was by extending full Hungarian citizenship to ethnic Hungarians which would allow the Hungarian government "to take trans-border Hungarians into the European Union", even if the state in which they live remains outside the Union.[22]

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[19] As a result of the federation's open conflict with Prime Minister Viktor Orbán on the issue of the Status Law, in the fall of 2000, the Orbán government withdrew public funding from the federation.

[20] www.hhrf.org/rmdsz/sajtofigyelo/ archivum/2000/f3500531.htm (05,05,2005) On Duray's opposition to Patrubány on account of the Status Law, see *Magyar Nemzet*, November 18, 2000. On the federation's negative position on the referendum on EU accession, see: http://index.hu/politika/ belhirek/ ?main:2003.03.22&123591 (05,05,2005) and http://fkgp.hu/modules.php?name= News&file=print&sid=42.

[21] Miklós Duray: Állampolgárság és nemzetpolgárság (a kettős vagy a többes állampolgárságról). http://www.aprilisiifjak.hu/index.php/?csz=31778, May 1, 2004.

[22] Csergő, Zsuzsa – Goldgeier, James: Nationalist Strategies and European Integration. In Zoltán Kántor et al. (eds.): *The Hungarian Status Law*, op. cit.

Therefore, in October 2003, the Federation began collecting signatures for a referendum on establishing non-resident citizenship for trans-border Hungarians.[23] This then, points to the second specificity of the Hungarian story, namely that the initiative to create trans-border dual citizenship did not come from within the Hungarian political establishment, but from the outside, or as some analysts put it "from below" from a radical organization that is not too well integrated into Hungarian politics.[24] Only this feature can explain the puzzle of why any organization would take the risk of launching a referendum initiative that has only limited support within Hungary itself and therefore carries the prospect of its own defeat.

Initially, mainstream Hungarian parties on all sides reacted very cautiously to the initiative, along with the more moderate leaders of trans-border minorities. Interestingly, even those parties of the right that, a few months later came out in support of the referendum, remained passive in the beginning. Besides the general anticipation of failure, the other reason for the initial passivity of rightist parties may be explained by the explicit commitment the right-wing government had made to the European Council only two years earlier, in 2001 on the occasion of the EC's investigation of the Status Law, that the government had no intention of extrapolating citizenship rights from the Status Law which, as they said, was in fact based on the "rejection of dual citizenship" for kin minorities. As the position paper of the

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[23]   Even after the main right-wing party, FIDESZ declared its full support of the referendum, the future content of citizenship remained uclear. The president of the party, Viktor Orbán spoke of nothing else, but a passport (*HVG*, 2004. november 12), while a few days later, his deputy, László Kövér declared in Parliament that "a passport without citizenship" is a "kind of animal that does not exist in international law." November 17, 2004. http://www.mkogy.hu/naplo37/187/187.htm nov. 17 Later, in February of 2005, Kövér distanced himself even more from the dual citizenship reform, stating that it is more important for Hungary to support autonomy for minorities than to spend energy on dual citizenship reform. http://politika.transindex.ro/?cikk=3029 February 7, 2005 (05,05,2005). In July of 2005 Kövér delivered a frontal attack on the whole initiative: "The initiative was irresponsible, it was doomed to fail from the beginning and yielded no benefits. The granting of Hungarian citizenship would result in unimaginable consequences. If Hungarians outside Hungary would be granted Hungarian citizenship, this would result in the migration of the young from their native lands, and moreover, none knows what regulations connected to citizenship would need to be changed within Hungary itself." *Hírszerző*, 08,01, 2005.

[24]   "As we all know, the initiative came from "below. It came from that Miklós Patrubány, who is considered in serious right-wing circles as a gambler or as a provocator. After failing to stop his election to the presidency of the World Federation of Hungarians, Prime Minister Viktor Orbán withdrew all state support from the federation. However, Patrubány would never have been able to take the cause to the center of politics and bring about the conditions for a valid referendum. The issue was pushed into the center by Viktor Orbán when he endorsed it. When he signed a petition for the referendum and started to enthuse his followers." Debreczeni, József: Hazárdjáték. [Gambling] *Népszabadság*, November 27, 2004.

Orbán government submitted to the Venice Commission in 2001 stated: "In fact, the Act recognizes that Hungarians abroad are citizens of the relevant states and clearly rejects the idea that the self-identification as Hungarians can be based on dual citizenship. The Hungarian assistance to Hungarians abroad has always been and will continue to be carried out according to the practice of other European states, taking European norms into consideration in good faith and giving due attention to the spirit of co-operation between neighboring states. In the expression of its kin-state role, Hungary has always acknowledged that it has no citizen-like relationship whatsoever with Hungarians living in the neighboring countries when dealing with them."[25]

After a few months however, the mainstream right wing parties (FIDESZ and MDF) along with the President of the Republic eventually declared their support for the referendum, while the socialists and liberals openly turned against it.[26] What followed was an agitated, occasionally hysterical, campaign leading up to the referendum that fulfilled the prophecy of its own failure by turning out as invalid because of the low number of participants.[27] This then, points to a third feature of the Hungarian story, namely that an 81 percent majority of the Hungarian electorate either stayed away from the voting, or voted against the creation of non-resident dual citizenship for trans-border Hungarians. Among those who cast their ballots, amounting to 37.67 of the electorate, 51.57% voted in favor of the reform, 48.43% against.[28] But while it is true that participation in the referendum was rather low, it is also true that the referendum held only a few months earlier on Hungary's accession to the European Union also failed to mobilize more than 45% of the electorate.

No detailed research is available on the question of what precisely motivated Hungarian voters in their choices. Welfare protectionism certainly

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[25] Paper Containing the Position of the Hungarian Government in Relation to the Act on Hungarians Living in Neighboring Countries. http://:www.venice.coe.int/docs/2001/ CDL(2001)080- e.asp+ paper +containing +the+position+of+the+hungarian+ &hl=hu (18,07,2005) p. 4.

[26] On November 12, 2004 President Ferenc Mádl, in a speech addressed to the Hungarian Permanent Assembly (MÁÉRT) spoke of the perception of the referendum initiative by external minorities as an act of historical justice and added: "I call upon Hungarians to use their votes to assume a sense of community with Hungarians ouside of our borders." http://www.martonaron.hu/kettosallampolgarsag/kronologia.html 17/02/2005.

[27] 63.33% of eligible voters stayed away from the referendum. Among those who cast their ballots, 51.57% voted in favor of the reform, 48.43% against. "A kettős állampolgárságról, Adatok, állásfoglalások, elemzések", http://www. martonaron.hu/ kettosallampolgarsag/ nepszavazas_eredmenyek.html, 17/02/2005.

[28] "A kettős állampolgárságról, Adatok, állásfoglalások, elemzések", http://www. martonaron.hu/ kettosallampolgarsag/nepszavazas_eredmenyek.html, (17/02/2005).

played a role, given the fact that apart from Slovakia, the average living standards of trans-border Hungarians are way below those of Hungarians in Hungary, and that the arguments of the Socialist Party against dual citizenship relied primarily on the costs of the reform. The one research carried out by the polling agency *Századvég* discovered that voters who rejected the initiative were mostly concerned about the social costs of the reform[29]

Another motive for no-voters may have been the fear of instability on the borders resulting from conflicts with Hungary's neighbors. Moreover, some voters may have been influenced by the perception that the mass appearance of trans-border citizens in Hungarian elections may overturn the balance of Hungary's parliamentary system. What is sufficiently clear however is that, at least for now, the plan to introduce non-resident trans-border citizenship failed to win a popular mandate within Hungary itself and can, in the future, only be pursued against the context of a failed referendum. To quote one of the most outspoken opponents of the initiative, János Kis: "the offer was made to a nation of ten million to enlarge its homeland above the state-borders to the entire Carpathian basin. The nation refused to take the risk and accept the costs." [30] However, given the enormous disappointment of trans-border Hungarians with the result, the issues raised during the referendum campaign have not disappeared and are likely to remain on the agenda of Hungarian politics for some time to come.

Ethnicity and citizenship

Before summarizing the arguments of endorsers in favor of the reform and the arguments of opponents against the reform, a brief outline is in place on the general implications raised by the initiative.

The Hungarian suggestion associates eligibility for non-resident dual citizenship with membership in an ethnically defined community. Thus, in this version, dual citizenship would purposefully reaffirm the connection between ethno-cultural nationality and citizenship, which is precisely the connection that most immigration states have been trying to loosen up when they created dual citizenship. In the Hungarian scheme, citizenship for trans-border ethnic kins would create a legal tie between the Hungarian state and members of an ethni-

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[29] 31% of respondents opposing the initiative quoted high social costs and the problem of pensions as their main grounds for rejecting the initiative. Hová tűntek a népszavazók? – füllentő ország. December 14, 2004. http://www.gondola.hu/cikk.php?szal=39684&part=2 (28,08,2005)

[30] Kis, János: Nemzetegyesítés vagy kisebbségvédelem. *Élet és Irodalom*, December 17, 2004.

cally defined community who reside outside the Hungarian state, thus creating a form of non-resident or extra-territorial citizenship.[31]

Advocates of the reform wished to overcome this difficulty by presenting their plan as based on a traditional jus sanguinis concept rather than the concept of ethnicity.[32] In this view, trans-border citizenship is not something that would newly be granted to ethnic Hungarians. Trans-border Hungarians would only be „regaining" the citizenship of their ancestors who had possessed the citizenship of the Hungarian state before the First World War.[33] However, there are several difficulties with this approach.

The first difficulty is political. After the First World War those Hungarians who ended up as minorities in neighboring states were obliged, by the Peace Treaties, to opt for the citizenship of their new home state, or if they declined to do so, they were obliged to move to Hungary. Therefore, in the eyes of Hungary's neighbors, any unilateral change in the citizenship status of minority Hungarians would amount to a unilateral breach of treaty obligations, to a revision of the terms of the peace treaty that still serves as the basis of international legitimacy for the existence of the borders of these states.

Second, trans-border populations whose ancestors bore the citizenship of a larger Hungarian state in the Dual Austro-Hungarian Monarchy before the First World War include millions of non-Hungarians. Therefore, even if the jus sanguinis view was applied, the only way to narrow down eligibility

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[31] Fowler, Brigid: Fuzzing citizenship, nationalising political space: A framework for interpreting the Hungarian 'status law' as a new form of kin-state policy in East-Central Europe. Centre for Russian and East European Studies, European Research Institute, University of Birmingham, Working Paper 40/02, www.one-europe.ac.uk/pdf/w40fowler.pdf, (22/02/05).

[32] For example, the draft law submitted on July 9, 2004 by the small right-wing nationalist party, MDF (Hungarian Democratic Forum) which would have made eligibility dependent on ius sanguinis (proof that the applicant's acestors possessed Hungarian citizenship), without a language exam, but conditional on the applicant's declaration of his/her Hungarian nationality. A similar suggestion was made a year earlier by István Szent-Iványi of the liberal SZDSZ party, who suggested that by receiving transborder citizenship applicants would merely recover Hungarian citizenship that had been taken away from them, but would have narrowed down eligibility with the instrument of language exam. *Heti Válasz*, September 9, 2003.

[33] According to paragraph 69. § 2 of the Hungarian constitution Hungarian citizens who had emigrated from Hungary retain their Hungarian citizenship. This, however does not apply to former citizens of Hungary in the neighboring states who had lost their Hungarian citizenship as a result of the peace treaties that redrew the borders of the Hungarian state. The possibility of inheriting Hungarian citizenship applies only to people whose right to Hungarian citizenship is derived from their connection to the territory of the state of Hungary as delienated in the Paris Peace Treaty of 1947.

for Hungarian dual citizenship to those with a Hungarian ethno-cultural affiliation would be to apply a strictly ethnic definition that restricts eligibility to Hungarians.

A third difficulty has to do with the dimensions of the population potentially affected by the jus sanguinis view. Given the fact that in 1920, Hungary's population had been reduced to half of what it had been before the war (with a corresponding reduction of two-thirds of its territory), the idea that jus sanguinis transmission could automatically create dual citizens after any number of generations would amount to the obligation to reactivate the "dormant" citizenship of people whose numbers may well surpass the current number of Hungarian citizens.[34] Moreover, beyond such problems arising from the mere size of the potentially eligible population involved, this approach would also go against current international standard practice that citizenship should express a genuine connection between the citizen and the state. Consequently, contemporary states operate under an unwritten consensus on an "informal second generation cap" on ties of states with members abroad. Accordingly, ties of membership should cease to exist beyond the second foreign-born generation of expatriates, or "where those ties had been cut already, they should not be recoverable in a preferential way".[35]

Dual citizenship and voting rights

The next issue that emerged in the debate was the problem of voting rights and the impact that the reform could potentially have on democratic institutions within Hungary. Although the referendum question itself did not clarify the substantive content of non-resident citizenship, the general perception that emerged within Hungary was that even if initially, trans-border citizenship would be created without a right to vote, in the long-run, it would most probably still lead to the enfranchisement of would-be trans-border citizens. Were this to happen, opponents of the reform argued, the appearance of masses of trans-border voters in Hungarian elections would run counter to the principle of popular sovereignty and democratic self-determination within Hungary itself, putting Hungarian democracy under pressures it may not be able to withhold.

From the point of view of voting rights, the first important feature that had emerged from the reform initiative was the potentially weak distinction between active and inactive citizenship for dual citizens. In most immigration

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[34]   The peace treaty of 1920 reduced Hungary's population from 18,2 million to 7,9 million and its territory from 282 thousand sq. kilometers to 93 sq. kilometers.

[35]   Christian Joppke: Citizenship between …, op. cit., 13.

states, transnational dual citizenship implies that only one between the two citizenships is active, so that the rights associated with the alternate citizenship are resting and they can only be activated once the alternate citizenship is put to rest.[36] However, in the case of Hungarian trans-border citizenship such clear-cut distinctions between periods of active and inactive citizenship would be hard to make. Hungarian trans-border citizenship, if ever instituted, is more likely to be in line with that of Croatia where trans-border dual citizens retain some of their rights associated with Croatian citizenship, including voting rights, even at times when their alternate citizenship is active.[37] However, while trans-border Croats vote for fixed number of expatriate seats, trans-border Hungarians would most likely be able vote for regular seats without putting their alternate citizenship to rest. This is because Hungarian regulations on the declaration of residence are rather lax, requiring only three months of residence for the citizen to activate his/her right to vote. Moreover, in order to avoid the disenfranchisement of the homeless, voters can be admitted to the voters' registry without actually possessing an address or residence permit, simply based on a declaration of residence at a given locality at the communal office. Thus, in the present legal framework, trans-border citizens would find it technically easy to assume permanent residency in Hungary without surrendering permanent residency in their country of first citizenship, thus, in effect, becoming not only dual citizens, but also dual residents with dual voting rights.[38]

Therefore, with regard to the potential content of non-resident trans-border citizenship, the general perception that has emerged in Hungary is that even if dual citizenship would initially be created without voting rights, it would only be a matter of time before substantial numbers of trans-border voters would cast

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[36] Cf. Thomas Faist: Transnationalization in International Migration: Implications for the Study of Citizenship and Culture. http://www.transcomm.ox.ac.uk/working%20papers/faist.pdf (28/02/05).

[37] Trans-border Croat dual citizens retain their right to vote in Croatian elections. According to recent changes in Italian law, Italian non-resident citizens may also vote in referenda and national elections for 12 fixed seats. However, the numerical dimensions of the Italian case are radically different from the Hungarian case: there are alltogether 2,7 million non-resident Italian citizens, projected to grow at the maximum with 200 000, still only making up cca. 3 % of the size of the resident-citizenry of Italy as opposed to the size of the transborder Hungarian population making up 30–35% of the current citizenry of Hungary. Balázs Vizi: A határon túli olaszoktól a külföldön élő olasz állampolgárokig – az olasz állampolgárság kiterjesztése az ezredfordulón. *Kisebbségkutatás*, Nr. 4, 2003.

[38] Cf. The current debate in the USA on the voting rights of dual residents, In: Ashira Pelman Ostrow: Dual Resident Voting: Traditional Disenfranchisement and Prospects for Change. *Columbia Law Review*, Nr. 102, 2002.

their ballots either in Hungary proper, or at Hungarian consulates in the neighboring states.[39] Arguing for the introduction of expatriate voting, experience of low turnout of expatriates for voting in other European countries led experts of the Council of Europe to conclude in 1999 that, in case of newly introducing expatriate voting "a hypothetical mass invasion of electors from abroad" is unrealistic.[40] Nonetheless in Hungary where elections are usually won by a narrow margin, the appearance of trans-border voters could still mean that "the outcome of Hungarian elections would regularly be decided by voters who do not pay taxes in Hungary and who are, in general, not subject to its laws."[41]

It is hard to substantiate this claim by even a rough assessment of the number of potentially eligible new voters in the Hungarian elections. Those trans-border Hungarians who, after 2001, decided to apply for a Hungarian Identity Card, are most likely the first group ready to apply for extraterritorial Hungarian citizenship, if instituted. Their numbers by 2004 added up to 774,288 people of whom approximately 514,000 were of voting age.[42] In the 2002 elections, a quarter of this number would have sufficed to produce the swing votes that would have decisively changed the outcome of the parliamentary elections. Thus, voting rights for trans-border Hungarians could easily mean that external voters may acquire a crucial influence on the result of an election. In its opinion of March, 2002, The Venice Commission of the European Council considered this kind of decisive influence by external voters as highly problematic.[43] Inherent in such a solution would be that those casting the swing votes may be people who are not subject to Hungarian law and had never even lived in Hungary so that their political choices would be made on a highly selective image of issues and candidates. An example of elec-

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[39] The vice-president of the World Federation of Hungarians, Imre Borbély outlined the initiative in: A magyar állampolgárság alanyi jogának kiterjesztése minden magyarra. [The extension of Hungarian Citizenship as an Entitlement for every Hungarian] *Magyar Kisebbség*, Nr. 2–3, 1999. http://www.hhrf.org/magyarkisebbseg/9902/ His proposal included that transborder citizens would be eligible to stand as candidates in Hungarian elections.

[40] Recommendation 1410 (1999) "Links between Europeans living abroad and their countries of origin" (Extract from the Official Gazette of the Council of Europe – May 1999) http://assembly.coe.int/Documents/AdoptedText/TA99/EREC1410.HTM (07,05,2005)

[41] Kis, János: Miért megyek el szavazni. [Why am I taking part in the voting?] *Népszabadság*, November 20, 2004.

[42] Zoltán Kántor and Melinda Császár: A státustörvény hatása a határon túli magyarokra. [The Effect of the Status Law on Trans-border Hungarians] (Manuscript in possession of the author)

[43] European Commission for Democracy Through Law (Venice Commission), Consolidated Opinion, on the law on the election of members of the representative bodies of local and regional self-government units of Croatia, March 12, 2002. http://www.venice.coe.int/docs/2002/CDL-AD(2002)003-e.asp, p. 7. (07,18,2005)

toral mobilization on such selective grounds was already provided by the chairman of FIDESZ, Viktor Orbán who, in the summer of 2005 urged trans-border Hungarian communities "to regard themselves as mirrors and assess parties within Hungary in the light of how these parties respond to their claims."[44]

Another concern with trans-border expatriate votes has been the radicalizing effect of such a system. Based on a survey of countries that allow non-resident voting, David Martin argued that votes by non-resident citizens might easily lead to more extremist election outcomes, as people do not have to live with the consequences of their vote.[45] This is what happened in Croatia in 1995 when Franjo Tudjman's belligerently nationalist party won the elections with votes by Croats abroad, including Croats in Bosnia-Herzegovina whose votes were 90% in favor of Tudjman.[46] Votes by non-resident Croats regularly support the nationalist HDZ party, so much so that in the 2005 presidential elections, the HDZ's presidential candidate received a third of all his votes from Croats in Bosnia and elsewhere outside Croatia. On the night of the elections the winner of the race, Stipe Mesic of the contending Croatian People's Party declared that, in contrast to Tudjman, he considered himself a president "of all Croatian citizens", not of "all Croatians", and announced his intention to withdraw the voting rights of the Croatian diaspora.[47]

In view of the possible consequences on the Hungarian political and welfare system, as well as on the country's international relations, it is hardly surprising that the proposal created passionate debates within Hungary. At stake in the debate for some participants was the question of whether or not Hungary is in fact experimenting with ideas that are pulling her away from, rather than bringing her closer to „mainstream" Europe. As János Kis summarized it, the victory of "yes" votes would put Hungarian parliamentarism in danger and transform the nature of Hungarian democracy.[48] All in all, he concluded, "the victory of

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[44] Modernizációs és kortesduma. [Modernization and electioneering] Report on the Speech by Viktor Orbán on Tusnád, 23/7/2005, http://politika.transindex.ro/?cikk=3424 (23,07, 2005)

[45] "Citizenship in Countries of Immigration: Australia, Canada, and the United States, Conference on Comparative Citizenship, Carnegie Endowment for International Peace, June 4, 1988. http://www.ciaonet.org/conf/cei06/ceip (7/11/2005.)

[46] Katherine Verdery: Citizenship and Property in Eastern Europe. *The Journal of the International Institute, The University of Michigan*, Vol. 4. No.3, Summer, 1997. 3. Non-resident Croats are entitled to a maximum of 12 parliamentary seats (out of 152) which more than balances out the 8 seats reserved for minorities within the country (*Népszabadság Online*, January 19, 2005, http://www.nol.hu.cikk/348853/)

[47] *Népszabadság Online*, January 19, 2005, http://www.nol.hu.cikk/348853/)

[48] Kis, János: Miért megyek el szavazni? op. cit.

„yes votes" would pull us back to the murky nationalism of past ages, it would lock up Hungarian politics in the prison of revisionist nostalgias, it would poison public life within Hungary as well as our relationship with neighboring states and with trans-border Hungarians, and it would damage the level of our acceptance within the European Union."[49]

Compatibility with European norms

In stark contrast, advocates of the initiative argued that their proposal is modeled on concepts and processes that are part and parcel of an integrated Europe, putting into effect, as it were, a smaller version of the European process, some kind of smaller Hungarian integration across state borders. Non-resident trans-border citizenship, they argued, belonged to the vision of a future Europe, to a de-territorialized world in which state borders no longer rigidly assign individuals with multiple identities to a single territorial state, a vision in which people are allowed to move back and forth across „soft borders" and in which they are also entitled to a legal expression of the free choice of their nationality.

Responding to objections that not non-resident trans-border citizenship would be incompatible with European norms and practices regarding the connection of citizenship to ethnicity, advocates pointed to the fact that all European states accept ethnicity as part of the basis of citizenship. Most of them even "make provisions for the acquisition of benefits, including citizenship, for ethnic kins who are citizens of another state".[50]

The problem with European norms and practices, they argued, is not that the connection between ethnicity and citizenship does not exist. But that Europe is in a process of denial about this connection, treating ethnicity as though it was a disreputable relative on whom we rely secretly, but hide from others.[51] To substantiate this claim they pointed to examples of non-resident citizenship for ethnic kins within the European Union. Indeed examples of ethnic preferentialism abound in the citizenship policies of EU Member States. Italy created non-resident citizenship for people of Italian descent and has recently expanded eligibility for non-resident citizenship[52], Germany offered non-resi-

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[49] Kis, János, Miért megyek el szavazni? op. cit.

[50] Schöpflin, George: Citizenship and Ethnicity: The Hungarian Status Law. In Zoltán Kántor et al. (eds.): *The Hungarian Status Law,* 22.

[51] Schöpflin, op. cit.

[52] Law 2000/379 offered Italian citizenship to descendants of the territories that were ceded to Italy by the post-World-War One treaties in case their ancestors emigrated from these territories before 1920, but did not extend this offer to the descendants of Italians in

dent citizenship to Silesian Germans in the early 1990s thus providing dual citizens of Poland and Germany with access to European Union citizenship and in 2002, Greece announced plans to offer non-resident trans-border citizenship to the Greek minority in Albania, Spain waived the residence requirement for children of emigrants to recover Spanish citizenship, and reduced residency requirements for naturalization for descendants of Spanish ancestors. In 1997, Britain granted the right to opt for British citizenship to part of Hong Kong's population and in 2002, most British Overseas Territories Citizens became European citizens through their being granted British citizenship. [53] In none of these instances did the European Commission or other Member States voice protest, nor did the amendments of the treaties on dual nationality, concluded between Spain and Latin American countries, which entitled persons of dual Spanish-Latin American nationality to apply for a Spanish passport, lead to protests. These precedents, one could argue, point to the legitimacy, even within the core nations of the European Union, of using dual citizenship for the inclusion of ethnic relatives from abroad in the citizenry of the homeland.

Besides citing these precedents, advocates of the Hungarian reform could also point to the actual policies of the European Union. Ethnic preferentialism in citizenship legislation of Member States has not been challenged by the European Union. On the contrary, in the famous Micheletti case of 1992 that involved the recognition, by Spain, of the Italian citizenship, and thus Member State legal status of the Argentinian citizen, Mario Vincente Micheletti, who had been granted a second, Italian citizenship on grounds of descent T. the European Court of Justice did not question the ethnic preferentialism inherent in Italian citizenship law and affirmed the principle that no Member State of the European Union is entitled to overrule the citizenship policies of another Member State, not even if those policies are based on ethnic preferentialism. With this, the Court also implicitly admitted "it did not consider the permissive Italian legislation to be in violation with

Dalmatia, Istria and Fiume that were ceded from Italy to Yugoslavia by the post-war treaties. In fact, it is this latter group that bears some analogy to transborder Hungarians, but the ancestors of these people were obliged to opt for the citizesnhip of their new sovereign by the peace treaties.

[53] The British Nationality (Hong Kong) Act of 1997 was adopted shortly before the transfer of Hong-Kong to China, The Act of 21 May 2002, most British Overseas Territories Citizens became European citizens through their being granted British citizenship. Gerard-René de Groot: Towards a European Nationality Law. *EJCL*, Vol. 8. 3 October 2004, http://www.ejcl.org/83/art83–4.html#N_54_ (08,08,2005)

the principle of loyalty to the Union".[54] Nor has the Union challenged ethnic preferentialism in cases of Member States, such as Italy or Spain, which have either adopted, or expanded such policies after 1997, the year of concluding the European Convention on Nationality.

Arguments against

Opponents of the reform challenged this interpretation of larger European processes. First, even though the EU left the regulation of citizenship in the competence of member states, it would still regard the ethnicist turn in Hungarian legislation as a breach of common principles laid down in European agreements. Second, they argued that the 1997 European Convention on Nationality, ratified by Hungary in 2001, restricted the recovery of former nationality of a given state to those residing on its territory and thus ruled out the granting of non-resident citizenship to ethnic relatives.[55]

The apparent inconsistency between this restriction and the failure of the European Union to challenge the permissive policies of its Member States in granting non-resident citizenship may be explained by the fact that the Convention did not require the elimination of preferential provisions that had already been in force before the adoption of the Convention. It is perhaps no co-incidence that most Member States that have permissive preferential policies of granting citizenship have not yet ratified the convention (eg. Italy, Greece, Spain, United Kingdom).

Second, opponents criticized the suggestion of unilateral legislation for the confrontational political attitude it implies. The problem with unilateral action is not so much that it violates international law, but that it is self-defeating. To quote János Kis again: the unilateral creation of Hungarian citizens on the territory of other states is nothing but a „mirage" that provokes „phony wars over phony questions and phony answers".[56]

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54 Maarten Vink: Europeanization and Domestic Choice: Naturalization Policy in the Netherlands. http://216.239.59.104/search?q=cache:CHoGmn7FqeYJ:www.essex.ac.uk/ecpr/standinggroups/yen/paper_archive/3rd_euro_ss_papers/vink.pdf+groot+dual+citizenship+without+voting+rights&hl=hu, (02,08,2005) p. 6.

55 Especially in the European Convention on Nationality (1997) ratified by Hungary in 2002 which stipulates in Article 2/a that '"nationality" means the legal bond between a person and a State and does not indicate the person's ethnic origin', and restricts the "recovery of former nationality" of a given state to those residing on its territory. http://conventions.coe.int/Treaty/en/Treaties/Html/166.htm (06,03,2005) Cf. Tóth, Judit: Kettős állampolgárságot Népszavazással? [Dual Citizenship by Referendum?] *Fundamentum*, Nr. 2, 2004.

56 Kis, János: Miért megyek el szavazni? op. cit.

Nor can the creation of dual citizenship be justified, opponents argued, by reference to the fact that trans-border minorities would approve of such a move. First, trans-border minorities themselves have been divided over the issue. For example, before 2003, the biggest Hungarian party of the robust Hungarian minority of Romania, with substantial representation in the Romanian parliament and government, had only been, at best, lukewarm about dual citizenship. However, at the same time, the most vocal advocates of trans-border Hungarian citizenship also came from Romania and they relied on a substantial constituency. Minorities themselves do not speak with a single voice because the attitudes of the different groups of which they are composed are derivative of the long-term view each of these groups take on the possibilities of negotiating a better status, possibly autonomy, for themselves in their host states. But even if the idea of dual citizenship would enjoy the support of the majority of trans-border Hungarians, so the argument goes, this support would be based on a populist misrepresentation of what is actually possible.[57] At the end, any unilateral move by Hungary to create dual citizenship would remain "a game of illusions played between Hungarian nationalists and a minority within the Hungarian minority" in a useless, but "ritual display of imagined political togetherness."[58]

Third, critics argued that dual citizenship is incompatible with the claims of autonomy by trans-border minorities. The claim for trans-border citizenship rests on the implicitly irredentist slogan of „national unification over and above the borders" which provokes fears in the neighboring states even if its advocates forego the idea of a physical change of borders. On the other hand, the claim for minority autonomy implies a negotiated effort to secure collective rights for minorities in the field of linguistic, educational and cultural rights, including the right to territorial autonomy in regions where the minority forms a majority. Concurring with Rainer Bauböck critics maintained that „claims for multiple citizenship and territorial autonomy should be seen as mutually incompatible. They would create fears in the host society about irredentist threats to its territorial integrity that cannot be easily dismissed as unreasonable."[59]

Therefore, according to the opponents of dual trans-border citizenship, in the final analysis, Hungary must take a new look at its own choices about the ultimate, long-term aims of its homeland policies regarding kin-minorities.

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[57] Bauer, Tamás: Kettős Kapituláció. [Dual Capitulation] *Népszabadság*, 2004, January 8.

[58] Kis, János: The Status Law: Hungary at the Crossroads. In Zoltán Kántor et al. (eds.): The Hungarian Status Law, op. cit, 22.

[59] Bauböck, Rainer: Citizenship and Political Integration, 2nd Workshop on Global Migration Regimes, June 11–12, 2004. http://www.framtidsstudier.se/eng/global MobReg/CitizenshipandPoliticalIntegration.pdf, p. 23. (06,03,2005)

One – bad – option would be to remain with the discourse advocated by the two mainstream right-wing parties of recreating a "unitary Hungarian nation" over and above existing state-borders by means of creating legal bonds between parts of the Hungarian nation living in several countries.[60] The need for self-reflection by Hungary is all the more pressing, as the discourse of "national unification" has already, to some extent, "become standard not only in Hungarian politics, but also in legislative language".[61] The concept of a "unitary Hungarian nation" had been used in the original formulation of the Status Law of 2001, though it was later deleted from the version of the law amended after criticism from the European Commission. Nevertheless, it was revived as a slogan during the campaign for dual citizenship and seems to have become part of the rhetoric of the mainstream nationalist parties.

According to the critics, Hungary should revise this confrontational approach because it rests on the outright ignorance of the sensitivities of other states. Instead, it should clearly articulate, or re-articulate its policies in the conceptual framework of minority protection. Hungary must accept that trans-border Hungarians are the citizens of the states and that their long-term well-being depends on the solutions they are able to work out with majority societies. As the Transylvanian sociologist, Béla Bíró put it few days after the referendum, "what can help us is not 'national unification above existing borders, but collective integration into the political community of the states in which we live'.[62] One of these states, Slovakia, is already a member of the European Union. Another, Romania is a candidate for accession in a year or two. Yet, others, as Serbia-Montenegro and the Ukraine are likely to remain outside the Union for some time to come. The way Hungary should promote the protection of Hungarian minorities differs from case to case, but they should all be able to count on Hungarian support in their efforts to secure equal individual and collective rights, including the right to autonomy, in their home states. They should all have access to completely free travel to and from Hungary as well as support for maintaining cultural and educational links with Hungary.

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[60] Stewart, Michael: The Hungarian Status Law: A New European Form of Transnational Politics? In Zoltán Kántor et al. (eds):The Hungarian Status Law, op. cit. The program of the "unificaton of the Hungarian nation" was advocated by the then Prime Minister Viktor Orbán in 2001: "We have been waiting for eigthy years for a bond, in a legal sense as well, to be formed between the parts of the Hungarian nation torn from each other, so that links may emerge that go beyond the existing spritual ties." (Quoted in Kis, János: Nemzetegyesítés vagy kisebbségvédelem. op. cit.

[61] Stewart, op. cit.

[62] Bíró, Béla: Nem jó, de haszos. *Brassói Lapok*, December 10, 2004.

Fourth, as indicated above, critics objected to the impact the reform could have on democratic institutions within Hungary. Even if non-resident trans-border citizenship would initially be created without a right to vote, in the long-run, it would most likely lead to the enfranchisement of trans-border citizens, the same way as the Status Law led to the claim for dual citizenship for all recipients of the Hungarian Identity Card. Were this to happen, the appearance of masses of trans-border voters in Hungarian elections would run counter to the principle of popular sovereignty and democratic self-determination within Hungary itself, putting Hungarian democracy under pressures it may not be able to withhold.

Final remarks

In conclusion, a few words on the ambiguities with regard to the arguments of both sides in the debate. The idea of dual citizenship emerged in Hungary with reference to a larger international process of the increasing use and tolerance of dual citizenship, partly within the European Union and partly within the East-Central European region. However, while in the major immigration states of Europe dual citizenship has been espoused above all by the political left as an instrument of integrating labor migrants, in Hungary, as in many other states of the region, the demand for dual citizenship has mostly, if not exclusively emanated from the political right and is predominantly directed at trans-border ethnic relatives. Thus, in the Hungarian referendum debate, the battle over dual citizenship has been cast as a debate between the nationalist right, as supporters, on the one hand, and the Europe-oriented liberals, as opponents, on the other.

However, this representation of the debate is, to some extent, self-made and arbitrary, especially as it relies on the anticipation, by the left, of what "Europe" "really" stands for. In fact, as has been observed in Spain, Italy and France, in its support of dual citizenship for ethnic relatives, the political right has partly been drawing on the arguments of European liberals for dual citizenship, amounting, in Christian Joppke's terms, to a "piracy" of the arguments of the left, by the right.[63] At the same time, liberals relied on counter-arguments they claimed to have extrapolated from relevant European norms and practices. However, these practices are much too diverse to form the basis of a coherent interpretation, even more so as the influence of international law on the domain of citizenship remains negligible.[64] Recent debates on dual citizenship

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[63] Christian Joppke: Citizenship between …, op. cit. 19.
[64] Christian Joppke: Citizenship between …, op. cit. 13.

in other European countries, for instance in the Netherlands, show that, just as in the case of Hungary, 'European' arguments can be brought into the discussion on all sides of the debate on extending access to citizenship based on the principle of dual nationality.[65] In fact, a number of European Union states written into their citizenship law, some quite recently and the EU has not requested that they eliminate them.[66] To the extent that such reforms are challenged, these challenges usually arise from domestic pressures, as was the case in Germany in the 1990s.

Unsurprisingly, at the end, neither side in the Hungarian debate was able to present a coherent interpretation of those principles and international norms and practices that would support their respective positions. In the final analysis, it is quite possible that the conflicting stances of the left and the right will stem from concerns that are only vaguely connected to the problems of trans-border Hungarians. It is quite possible that the conflict between the political right and the political left over dual citizenship is a result of conflicting opinions and concerns about the long-term stability of Hungary's transitional democracy. After all, in Hungary parliamentary practices look back to only little over a decade. Yet in the Hungarian context the creation of trans-border non-resident dual citizenship would most likely amount to a mass enfranchisement of a new electorate that, similar to all episodes of mass enfranchisement in the past, would introduce new uncertainties in the system and could lead to an internal destabilization of Hungarian democracy itself. In this respect, both sides share the same intuition, namely that if instituted, trans-border citizenship would most likely have the effect of freezing the regular rotation of parliamentary forces for some time to come in favor of the political right: a prospect that is as welcome on one side as it is feared on the other.

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[65] Marteen P. Vink: The Limited Europeanization of Domestic Citizenship Policy: Evidence from the Netherlands. *Journal of Common Market Studies*, December, 2001. 880.

[66] Gerard-René de Groot, op. cit.

IVÁN HALÁSZ

Dual Citizenship as an Instrument of the Hungarian Policy Towards the Nation?

The issue of dual citizenship has been stirred up Hungarian public life the past few months. Although this institution, as one possible policy solution regarding the nation, first arose a few years ago, it gained real currency only after the December 5, 2004 referendum. Is dual citizenship, however, a real solution to the problems of Hungarians living abroad? What exactly are these problems: minority protection, social, psychological or maybe travel-related issues? From a slightly different angle, we can ask whether there are any strong arguments against voting "yes."

In order to answer these questions, some notions need to be clarified. The first and most important question to be answered refers to the (possible) aims of the institution of dual citizenship.[1] The second question asks whether the aims of the referendum can be regarded as truly legitimate. This latter issue is of course a subjective one, depending to a large extent on one's personal and political disposition.

The institution of dual citizenship and the protection of minority rights

First we must state that dual citizenship is not an institution meant to protect minority rights, i.e. it does not belong among the traditional minority protection tools. The protection of all minorities is primarily the task of the state in which minorities reside, as the state exercises jurisdiction over them. In fact it is up to this state to decide what rights it grants to the segment of its population which differs from the rest according to some criteria. Beyond this, the kin-state can exercise direct or indirect pressure, through international organisations, on the state in which the minority lives. It can speak on behalf of its mi-

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[1] On the problem of Hungarian citizenship see Tóth Judit: *Státusjogok*. [Status rights] Lucidus: Budapest: 2004.

norities living abroad. It can even give facilities to co-nationals living abroad,[2] but they cannot do any more without seriously encroaching the basic provisions of international law, since – despite globalisation and integration – the ideal of national sovereignty is still strongly held.[3]

Dual citizenship does not provide new rights in the country in which the minorities live, aside from the potential freedom of movement, meaning persons of dual citizenship can change their domicile more easily. Mass emigrations, however, can unexpectedly and radically solve the minority question by simply causing it disappear. The only group who might be pleased with this solution would be the nationalists of the majority nation interested in nation-state homogenisation. The kin-state can of course strive to obtain more rights for its co-nationals through international agreements, but it can do so currently without obliging the home country to react.

But why doesn't dual citizenship represent a higher level of rights in the home country if respectable states protect their citizens living abroad? The reason is that if the given dual citizen retains the citizenship of his or her homeland, the country possessing imperium can, in theory, completely disregard that one of its citizens may also possess a citizenship received from another country.[4] This is an established practice in the field of dual citizenship. It also means that in the case of Romanian-Hungarian dual citizenship, the Romanian State may rightfully disregard foreign citizenship of one of its citizens. It does not mean that the other country cannot speak out on the behalf of the respective person, but it cannot go much further, at least until the person in question possesses the citizenship of his or her "homeland."

Therefore, from the point of view of minority protection, the belief that if hundreds of thousands of Hungarians living abroad became Hungarian citizens, Hungary would be able to do much more for them, is a dangerous path. States generally provide rights to the citizens living on each other's territory in the frame of bilateral relations on the basis of reciprocity. A citizen of a country therefore enjoys about as many rights on the territory of another, as a citizen of

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2   On facilities given to co-nationals living abroad see Halász Iván – Majtényi Balázs – Szarka László (eds.): *Ami összeköt? Státustörvények közel s távol*. [What binds us? Status laws of neighbouring and far away countries] Gondolat: Budapest, 2004.

3   Majtényi Balázs: Utilitarista kisebbségvédelem? A státusdiskurzus a nemzetközi szervezetek előtt. [Utilitarian minority protection? The status discourse at international organizations] In Halász–Majtényi–Szarka (eds.): *Ami összeköt?* op.cit. 11–26.

4   Art. 2. paragraph 2. of law nr. LV./1993 on Hungarian citizenship provides that "Hungarian citizens that are simultaneously citizens of another state shall be considered Hungarian citizens from the point of view of Hungarian law enforcement, unless the law provides differently".

the latter would enjoy in the former. This holds especially for employment, enterprises and real estate acquisitions, but can also refer to other aspects of life as well. Reciprocity is a fully accepted practice in international relations. The situation is different in the field of human/minority rights. These rights are due not only because the countries involved have formed an agreement, or because the state considered as the kin-state generously grants them and expects the same from its partners, but because the persons and communities in question are entitled to them as humans and minorities.

In the history of Central European peoples, the principle of reciprocity has already been applied once, during the Second World War. The Slovak Republic, according to its constitution, granted the local Hungarian minority as many rights as Slovaks living in Hungary at that time. True, in practice this solution improved the situation of the two minorities living under nationalist and non-democratic regimes a little, but it also made them objects of extortion trapped in their own situation. In the 1990's, Hungary followed a minority protection policy that (duly) did not include these practices, especially as the different communities living in the countries of the Carpathian basin are of various sizes and types.

There is, however, one aspect in which the extension of Hungarian citizenship to persons of Hungarian ethnic origin living abroad would ensure extra rights as compared to the current situation, these are the rights enjoyed in the kin-state. In this respect, granting Hungarian citizenship to Hungarians living abroad would provide a comfort that would mend the sad situation of feeling inferior in two countries; in their homeland as belonging to the Hungarian minority, and in Hungary as incoming or immigrating foreigners. It is questionable whether we can speak of extra rights in this case, as formally the "new" citizens would not be given any more rights than the "old" ones. When we speak of so-called "extra rights" we might, but not necessarily refer to the measure of their contribution to public funds and the reciprocity of the rights enjoyed.

Therefore, the institution of autonomy, along with steadfast anti-discrimination regulations, continues to be the most effective legal means of minority protection. Of course, autonomy and dual citizenship can coexist and function well together. For minorities living in larger numbers on contiguous territories the territorial form of autonomy offers a possible solution, and for those scattered, perhaps self-government based on personal autonomy. Autonomy is the means that provides not only legal protection for persons belonging to a minority, but also the right to dispose of resources, to ex-

perience their national identity and to exercise the rights associated with this identity in a truly collective fashion.[5]

Problems of the rhetoric of national reintegration

What good does dual citizenship serve then, if its institution cannot be sustained by an argument based on protecting the rights of minorities living abroad? One alternative is the rhetoric of national reintegration. Were we to accept the legitimacy of this argument, two problems would immediately arise. First, the institution of dual citizenship refers only to personal and not territorial reintegration. Mobile and real estate properties abroad belonging to dual citizens would still fall under the jurisdiction of the home state, as jurisdiction over the respective territory would not change with the granting of a second citizenship. Taxes would still flow into the treasury of the state exercising its authority over the territory. True "reintegration" nationalists would probably not be content with this. The second problem involves defining national reintegration. Does it mean the gathering of all citizens in a single territory (e.g. by supporting immigration to the mother country, as in the case of Israel)? Or, in a territorially enlarged nation-state (as irredentists of different nations generally imagine)? Or, does it aim only for a symbolic spiritual and legal bond functioning as a potential umbrella? The more radical forces encouraging national reintegration however, those most likely considering the second alternative, must be aware that dual citizenship does not solve this problem for reasons previously mentioned. Those thinking in terms of the first or third definition may see granting Hungarian citizenship en masse as a real solution. But this in itself is not enough, as encouraging immigration presupposes a support system, while the third alternative remains rather fuzzy.

One cannot say that there aren't any examples of granting dual citizenship en masse without encouraging territorial changes or immigration, as this is the path Croatia tried in part to take in the 1990's. The newly independent Croatian State granted Croatian citizenship generously and easily to members of the Western and overseas Diaspora as well as to Croats living in Bosnia-Herzegovina. If the former was an effort made under the pressure of Croatia's enemies in the hope of ensuring financial and spiritual help of Diaspora groups, in the latter case we are dealing with an unexpected "product" of an interrupted radical "national integration" project. In a certain period of the Yugoslav war, under the pres-

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[5] On these issues see Majtényi Balázs – Vizi Balázs: Introduction. [Introduction] In Majtényi Balázs – Vizi Balázs (eds.): A *kisebbségi jogok nemzetközi okmányai. Dokumentumgyűjtemény.* [International documents of minority rights. A collection] Gondolat: Budapest, 2003.

idency of Franjo Tudjman, Croatia wanted to acquire land in neighbouring Bosnia-Herzegovina inhabited by Croats. They did not succeed, but the strong relationship between the mother country and Herzegovina Croats persisted, and found expression in the bond of citizenship. Croats with Croatian citizenship living abroad participate in the public life of the mother country institutionally, as there are a given number of deputy seats reserved for them in the unicameral parliament.[6] This, however, is an unexpected and peculiar consequence of a very particular period of ill memory.

Historic reparation or something else?

In recent debates the opinion that granting dual citizenship would represent a form of historic reparation has also been voiced. Perhaps many Hungarian citizens feel this way, and from the point of view of national solidarity this phenomenon is indeed salutary. But what is the true meaning of reparation in this case? Who does it imply, those who immediately suffered? We must remember that after the First World War, the Hungarian State was quite limited as concerns the formation of large-scale Hungarian communities abroad. Of course we must not forget that justice is not really a historical category. History, as life itself, generally does not run its course along this line. One might feel outraged or saddened by this, but it is not worth wasting too much time over. In the legal field, however, justice is a relevant category,[7] indeed, it plays or can play a major role. Therefore, the issue is worth looking at in more detail.

The duty to repair an injustice can be interpreted in two ways. First, as the responsibility of the state having caused some damage, and retroactively attempting to make amends for it (e.g. Germany tried to compensate the victims of its actions during the Second World War). From this point of view, Hungary can see itself as doing justice to those persecuted by different Hungarian authoritarian regimes, to those deported or exiled etc. But the reparation of an injustice can also be interpreted as a general, moral imperative towards the victim, regardless of the perpetrator. In this sense, Hungary can indeed strive to partially carry out justice to those living abroad, but it cannot be held accountable with the same strength as those who caused the injustice itself.

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[6] It is interesting to note that during the presidential elections held in early 2005 the central election committee visited Bosnia-Herzegovina to inspect the correctitude of the vote there.

[7] See for example John Rawls: A *Theory of Justice*. Cambridge, Massachussets: Harvard University Press, 1971.

The question of justice can of course be approached from another angle, from the point of view of the permanent, general historical responsibility of the Hungarian State and its ruling elites. After all, the Treaty of Trianon also had its causes – like the irresponsible and unjustly beginning of the First World War and the short sighted, and often unfair, Hungarian policy of forced assimilation during the Austro-Hungarian monarchy. The latter can also be understood as the "crime" that the Hungarian State now seeks to repair. The Hungarian State may also "owe" reparations for not doing much for Hungarians abroad prior to 1989. This may be partly true, however, we must also take into account the country's limited sovereignty and avenues for action, as well as the reasonable fear of repeating the mistakes of the interwar elite whose radical revisionist policies, along with other factors, plunged the country into a tragedy worse than the First World War. It is also worth considering to what extent present generations and politicians are responsible for actions (or inaction) of the past. The Hungarian State may therefore owe reparations for earlier crimes or negligence in the field, but these reparations may take multiple forms rather than a single solution. Finally, its policy of protecting and supporting the rights of Hungarians,[8] with all its flaws and deficiencies may be regarded as such reparation.

Dual citizenship and the policy of warranting equal opportunities

Am additional criterion that could be introduced in "legitimising" the institution of dual citizenship is the policy of ensuring equal opportunities, and eliminating handicaps arising from minority status. According to the Hungarian policy towards the nation, this aim is best served by the so-called status law, passed in 2001 and significantly amended in 2003.[9] The essence of the status law does not lie in the protection of minority rights, since the act only mentions that the Hungarian State should provide protection for the communities of co-nationals living abroad once. This of course does not mean that there are insufficient grounds for a "protectionist policy" in the Hungarian legal system, i.e. the 3rd paragraph of art.6. of the Hungarian constitution. The so-called "national responsibility" clause states that the Republic of Hungary feels responsible for Hungarians living abroad. This "feeling of re-

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[8] On the policy towards Hungarians see Bárdi, Nándor: *Tény és való*. [Fact and truth] Kalligram: Pozsony, 2004.

[9] On the different aims of the Hungarian status law see Szarka László: A magyar kedvezménytörvény identitáspolitikai céljai. [The identity political aims if the Hungarian status law] In Halász Iván – Majtényi Balázs (szerk.): *Regisztrálható-e az identitás?* [Can identity be registered?] Gondolat – MTA Jogtudományi Intézet: Budapest, 2003. 235–251.

sponsibility" can well include concerns over Hungarians abroad and the taking an active stance to protect their interests in home and abroad.[10] We must also mention that there are several status, or facility-law type, acts around the world containing references to protection, for example, the respective Bulgarian law of 2001, the Slovenian act of parliament of 1996, and the Russian law on compatriots passed in 1999.[11] The Russian act perhaps contains the strongest wording (probably as a tool to preserve some element of the Russian imperial past and position of great power), but also confers Russia's dedication to this issue.

The essence of the status law can be summarized in three points: developing a voluntary register of Hungarians living in neighbouring countries,[12] creation of equal opportunities via educational and cultural allocations, and the institution of new forms of communication and contacts. The great advantage of the status law is that its provisions can promote the maintenance, and perhaps further development of the Hungarian-language cultural and communicational sphere in the Carpathian basin. This is not an aspect to be overlooked as European integration and globalisation increases the pressure to accommodate wide-spread languages such as English, German and French languages. We can also expect unfavourable changes in the social status of certain small or medium-size languages. The "fashionableness" of English, its increasing social prestige as a status symbol for successful strata, will increase pressure on less widespread languages. In this "fight", the number of persons speaking a certain language will play an important role, since the willingness to learn a language or preserve it hinges in part on this.

What new possibilities can dual citizenship bring into this field as compared to the status law? Saying "none" would probably be an exaggerated simplification, since dual citizenship still represents important comparative advantages and possibilities for those in question – easier travel, the possibility of higher earnings and increased mobility in the mother country and perhaps some social benefits. Some of these advantages, but not all, may be gained by amending the status law.

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[10] For more details on this issue cf. Halász Iván – Majtényi Balázs: A Magyar Köztársaság alkotmányának „nemzeti felelősségi klauzulája" – egy értelmezési kísérlet. [The "national responsibility clause" of the Constitution of the Republic of Hungary. An interpretation] In Halász – Majtényi – Szarka (szerk.): *Ami összeköt?*, op.cit. 93–104.

[11] Halász Iván: A határon túli nemzettársakról való gondoskodás modelljei Kelet- és Közép-Európában. [Models of attending to co-nationals living abroad in East-Central Europe] In Halász – Majtényi – Szarka (szerk.): *Ami összeköt?* 63–64.

[12] See details in Halász – Majtényi (eds.): *Regisztrálható-e az identitás?*, op.cit.

Moreover, if mass dual citizenship were to be instituted, the further uses and functions of the status law would have to be seriously reconsidered. A sweeping majority of "yes" votes in the referendum would have resulted in a paradigm change to the present policy of facilities given to Hungarians abroad. Until recently, a Hungarian citizen living abroad could not apply for a Hungarian certificate. Moreover, one lost the certificate when taking up residence in Hungary. If the referendum had resulted in a definite "yes" however, possession of the certificate would have presented an advantage in the process of obtaining citizenship. This is the case in Slovakia as well, where the possessor of a Slovakian certificate is given priority in naturalization.

One can ponder, what would have happened to "status Hungarians" wishing to become Hungarian citizens after a successful referendum? Under the present status law, two statuses cannot be possessed at the same time. The financial-allowance side of the issue could have been dealt with more or less, since after the 2003 amendment of the status law, the educational allowance was not strictly connected to the Hungarian certificate. Putting the question differently, would the two categories – the certified and uncertified Hungarians – continue mass dual citizenship? The latter case could induce a dangerous movement among the "inner" Hungarian society, as a Hungarian politician with "too strong national feelings" has already suggested introducing certificates within Hungary.

Dual citizenship and solidarity

What arguments remain which would justify the institution of dual citizenship? The most conclusive is national and social solidarity, primarily among those co-nationals who suffer due to their territorial and minority position. This is a very important consideration that could counterbalance the dilemmas discussed above. No one can deny that Hungarians living in sub-Carpathian Ukraine, hit by the country's general social and economic collapse in the 1990's, who do not have the prospect of European integration in the near future, need the help of fellow Hungarians from their mother country. The same applies for the Hungarians of Voivodina, worn by and persecuted in the modern Balkan wars. Israel helped the black Jews of Ethiopia and the Jewish masses emigrating from the Soviet Union during the regime change in a similar manner. Following the Second World War, the German Federal Republic helped Germans secluded in or expelled from the east. These actions were primarily "humanitarian", although they did possess a nation-building and unification dimension as well.

In helping the communities of Voivodina and in Ukraine (and in Romania in the event of repeated postponement of the country's EU accession), the kin-state could go perhaps go a little further. Granting dual citizenship to these communities and accepting them en masse to the mother country might be regarded as a "humanitarian" act. Hungarian communities in states which have already joined the EU (Austria, Slovakia, Slovenia), or have living standards comparative to that of Hungary (Croatia and Slovakia), or possess the political, economic, cultural and demographic potential to overcome their currently difficult situation in mid-term (Romania) present a different case. The problem in Voivodina and in Ukraine is that official Hungarian policy did not address their specific social and political problems, nor their anxieties caused by the process of European integration. The policy of treating the Hungarian communities of the Carpathian basin in a similar, if not the identical, manner failed to a certain extent in this respect. But returning to the original question, given the current state of affairs is it possible to develop a strategy of differential treatment towards the two most endangered Hungarian communities? Through dual citizenship, probably not, but perhaps through another venue.

Migration and social consequences of dual citizenship are difficult to predict. Those warning mass immigration often disregard the fact that emigration is not always an easy choice, practically or spiritually. They also overlook the fact that some immigrants could bring new profits and not just expenses. Furthermore, people generally decide to emigrate only when they have lost all future prospects in their homeland, or when their close relatives (children, siblings, etc.) have already emigrated. Even in countries where dual or foreign citizenship exists on wider scales, immigration generally occurs only when the home situation becomes desperate, as in the case of Argentineans of Italian origin during the recent economic crises, or white British subjects living in Robert Mugabe's Zimbabwe.

During the political debate, a compromise solution emerged known as the "foreign citizenship" status. While not given much attention, this does not in actuality grant citizenship. And, although this was not the key issue of the December referendum, the tendency to make such suggestions seems dangerous. The spirit of the Hungarian constitution, and rightly so, prohibits differentiating between citizens. Foreign citizen status would therefore be an answer to many pressing problems, but the precedent created by instituting it – i.e. by creating two types of citizenship – is not a very promising legal phenomenon. The creation of citizens of the Hungarian nation, or nation-citizens, in Hungarian and in European law is a rather bizarre idea, especially considering

its "home" implications. Furthermore, it seems inappropriate to create a spectrum of status categories via Hungarian law apart from the categories of citizen and "person of Hungarian status living in a neighbouring country". Legal trends discourage developing a variety of statuses through new laws, rather legal trends, such as the British example, favour uniformity and simplification. Therefore, rather than a batch of temporary solutions, the institution of ordinary citizenship seems a much better and clearer choice.

We can therefore affirm that the preferential extension of Hungarian citizenship to Hungarians and their families living abroad would solve some, but not all of their problems. It would not bring significant changes to the field of minority protection and equal opportunities, or in demographic and immigration policies, but would bring about a change in the process of nation building. Although little has been said on this matter (even in this paper), the extension of citizenship would certainly affect the composition and facet of the Hungarian polity to which the law would also have to react, sooner or later.

It is obvious that instituting dual citizenship could have meant a certain paradigm shift in Hungarian policy towards the nation. It could have increased its alternative, multi-polar nature, i.e. its plurality. A wide range of career-models and personal solution-types could have emerged for members of Hungarian communities abroad. What would this mean in practice? For example, those who want to make a living in their homeland could do so with the support of the status law or the creation of a "Homeland-programme". However, those who wanted to radically change their lives could immigrate to Hungary or, possibly another EU country by easily obtaining Hungarian citizenship. Those to whom all this is not important could go on living their lives as earlier, relying on themselves and their smaller community, and not applying for facilities for which someone else would pay. The combination of scenarios appears endless. Yet, all of this depends on the will and support of the current Hungarian citizens and decision-makers. It must also be mentioned however, that these alternatives could also be achieved without granting non-residential Hungarian citizenship.

After the referendum

As all phenomena, the December 5 referendum on dual citizenship bore both positive and negative consequences. True, mostly negative effects became visible in the campaign –strengthening national or welfare chauvinist demagogy, political entrenchment, excommunication of opponents from the community of moral or responsible people, conscious misleading of voters, disguising real fears, emphasising unimportant details etc. The whole affair, however,

had two very important positive effects. First, regardless of the outcome, there has not been a referendum attracting this much popular interest in Hungary for quite some time. It forced people to clarify their own point of view regarding the issue of Hungarians living abroad, or, in a larger frame, of national and social solidarity. Second, the question on which the referendum was called, and the campaign leading up to it, pressed political and administrative elites, as well as the specialists in the field to try and re-think the Hungarian policy towards the nation. This proved quite expedient, especially considering the qualitative changes brought about by Hungary's accession to the European Union in economic, social, political and psychological spheres.

As of present, it seems that the debate surrounding the referendum on dual citizenship did not end with the announcement of the results, somewhat propelled by the general bad mood following the vote and pressure from political groups abroad. In government circles, a seemingly coherent strategy of crisis management is taking shape. It is worthwhile to take a closer look into the premises of this strategy.

The premises of this strategy can be found in the January 6, 2005 letter of Prime Minister Ferenc Gyurcsány to the political leaders of Hungarians abroad. In this letter, Gyurcsány draws a sharp distinction between the responsibility the Hungarian State feels towards Hungarian citizens forming the political nation of Hungary, and responsibility towards the Hungarian nation as a whole. The two responsibilities bear different consequences, and, according to the document, the government wishes to maintain this distinction in the future. The Prime Minister's letter also states that citizenship presupposes an active relation between state and citizen. In this relationship, the letter argues:

"A key role is played by everyday life experienced inside the borders, permanent residence, payment of taxes, participation in public affairs, exercise of political rights, i.e. the careful balance of rights and duties. The exercise of rights and the fulfilment of duties towards the state cannot be separated; these concepts cannot be interpreted independently of each other. Hence out conviction that the necessary prerequisite of Hungarian citizenship is living and permanent residence in Hungary."[13]

This formulation clearly shows that Hungarian citizenship cannot be granted without settling in Hungary. Subsequently, any debate on extending political rights that may have risen following a "yes" vote on the referendum also lost its grounds. The author of the letter and his circle of advisors con-

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[13] Letter of Prime Minister Ferenc Gyurcsány to political leaders of Hungarians abroad, January 6, 2005. www.magyarorszag.hu

sider the Hungarian nation a cultural and historical entity. At the same time they also regard it as a community that can justly expect the help and support of the mother country, especially when in times of need.

The letter removes itself from the situation prior to the referendum campaign debates by clearly promoting living in the homeland. It says the following on the issue: "The most important goal of the Hungarian state is to help Hungarians abroad preserve their communal identity in their homeland, in co-operation with the political nation in which they are a minority, preserving at the same time an unhindered connection with the mother country to which they are bound by language, culture and tradition". The connection between the mother country and Hungarian communities abroad is therefore interpreted in a linguistic, cultural and traditional sense, without any insinuation "political" binds. Furthermore, according to the intentions of the letter, communities abroad must not be uprooted from the political communities in which they live and are still socialized.[14]

The whole letter therefore draws a sharp distinction between the community of the citizens of Hungary and the linguistic and cultural Hungarian nation. At the same time it also declares that contacts must be facilitated to the maximum: "It is our premise then that Hungarians continuing to live in their homeland must not feel internal, psychological boundaries between experiencing their identity and finding their ways in life, and that their free movement between the mother country and the homeland must not be impeded physical boundaries either". Should they wish, however, to break with their minority life and emigrate to the mother country and therein apply for Hungarian citizenship, the mother country must ensure a fast, easy, and equitable process. This does not contradict the aforementioned distinction between the political and the cultural-linguistic community; active presence and residence in the country defines the first, linguistic, cultural and traditional elements the second.

The prime minister's letter also lists in a generalized form the actions he means to take to help Hungarian communities abroad in the spirit of the above premises. These are summarized in five points which have received a great deal of media attention: the Homeland Programme, the long-term national visa facilitating ingress and regress, a fast and equitable granting of citizenship to those wishing to permanently immigrate, support for auton-

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[14] On the conceptions of state-nation and cultural-linguistic nation see in more detail Kántor Zoltán (ed.): *Nacionalizmuselméletek (szöveggyűjtemény)* [Theories of Nationalism. An anthology] Budapest: Rejtjel, 2004.

omy-aspirations when the local Hungarian community demands it, and the creation of a constitutional status for Hungarians abroad.

The letter is worth analysing from an additional point of view, that of the logic and rhetoric of national reintegration. This aspect has unfortunately been much too prominent in the referendum campaign, despite its problematic justification and uses. We have already discussed the theoretical problems of this logic; therefore it suffices here to point out the Prime Minister's reaction to the issue. The elements of the rhetoric of reintegration do not emerge at any point in the letter, since, as already mentioned, it adopts a stance of differentiating between cultural and political concepts of the nation. In the cultural sense, the Hungarian nation has never ceased to be united (at least to the extent that other nations in the region are), therefore there is nothing to "reintegrate." The promotion, furtherance, and facilitation of contacts do not belong to the category of reintegration. And, if someone should wish to integrate (or reintegrate) into the political community of Hungary, he or she must, according to the letter, re-settle in Hungary and participate in the political and economic life of the mother country. Participation in the cultural life does not require emigration, as has not been suggested elsewhere. On the contrary, the letter urges those in question to not let their Hungarian cultural ties and connections prevent them from integrating into the political community of their home country. This is a rational and realistic conception.

The January 6, 2005 letter can be regarded as a document establishing the principles of the Hungarian policy towards the nation. Despite its conciseness, it points out important basic principles, and outlines and explains possible paths and tools. This programmatic character may or may not have been intended, but in either case it is an interesting enterprise. Only practice will reveal whether it was only a rhetorical exercise meant to ease tensions, or a document defining the policy of the coming months and years. It will be therefore be interesting to follow the realisation of the measures summarized in the five points.

Conclusions

Extending Hungarian citizenship to Hungarians abroad cannot be regarded as *the* right instrument to express the Hungarian policy towards the nation, or as a completely misplaced one. As all other solutions, it must be treated according to its own merits. The real question is what aim it is meant to achieve, and how it expresses the realistic and equitable aims of the Hungarian policy towards the nation. The ideal, moral aim is primarily that of helping disadvantaged people overcome their adverse circumstances. Solidarity with the

afflicted is generally considered a positive human value, and is hence difficult to question. If, therefore, dual citizenship would solve the problems of the hardest struck Hungarian communities from Voivodina and Ukraine (and possible others), it proves difficult to find serious theoretical and moral arguments against it. It would prove meaningful to preferentially extend citizenship in this area then, as this would greatly contribute to the personal success and accomplishments of those living in severe conditions. It would, of course, be considerate to discuss the issue with the leaders of the countries involved, even if relevant international law does not require Hungary to do so.[15] At present it seems that the international political setting and the relative cordiality of bilateral relations could even facilitate this.

The next substantial argument, one that seemingly means no offence to anyone, would be the maintenance of a common Hungarian cultural and communicational sphere. In the context of European integration and globalisation, this aspect gains more importance than that granted at first glance. We must not forget that globally, the significance and social prestige of the widespread languages (especially English) is increasing, and simultaneously the appeal and prestige of national languages which largely contributed to the social modernisation of the past two centuries is declining. Although Europe probably will not return to the linguistic atmosphere of pre-18th century, we must be aware of the dangers haunting small and medium languages. In this "linguistic community competition" it is not at all irrelevant whether a language connects and binds a one, ten or fourteen-million-member community. This in turn may have significant economic consequences (for example, in literature, publishing, learning languages etc.). The maintenance and cultivation of a larger cultural-communicational sphere fits well into the cultural conception of the nation, and does not blur the extant dichotomy with political conceptions. The conscious blurring of this difference is a very sensitive issue and can cause many problems. From the point of view of maintaining a cultural-linguistic-communicational sphere however, the dual citizenship is not truly relevant as we can speak of a single Hungarian (cultural) nation as it is. A much more important role could be assigned to a well developed cultural, educational and communications strategy, the proper frame and logic of which is that of the status law.

Translated by Vincze Hanna Orsolya

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15   See, for example, the opinion prepared for President Ferend Mádl by prominent constitutional and international legal experts. The arguments found here emerged in the position of the president regarding the facilitated granting of Hungarian citizenship. www.keh.hu – közlemények (communiqués).

BALÁZS VIZI

The Unintended Legal Backlash of Enlargement? The Inclusion of the Rights of Minorities in the EU Constitution

The fate of the Constitutional Treaty of the European Union[1] appears to be gloomier than ever after the rejection of its ratification at the referendums held in France on 29 May 2005, and in the Netherlands on 1 June 2005. Nevertheless, despite growing uncertainty over its future, the Treaty and its elaboration may already call attention to a few matters that have no precedence in the treaty law of the Union. One of these novelties is the inclusion of a reference to the rights of minorities, which despite its simple and vague formulation can be seen as a step towards integrating the Union's external policy efforts with internal obligations. As a matter of fact, while the question of minority protection has become a strong discursive element in the European Union's external relations, especially in its enlargement policy, the lack of any internal reference or normative background has become an obtrusive gap between the EU's external policies and internal commitments.

The European Union through the Constitution Treaty indeed, for the first time in EU history, recognises minority rights among the values of the Union, as Art. I-2 states:

> The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, **including the rights of persons belonging to minorities**. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. (emphasis added)

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[1]   Treaty establishing a Constitution for Europe. *Official Journal*, C 310, 16 December, 2004.

In the following, I will attempt to give an overview on the political and legal background of the inclusion of this reference to minority rights in the Constitutional Treaty, arguing that the recent eastern enlargement of the EU served as the catalyst for its adoption.

The Constitution Treaty was designed to form a milestone in the process of European integration. At the Laeken Summit in 2001[2] the European Council decided to elaborate the Constitution Treaty in order to answer the challenges of an enlarged EU and substantial institutional reforms. Legislative work on the new Treaty formally began at the European Convention, convened first in February 2002. The Convention was designed to provide an open forum for the representatives of member states, candidate states, and EU institutions to discuss the future of the Union and adopt the first draft of the European Constitution Treaty.[3]

The inclusion of a reference to the rights of minorities in the Treaty caused slight debates in the plenum of the European Convention.[4] That a variety of international forums already exist for the purpose of protecting minority rights internationally, and that the existing and developing mechanisms of organisations such as the Council of Europe (CoE) and the Organization for Security and Co-operation in Europe (OSCE) provide a suitable framework for the arrangement of minority problems, proved the most powerful arguments against involving the EU in international protection of minority rights. Though the legal fragility of these international instruments is well known, why should one expect more from the EU? Furthermore, why should the process of European integration take over the burden of such problematic legal questions as the international protection of minority rights? From a political perspective, the OSCE High Commissioner on National Minorities is widely renown for its mediating role between minorities and their governments in situations bearing the threat of ethnic conflict. Among the legal documents, besides the international human rights treaties, the CoE Framework Convention for the Protection of National Minorities (FCNM, 1995) and the CoE European Charter for Regional or Minority Languages (1992) are also widely accepted in Europe and among

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2   Laeken European Council Presidency Conclusions. 14–15 December, 2001. SN 300/1/01 REV 1.

3   The Convention was composed of 2 members delegated by the European Commission, 16 delegated by the European Parliament, 1 delegated by each government and 2 delegated by each national parliament. The candidate states were represented in the Convention on an equal footing with the member states, though the representatives of the candidate states did not have a right to veto.

4   For the discussions, proposed amendments and contributions of the European Convention see <http://european-convention.eu.int>

EU member states. The effectiveness of these international instruments can be questioned, but the duplication of these instruments within the Union seemed superfluous to most members of the Convention.

Thus, the first draft of the Constitution Treaty presented by the Presidency of the Convention to the Inter-governmental Conference (IGC) on 20 June 2003 did not contain any reference to the rights of minorities. The incorporation of the Charter of Fundamental Rights in the body of the Constitution Treaty prohibits discrimination based, among others, on "membership of a national minority". The final draft elaborated by the Presidency and accepted by the majority of the Convention did not make additional steps regarding reinforcing the *rights* of minorities. Nevertheless, during the Convention debates, three important questions potentially relevant to minorities emerged. One proposal, presented by the Hungarian MP József Szájer, suggested the creation of a consultative body, the Committee of National and Ethnic Minorities based on the example of the Committee of Regions.[5] Another contribution called the Convention to reformulate the role of constitutional regions by extending the implementation of multi-level governance in the Union. And several different proposals were made to include a reference to minority rights protection either among the basic principles of the Union or in other provisions of the Treaty related to human rights protection.[6] As the final draft presented by the Presidency of the Convention to the IGC dismissed the provision on minority rights, Hungarian Prime Minister Péter Medgyessy proposed at the first IGC discussion on the draft Constitutional Treaty in Thessaloniki on 20 June 2003, a modification of the Treaty. The proposed modification did not aim at including a separate article on minority rights in the Treaty – which was already seen as an unrealistic attempt – it only argued for the completion of Art. I-2 (enlisting the Union's values) with a reference to the "rights of national minorities". The main argument for applying such a vague term, potentially implying recognition of the rights of minority communities, was that among the Copenhagen accession criteria no reference was made to the individuals belonging to minorities. According to press information, the Hungarian proposal was backed, surprisingly, by the French President Jacques Chirac and by the hosting Greek Prime Minister.[7] Later, during the following summits of the IGC, other states (especially the Belgian and Latvian gov-

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5   CONV 580/03.
6   See for a brief overview of the proposed amendments on minority rights: Bevezető az Európai Konvent kisebbségvédelmi javaslataihoz. In Kovács Nóra – Osvát Anna – Szarka László (eds.): *Tér és terep III. – tanulmányok az etnicitás és az identitás kérdésköréből*. Budapest: Akadémiai Kiadó, 2004. 315–324.
7   See „EU: Chirac támogatja a magyar felvetést". *Népszabadság Online*, 20 June, 2003.

ernments) expressed criticism of the proposal, arguing that the general protection of human rights and the prohibition of discrimination based on the membership of a national minority should be satisfactory provisions under EU law. Finally, largely as a result of the Hungarian government's insistence on the matter, under the Irish presidency of the EU at the finalising of the text of the Constitutional Treaty, a viable compromise was achieved which added a reference to the "rights of persons belonging to minorities" added to Art. I-2, thus using the widespread individualistic terminology of international documents.

The new provision under Art. I-2 of the Constitutional Treaty obviously does not mean the emergence of a "minority protection regime" in the Union. Nevertheless, it seems reasonable to question why the efforts of those propagating the adoption of this clause succeeded despite the opposition, and even indifference, expressed during the Convention and the IGC. The answer may lie in the Union's previous enlargement policy and in its own legal traditions. Indeed, one of the most important, returning arguments was that the EU should be wedded to its position on the accession criteria of the Union, requiring, among others, the protection of minorities from applicant states, so this prerequisite should be transposed also to the Union's internal commitments.

The EU eloquently propagated the domestic implementation of measures on minority rights protection in CEE applicant states. The EU obviously could not promote its own normative regime on minority protection, but rather acted as an agent in transferring international norms to domestic legislation and policies in CEE candidate states. In constructivist theories, most studies on norm diffusion focus on the practices and procedures concerning how external norms are internalised in single states.[8] But in this case, the question was not only how, but *which* norms are taken into consideration. In the framework of EU enlargement policy, contesting the meaning of norms was particularly important- it highlighted the relevance of norm resonance and domestic norm construction in processes of norm diffusion in the field of minority protection conditionality.[9] Moreover, in a European Union context, norm development is not limited to national structures but also takes place on the European level, hence

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[8] Cf. e.g. Checkel, Jeffrey T.: The Constructivist Turn in International Relations Theory. *World Politics,* Vol. 50, January, 1998. 4–10.

[9] Wiener, Antje and Schwellnus, Guido: Contested norms in the process of EU enlargement: non-discrimination and minority rights. *Constitutional WEB Papers*, Nr. 2, 2004.

creating "multiple path-dependencies",[10] which imply that the actors involved in EU enlargement (national governments, EU institutions) also need to mediate over the meaning of that norm. The enlargement process provided only a few observable implications on domestic norm development for minority rights protection in the candidate states[11] but it sharply revealed the lack of legal commitment regarding the protection of minorities in the Union. In this sense, the silence of EU law over the acknowledgement of minority rights opened a normative gap between the expectations formulated by the Union towards candidate states (in many cases transferred into policy programs and normative requirements) and the missing legal recognition of minority rights protection within the EU. This normative tension provided a powerful argument for the inclusion of a reference to minority rights in the Constitution Treaty.

Studies on the enlargement of the Union from an institutionalist perspective underline the affects of enlargement on both the candidate states and the EU. The 'impact' of enlargement is indeed conceived in this perspective as the totality of the legal and political implications of the accession of new states, affecting both the candidate states and the European Union.[12] Acknowledgement of the protection of minority rights among the values of the Union may be considered a normative transposition of the same enlargement priority.

The question of minorities in EU external relations

Minority rights have been a prominent, and in many aspects, contradictory issue in the eastern enlargement of the European Union.

Following the collapse of communist regimes, as a result of political changes and emerging ethnic cleavages in Central and Eastern Europe (CEE), legal protection of national minorities received increasing attention at an international level. Thus, within the broadening process of European integration in the 1990s, questions related to minorities became more strongly

10 Wiener and Schwellnus, 5.
11 Vermeersch, Peter: EU Enlargement and Minority Rights Policies in Central Europe: Explaining Policy Shifts in the Czech Republic, Hungary and Poland. *Journal on Ethnopolitics and Minority Issues in Europe,* Nr. 1, 2003; Sasse, Gwendolyn: Minority Rights and EU Enlargement: Normative Overstretch or Effective Conditionality? In Toggenburg, Gabriel (ed.): *Minority Protection and the Enlarged European Union: The Way Forward.* Budapest: OSI LGI. 2004. 59–85.
12 cf. Schimmelfennig, Frank and Sedelmeier, Ulrich: Theorising EU enlargement: research focus, hypotheses, and the state of research. *Journal of European Public Policy,* Vol. 9, Nr. 4, 2002. 502–504.

articulated. The institutional expansion of the Western international organi-
sational regime, the extension of the Council of Europe, the North Atlantic
Treaty Organisation, and the EU in particular, to CEE, offered a new perspec-
tive for international co-operation in the field of minority rights protection.
Besides a number of OSCE provisions on minority rights, adoption of the
FCNM and the CoE European Charter for Regional or Minority Languages
signalled these changes.

As a result, member states of the European Union have not seen a need to
formulate legal regulations on minority rights under EU law. But the EU could
not refrain from taking a position on the matter. Apparently, the EU's position
on minority issues reflected a dual strategy: under the realm of its foreign policy
endeavours, the EU was primarily concerned with the impact of minority issues
on the international security and stability of the CEE region, while in effect it for-
mulated minority rights requirements in the context of general protection of hu-
man rights. This position also entailed that EU actions relevant for minorities liv-
ing in CEE reflected a strategic approach on reinforcing political stability in the
region and on minimising conflict potential related to problems concerning the
treatment of minorities. Under its foreign policy strategy, the EU made scarce
references to normative requirements towards CEE states on minority rights
protection. It primarily focused upon political actions and conflict prevention
measures. As it will be argued below, the Union's position did however change
ever so slightly in the enlargement process, especially in the period of accession
negotiations from 1998 to 2000.[13] The monitoring procedure of the European
Commission required a regular analysis of the state of legislation in candidate
countries, which included the situation of minorities. The main nodal-points of
EU priorities formulated in the annual Regular Reports and in the Accession
Partnerships reflect a more individualistic conception, articulating minority
rights in the framework of individual human rights, thus focusing on the social
integration of minorities (especially the Roma) and on the reinforcement of
anti-discrimination legislation and policies in candidate states.

In the early 1990s, the EU's foreign policy, as included in the Maastricht
Treaty (1992), developed together with the Union's policy on enlargement.
Under the Union's foreign policy strategy, and in light of the crisis in Yugosla-

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[13]   The Luxemburg European Council on 13 December 1997 decided to start accession nego-
tiations with the Czech Republic, Estonia, Hungary, Poland, Slovenia and Cyprus, acces-
sion negotiations started with the "5+1" in March 1998. The Helsinki Summit of the
European Council on 11 December 1999 approves the application of six new states, and
in January 2000 accession negotiations started with Bulgaria, Latvia, Lithuania, Romania,
Slovakia and Malta.

via, fostering the improvement of minority protection in CEE became one of the more substantial elements in the EU's external policy on 'conflict prevention'.[14] In this fairly broad interpretation of 'conflict prevention', not only are mediation or economic and diplomatic pressure on disputants discussed, but also attempts to reduce the internal and external sources of insecurity. The multiple strategy applied by the EU comprised financial aid programs specifically aimed at encouraging democratisation; the promotion of regional co-operation, and accession conditions to foster democratisation and respect for human and minority rights.

In their joint declaration with the US in 1991, EU member states proclaimed that one of the greatest challenges to democracy and prosperity in Eastern Europe was "*dealing with ethnic diversity and the rights of persons belonging to national minorities*".[15] PHARE, the Association (or Europe) Agreements, and the structured relationships which developed all supported the political and economic reforms in CEE, and thus were conceived as helping engender security. Commission President Jacques Delors stated that above all, the EU's priority would be "*to promote stability on the eastern and southern borders by paying more attention to preventive diplomacy*".[16] Accordingly, one of the specific aims for the Common Foreign and Security Policy suggested by EU foreign ministers in June 1992 was "*contributing to the prevention and settlement of conflicts*".[17] The importance attributed by the EU to minority protection in conflict settlement was reflected among others in the joint statement of the then twelve member states on the recognition of new states in CEE. The EU's external political interest in considering issues related to minorities first appeared in 1991 after the collapse of former Yugoslavia. In 1991, the member states established the so-called Badinter Commission responsible for delivering expert opinions on legal questions arising from the dissolution of SFRY.[18] As a follow up to the work of this Commission, on 16 December 1991, the Community foreign ministers issued, within the framework of European Political Co-operation,

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[14] Smith, Karen E.: *The Making of EU Foreign Policy: the Case of Eastern Europe.* London: Macmillan. 1999. 136–137.

[15] EC-US Statement on Peaceful and Democratic Transformation in the East. *EPC Press Release,* P.111/91. 9 November, 1991.

[16] Delors, Jacques: European Union and European Security. *European Security after the Cold War Part I.,* Adelphi Paper Nr. 284. London: Brassey's, 1994. 9.

[17] Annex I., Lisbon European Council Presidency Conclusions. *EC Bulletin,* Nr. 6, 1992, pt. I. 31.

[18] Pellet, A.: The Opinions of the Badinter Arbitration Committee – A Second Breath for the Self-Determination of Peoples. *European Journal of International Law,* Vol. 3. 1992.

a '*Declaration on the Guidelines on Recognition of New States in Eastern Europe and the Soviet Union*' and the '*Declaration on Yugoslavia*'. This recognition was made conditional upon amongst other things: "*guarantees for the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE*".[19] The European Communities thereby introduced minority protection as a new element within the spectre of conditions for the recognition of statehood. The reference to CSCE documents in this regard formed a common basis for European states on minority issues, inasmuch in the 1980s the CSCE, with its trans-European membership and coverage of human rights matters, provided an appropriate framework for including minority issues after 1989 (i.e. CSCE Copenhagen Document in 1990 and in the Charter of Paris for a 'New Europe' in the same year). Thus, the member states of the EU have tried to find the consensual minimum on minority rights protection by referring to CSCE documents. Although this guideline was not always followed consistently on state recognition, it was the first time when member states expressed their common concern on the protection of minorities.[20]

Later, in a different context, the European Council exposed its position on the close inter-relation between progress in social and political transition, democratic stability and minority rights in a very similar sense when it stated:

> "The protection of minorities is ensured in the first place by the effective establishment of democracy. The European Council recalls the fundamental nature of the principle of non-discrimination. It stresses the need to protect human rights whether or not the persons concerned belong to minorities. The European Council reiterates the importance of cultural identity as well as rights enjoyed by members of minorities which such persons should be able to exercise in common with other members of their group. Respect of this principle will favour political, social and economic development."[21]

As an even more important political step forward, the declaration of accession criteria at the European Council in Copenhagen in 1993[22], included the re-

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[19] *EC Bulletin,* Nr. 12, 1991.119.

[20] Though within the European Parliament there were also earlier initiatives in this field, they have scarcely been reflected in the Commission's or the Council's policies and actions. Toggenburg, 2000. 221–222.

[21] Presidency Conclusions of the European Council, Luxembourg, 28–29 June, 1991; Annex V. para. 7. SN 151/2/91.

[22] Presidency Conclusions, Copenhagen European Council, 21–22 June 1993, Part A, para. 7 (iii). SN 180/93, p. 12.

quirement of "respect for and protection of minorities", and opened the fore-seeable perspective of membership to associate countries in CEE. In fact, by this time, integration of CEE states, i.e. granting them EU membership- was seen as the best strategy to spread security and stability in CEE in the long-term. In the short-term, the main stress was still on conflict-prevention and conflict-resolution in the EU's policies towards CEE.

In this regard, the significance of minority issues from a security perspec-tive was reflected in the importance attributed to them under the Pact on Sta-bility in Europe, the EU's foremost conflict-prevention and conflict-resolu-tion initiative in the pre-accession period. The Stability Pact project, launched by France in 1993 and formulated under the patronage of the EU, was presented as an exercise in preventive diplomacy, based on the principles of good-neighbourly relations and minority protection. The idea was to channel all debates on border and minority issues into bilateral agreements, motivating candidates by their prospective EU membership. Despite the fact that in 1995, the Stability Pact was signed without any breakthrough suc-cesses, under the umbrella of the OSCE, the involvement of the EU in the project remained of primary importance.

Despite the Copenhagen political criteria of accession formulated in 1993, conditions of consideration and EU policy on improving the situation of minorities and inter-ethnic relations in CEE till 1997–1998 were by and large determined by the Union's foreign policy strategy.[23] The political condi-tionality of accession was not officially specified or translated to any exact le-gal or institutional requirement. Moreover, while part of the preparation for accession of the associated countries in the fields covered by the Association Agreements before 1997 already consisted of a "structured dialogue"[24], the systematic assessment of political conditionality began only after 1997 when accession negotiations took on an institutional structure.

In this respect, the introduction of accession negotiations signalled an important turning point. The European Union utilised a unique approach: lacking its own internal mechanisms and measures to survey or control mi-nority rights protection, it continuously monitored the situation of minori-ties in candidate states as an integrated segment of its conditionality policy un-der the institutional mechanism of supervising candidate states' progress to-wards membership. Through the accession process, the European

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[23]   Smith, 139–140 and 155–160.
[24]   Jacobsen, Hanns-D.: The European Union's Enlargement. *European Integration online Papers (EIoP)*, Vol. 1. Nr. 14, 1997. 8–9. <http://www.eiop.or.at>

Commission's monitoring procedure put the Copenhagen political criteria of membership in a normative framework: the Commission regularly had to evaluate existing policies and legislation in candidate states and formulate its position in a more structured framework.

The manner in which the EU applied its pre-accession monitoring procedure on minority rights combined normative and political elements. And in the light of the EU's great potential in inducing policy and legislative changes in candidate countries, it calls for particular attention. Taking minority rights protection into account on the enlargement agenda in an institutionalised form within the EU was therefore a very new development both in its implementation of the membership process and in its consequences for candidate states and for the EU integration process.

In general, by introducing political conditionality, the aim is to improve the conditions of human rights protection (in this case also minority rights protection) and democratic governance in the external state.[25] But this pursuit does not necessarily entail scrutinising the concrete measures adopted.

While at the Copenhagen European Summit of 1993 member states left the precise terms of the economic and political conditionality unclear, the accession partnerships presented to ten CEE applicants in 1998 did much to remove this ambiguity in general, but could not dissolve the obscurity of the minority protection requirement. In general terms, conditionality is now strictly defined in terms of pre-conditions; that is, policy actions to be undertaken by applicants before they are granted membership. In addition, many of the conditions laid out – particularly the adoption of the *acquis*, reform in justice and home affairs – did not offer the possibility of negotiating opt-outs secured previously by many other states (e.g. the United Kingdom with respect to Schengen).

Applying a strict conditionality policy indeed served complementary goals for the EU. First, the opposition to the EU's quick eastward enlargement was "*overcome by setting what were seen as basic conditions to ensure that the countries joining could be integrated relatively easily*"; one of the main goals of conditionality was "*to minimise the risk of new entrants becoming politically unstable or economically burdensome to the existing EU*".[26] Second, at the time of the collapse of

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[25] Sřrensen, Georg: *Political Conditionality*. London: Frank Cass, 1993.

[26] Grabbe, Heather (1999) A *Partnership for Accession? The Implications of EU Conditionality for the Central and Eastern European Applicants*. Florence: European University Institute RSC WP, Nr. 12, 1999. 3; see also Michalski, A. and Wallace, H.: *The European Community: the challenge of enlargement*. London: Royal Institute of International Affairs, 1992.

communist regimes in CEE, the EU was already deeply engaged in promoting human rights and liberal values in its external relations to third countries.[27]

From the late 1980s the use of political conditionality in extending commercial relations or political co-operation with non-member states, was set up as an adequate means to promote the protection of human rights and liberal democratic values.[28]

The period from the presentation of the Commission Opinions in 1997 to the conclusion of accession negotiations in December 2003 was formally structured by the Commission's Regular Reports, the Accession Partnership and through bilateral accession negotiations. In this second period, the actors involved in assessing conditionality both in the Commission and in candidate states began a more specific interpretation of norms and principles related to minority rights protection. Nonetheless, even in this period, the EU did not provide a general and consistent model on which minority protection standards meet accession requirements. In this sense it was also argued that accession conditions remained a "moving target",[29] the interpretations provided by EU officials changed in time and from country to country.[30] Even more, because the *acquis* is also open to minimalist and maximalist interpretations,[31] the interpretations given to specific norms in relation to minority rights standards varied and affected the demands made on CEE candidate states.

In the 1997 Opinions, the European Commission first evaluated the readiness of applicant states for membership. Later, the need to provide a regular overview of candidate states' progress towards complying with, among others, the minority protection criterion, necessitated the formulation of

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[27] Cannizzaro, Enzo (ed.): *The European Union as an Actor in International Relations*. The Hague: Kluwer Law International, 2002. 297–302; Clapham, Andrew: Where is the EU's Human Rights Common Foreign Policy, and How is it Manifested in Multilateral Fora? In Alston, Philip et al. (ed.): *The EU and Human Rights*. Oxford University Press, 1999. 627–683.

[28] As the formula adopted by the Conclusion of the Luxembourg European Council of 28 and 29 June 1991, pronounced "*respect, promotion and safeguard of human rights is an essential part of international relations and one of the cornerstones of European co-operation as well as of relations between the Community and its Member States and other countries*". European Council in Luxembourg 28–29 June 1991, Conclusions of the Presidency, Annex 5, para.1. *Bulletin* 02/07/1991; SN 151/2/91 p. 25.

[29] Grabbe, 6.

[30] Hughes, James and Sasse, Gwendolyn: Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs. *Journal on Ethnopolitics and Minority Issues in Europe*, Nr. 1, 2003. 1–38.

[31] Wiener, Antje: The Embedded Acquis Communautaire: Transmission Belt and Prism of New Governance. *European Law Journal*, Vol. 4, No. 3, 1998. 294–315.

some basic standards which reflected the Commission's interpretation on minority rights. During the enlargement process, the European Commission implicitly attached a few common understandings to the Copenhagen criterion on minority protection. It consistently urged candidate states to sign and ratify the FCNM, although the Commission's attention did not extend to the implementation of the FCNM. In general the Commission refrained from evaluating the effective legal regulation on minority rights: the existence of legal provisions on minority rights was already seen by the Commission as a positive development, their efficient implementation, or the coherence between the needs of minorities affected and the law were scarcely analysed in the Regular Reports. Another recurrent issue in the Commission's monitoring activity, as revealed in the Regular Reports, was the integration of minorities in mainstream, majority society. A strong emphasis on the integration of Russians in the Baltic States and the Roma in almost every candidate states signals such efforts/preferences.[32]

The definition of the Copenhagen political criteria, the European Commission's monitoring activity and especially the lack of any reference to minorities and their rights in the *acquis* eloquently raised the question of applying a double standard towards candidate countries. The Union required policy measures never before formulated as internal commitments for the member states.

The problem of the Union applying a double standard has been widely discussed in literature.[33]

As mentioned above, the pressure to formally remove this double standard appeared in the discussions of the European Convention. In fact, the concept of minority protection during the enlargement process became a legitimate and powerful discursive element in EU rhetoric. But could not easily become a normative provision. The formulation of Art. I-2 did not overcome any substantial problems regarding the interpretation of the term "minorities" or their rights. Expressions, like "minorities", "minority issues", "minority rights" have appeared in the political discourse during the enlarge-

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[32] see Vermeersch, Peter: Ethnic mobilisation and the political conditionality of European Union accession: the case of the Roma in Slovakia. *Journal of Ethnic and Migration Studies,* Vol. 28, No. 1, 2002. 83–101; Vermeersch, 2003; Hughes and Sasse, 2003.

[33] De Witte, Bruno: *Politics versus Law in the EU's Approach to Ethnic Minorities.* Florence: European University Institute, RSC Series, Nr. 4, 2000; Toggenburg, Gabriel: A Rough Orientation through a Delicate Relationship: the European Union's Endeavours for its Minorities. In Trifunovska, Sezana (ed.): *Minority Rights in Europe: European Minorities and Languages*. The Hague: Asser Press, 2001. 205–233; Hughes and Sasse, 2003.

ment process usually without any further definition or explanation. The formulation of Art. I-2 in the Constitution Treaty, however could be expected either directly or indirectly to give some orientation also in this aspect. At least the adopted expression was most likely influenced by the existing political and legal traditions of the Union. The political rhetoric of EU representatives during the enlargement process concerning problematic issues of individual vs. collective rights, cultural diversity and minority protection remained open to vagueness and often referred to minorities in general. At the extension of the Union's values to minority rights in the Constitution Treaty, Art. I-2 shifts from the term of "national minorities" or "minorities" in general to the "rights of persons belonging to minorities", reflecting the more widely accepted individualistic approach to human rights. Still it remains open to political interpretations: e.g. the Hungarian Parliament in its resolution on the ratification of the Constitution Treaty attached a separate interpretation to Art. I-2, stating that it covers both the individual and the community rights of minorities.[34]

Nevertheless, as it will be seen below, the Union's law may at least delineate the broader interpretative framework.

Human and minority rights under the acquis

From a legal perspective, over the past couple of years a number of articles were published questioning whether European law already extends, or should extend, to the protection of minority rights.[35] Under the legislation in force, Article 6(1) TEU enlists the fundamental values of the Union. It does not specifically mention minority rights, and remains nebulous on whether they are included in the expression "*human rights and fundamental freedoms*". It should be recalled that usually under international law the concept of minority rights protection is more a complementary dimension of human rights protection rather than a self-evident inclusive element. Likewise, the Copenhagen political criteria also made a distinction between human rights and the respect for and protection of minorities.

Article 6(2) TEU is equally silent on this point. The references it makes to the European Convention on Human Rights (ECHR) and to the "*constitutional traditions common to the Member States*" does not help clarify whether the concept of minority rights is encapsulated within the notion of 'fundamental

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[34] Resolution on 20 December 2004.
[35] e.g. Schwellnus, Guido: „Much ado about nothing?" Minority Protection and the EU Charter of Fundamental Rights. *Constitutional Web-Papers*, No. 5, 2001.

rights' (Article 6(2)) which must be respected as general principles of Community law.

But the explicit reference Art. 6(2) makes to the respect for ECHR remains important as Art. 14 ECHR provides that the enjoyment of human rights "*shall be secured without discrimination*" – among others – on the grounds of "*[…] association with a national minority*". Since the EU must respect the fundamental rights guaranteed by the ECHR as general principles of Community law, one could suggest that the EU is also bound to ensure the principle of non-discrimination based on association with a national minority.[36] However, it should be noted that Art. 14 ECHR refers exclusively to "*the enjoyment of the rights and freedoms set forth in this Convention*". On the other hand, the general principles of the *acquis* do not incorporate the provisions of the ECHR, as such, in EU law. Hence, the general principle of non-discrimination set out in Article 14 ECHR binds the Union as a general principle of Community law in the context of the founding treaties, and not solely in relation to the rights and freedoms set forth by the Convention.

As Article 6(2) TEU also refers to "*the constitutional traditions common to the Member States*", it might be wondered whether the conjunctive 'and' found between the reference to the ECHR and 'as they result' suggests that the constitutional traditions common to the Member States is not an alternative source of human rights protection but rather a cumulative requirement for protection. If that interpretation should prove correct, the argument that derives from it would not sit easily with the fact that some of the latter are not particularly receptive to the concept of minorities, as notably illustrated by the list of parties to the FCNM.[37] On the other hand, Article 6(2) includes the well-established case law of the European Court of Justice as regards the observance of the general principles of Community law.[38] Moreover, in regards to the acknowledgement of the

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[36]   Hillion, Christophe: Enlargement of the European Union – the Discrepancy between Membership Obligations and Accession Conditions as regards the Protection of Minorities. (2003, original manuscript, published in Hungarian 'Az Európai Unió bővítése – a tagsági kötelezettségek és a csatlakozási követelmények ütközése a kisebbségvédelem terén'. *Pro Minoritate*, Nr. 4, 2003. 5.

[37]   Reminder: among the 15 member states of the Union France has not signed the FCNM and other four countries have not ratified it as of 1 August 2005.

[38]   The Court has always considered that in ensuring that the observance of fundamental rights which belongs to the general principles of Community law, it draws inspiration from the constitutional traditions common to the member states, and also from the guidelines supplied by international treaties for the protection of human rights on which the Member States have collaborated or to which they are signatories. In other words, the recognition of minority rights as a fundamental right under the *acquis*, in the sense of Article

prohibition of discrimination on the grounds of belonging to minorities, it shall be instructive that all member states are signatories of the ECHR and thus bound by its provisions, whether or not their constitutional tradition otherwise includes the protection of minorities.

Consequently, it could be suggested that the general principle of non-discrimination enshrined in Article 14 ECHR is part of the fundamental rights that the EU is bound to respect, as a general principle of Community law on the basis of Article 6(2) TEU.

Turning to the question of a potential EU competence to ensure "the respect for and protection of minorities", one needs to consider the provisions of Article 13 TEC introduced by the Amsterdam Treaty. This amendment also strengthened the clause on non-discrimination with Art. 13 of the Treaty establishing the European Community, and hence, empowering the Council to take action to combat discrimination. According to the wording of Art. 13, "*the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation*".

Surprisingly, this anti-discrimination provision, unlike ECHR Art. 14, does not mention discrimination based on association with a national minority.[39]

Following this provision, the most important development was the 29 June 2000 adoption of the Directive 2000/43/EC[40] regarding the fight against discrimination, on the principle of equal treatment between persons irrespective of racial or ethnic origin. This so-called Race Directive sets out a binding framework for the prohibition of racial discrimination as it prohibits direct and indirect discrimination as well as racial "harassment".[41] The Directive applies to "all persons", and thus to nationals of third countries, and applies both to natural and legal persons[42] declaring, with reference to UN treaties,

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6(2) TEU does not require that it is also a constitutional tradition common to the member states.

[39] It should be noted that Art. 13, despite the specific attention paid by the European Parliament to the situation of languages in the EU, does not include "language" among the grounds on which discrimination is prohibited.

[40] Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. Official Journal L 180, 19 July 2000. 22–26.

[41] According to Art. 2(3) of the Directive, harassment will be deemed to be discrimination "when an unwanted conduct related to racial or ethnic origin takes place with purpose of or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment".

[42] Art. 3.

the UDHR and the ECHR that "*[t]he right to equality before the law and protection against discrimination for all persons constitutes a universal right*".[43]

Regarding the situation of minorities, however, neither Art. 13 TEC, nor the Race Directive offered a clear step towards protection under EU law.

Even if the measures adopted acknowledge – implicitly – the prohibition of discrimination on the grounds of belonging to national or ethnic minorities, it does not provide a legal framework for their protection under the *acquis*.[44] In principle it could be suggested that Article 13 TEC, although silent on the question of minorities, could nonetheless be relied on by the Council for adopting measures which would cover *inter alia* discrimination based on belonging to a national minority. A look at the provisions of the EU Charter of Fundamental Rights, however, could shed light on future developments in this regard.[45] Article 21 (1) of the Charter provides that "*[a]ny discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion,* membership of a national minority*, property, birth, disability, age or sexual orientation shall be prohibited*" (emphasis added). The Convention that drafted the Charter explained Article 21 as follows: '*Paragraph 1 draws on Article 13 of the EC Treaty, Article 14 of the ECHR and Article 11 of the Convention on Human Rights and Biomedicine as regards genetic heritage…*'. It could thus be argued that the expression 'membership of a national minority' finds its source in Article 14 ECHR rather than in EC law. This would tend to confirm that Article 13 could not be used as a basis for adoption to specifically combat discrimination based on *membership of a national minority* mentioned elsewhere in Article 21 of the Charter, and which finds its source in the ECHR. Indeed, the Charter makes it clear in its so-called horizontal clauses that it "does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties".[46] Consequently, it seems unlikely that the Council could adopt a measure dealing *specifically*

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43 Preamble, pt. 3.
44 Toggenburg, 2001.
45 *Official Journal*, C 364/1 (2000). But is should be noted that, the Charter is not presently enforceable. Solemnly proclaimed in Nice by the Council, the Commission and the European Parliament, it will become binding for the member states only if the Treaty on European Constitution (which incorporated the Charter) enters into force. Nevertheless, the principles established by the Charter have already been taken into account in the EU decision making processes. See De Búrca, Gráinne: Human Rights: The Charter and Beyond. *Jean Monnet WP*, Nr. 10, 2001. <*http://www.jeanmonnetprogram.org/ papers/01/ 013601.rtf*>
46 Article 51(2) of the Charter.

with that type of discrimination, as the Race Directive mentioned above did in relation to discrimination based on racial or ethnic origin.

Moreover, based on the ruling of the ECJ in the case of Bickel/Franz,[47] Pentassuglia argued[48] that this restrained approach is minimising minority rights considerations on the basis of general Community interests.[49] Though, on the other hand, the ECJ stated in its decision that "the protection of such a minority may constitute a legitimate aim" for member states, still the Court did not declare that the rights of minorities would be regarded as a fundamental principle in EU law.

Thus, it can be seen that the expressed inclusion of minority rights under Art. I-2 not only provides clarification of the previous reference to human rights protection in general, but also effectively adds a new element in the Union's evolving interpretation of human rights.

There may, however, be an additional, broader field potentially relevant for the interpretation of minority rights under the *acquis*. Over the course of the previous decade the idea of respecting cultural diversity within the Union expanded on several occasions to the recognition of the linguistic and cultural diversity represented by minorities in the EU.

The respect for cultural diversity

The Treaty of Maastricht withal reinforcing the process of political integration provided a strong emphasis to the cultural dimension of the European integration. The introduction of Article 128 (today Art. 151 TEC) of the Treaty,[50] indirectly recognises that not a single Member State is culturally

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[47] Case C-274/96, *Criminal Proceedings against Bickel/Franz* 24 November 1998 [1998] ECR 7637.

[48] Pentassuglia, Gaetano: The EU and the protection of minorities: the case of Eastern Europe. *European Journal of International Law*, Vol. 12, Nr. 1, 2001. 32–33.

[49] In principle, in this case the ECJ upheld the rights of Mr. Bickel and Mr. Franz of, respectively, Austrian and German nationality, being prosecuted in the province of Bolzano (Italy), to have the criminal proceedings conducted in the German language on the same basis as the members of the German-speaking minority living in the region of Trentino-Alto Adige. The Court applied Art. 6 TEU in combination with the freedom of movement and residence of EU citizens, and argued that the Italian government cannot deny their right to equal treatment under domestic legislation on the basis that the relevant domestic provisions were designed purposely to protect the ethnic minority residing in the province.

[50] It has been argued that an incentive for the inclusion of competence in the field of culture in the Treaty (being the first change of the 'constitutional' treaties after the end of the Cold War) was the fear of a 'Balkanization' of Western Europe. Biscoe, Adam: The European Union and Minority Nations. In P. Cumper and S. Wheatley (eds.): *Minority Rights in the 'New' Europe*. The Hague: Martinus Nijhoff, 1999. 93.

homogenous: under the provisions of Article 128 (Art. 151), the Union is asked to contribute to the flowering of the "*cultures of the member States, while respecting their national and regional diversity*".[51] This provision clearly suggests that European integration is not only based on the diversity represented by the member states, but that the Union must respect the internal national diversity of its member states. President of the Commission, Romano Prodi, underlined this interpretation when he stated at a conference in New York:

> We in the EU we have a quasi-constitutional obligation to respect cultural, religious and linguistic diversity. That is why the EC Treaty gives us the task of contributing 'to the flowering of the cultures of our Member States'. That is why, for example, we have been active since 1983 in supporting regional and minority languages. It is our belief that helping our citizens to retain these elements of their identity is the key to gaining their acceptance of the processes of European integration and of worldwide globalisation, and thus maintaining social harmony.[52]

Likewise, the importance of diversity has been reaffirmed by the introduction of Art. 22 in the Charter of Fundamental Rights of the EU, which states, "*The Union shall respect cultural, religious and linguistic diversity*".[53]

The EU's cultural approach is designed to be multi-political as it shall "*take cultural aspects into account in its action under other provisions of the Treaty ....*" (Art. 151 (4) TEC). This kind of "cultural impact assessment clause"[54] establishes culture as an aspect demanding respect by the Community, thus providing a major role to this competence provision.[55]

Along with these hints in the founding Treaties on cultural diversity, what may be important regarding minorities in this aspect is the specific interest given in the EU framework to the protection of linguistic diversity.[56] The

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[51] Today art. 151 para. 1.

[52] Romano Prodi President of the European Commission 'Cultural diversity and shared values' New York University Law School New York, 4 November 2003. SPEECH/03/517

[53] On the role of the Charter see e.g. Bùrca, 2001; Lerch, 2003.

[54] Toggenburg, 217.

[55] It is interesting to note that this latter clause was then functionally specified as the Treaty of Amsterdam added ". . . *in particular in order to respect and to promote the diversity of its cultures*". Moreover, another important modification was inserted in the Treaty under the subvention provisions which allow, to a certain degree, the financial assistance to cultures by stating that "aid to promote culture and heritage conservation where such aid does not affect trading conditions and competition in the Community to an extent that is contrary to the common interest" can be considered compatible with the internal market (today Art. 87(d)).

[56] see in detail Shuibhne, Niamh Nic: *EC Law and Minority Language Policy – Culture, Citizenship and Fundamental Rights*. The Hague: Kluwer Law International, 2002; also Vizi,

European Parliament, whenever addressing minority issues within the EU, usually granted the most attention to the protection of minority languages. The EP adopted a number of legislative initiatives aimed at safeguarding regional, minority or "lesser-used" languages in the EU throughout the previous decade. In 1981, the EP had already called on national governments and regional and local authorities to provide better protection to minority languages, and to establish[57] the European Bureau for Lesser Used Languages (EBLUL), an NGO observing the situation of minority languages in EU member states, partly financed by Commission sources.[58] In 1988, the Parliament initiated an even more ambitious project when it appointed Count Stauffenberg to prepare a report concerning a "Charter of the Rights of Ethnic Minorities".[59] The report underlined the need to adopt a legal charter on the matter.[60] However, due to the forthcoming EP elections, the Parliament never discussed the Report and later, after the CoE Language Charter was adopted, promoted implementation of the Language Charter instead of elaborating its own.

The last pre-enlargement resolution reflected the attention the EP paid to regional or minority languages as the EP proposed to the Commission and

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Balázs: Die Europäische Union und die Minderheitenschprachen. In Szarka, L. and Nádor, O. (eds.): *Die Sprache und die kleine Nationen in Ostmitteleuropa*. Budapest: Europa Institut, 2003. 49–69.

[57] Resolution on a Community Charter of Regional Languages and Cultures and on a Charter of Rights of Ethnic Minorities Official Journal No. C 287, 9 November 1981 p. 106. Adopted by Parliament on 16 October 1981 on the basis of the so-called 'Arfé report' prepared by the Rapporteur, Gaetano Arfé. <http://www.eblul.org> last accessed on 10 December 2004.

[58] Resolution on Measures in Favour of Linguistic and Cultural Minorities, adopted by the Parliament on 11 February 1983, Official Journal C 068, 14 March 1983 p. 103. Resolution adopted on the basis of the report presented by Willy Kujpers, Resolution on the Languages and Cultures of the Regional and Ethnic in the European Community, adopted by the EP on 30 October 1987. Official Journal 1987 C 318, p. 160. In this resolution, the Parliament adopted new recommendations for extending language use in the mass media, and in the different areas of the cultural, economic, social life alike. It recommended the administrative measure of officially recognizing surnames and place names in regional or minority languages and it emphasised that appropriate measures had to be taken to provide for the use of the regional and minority languages in public concerns (postal service, etc.), consumer information and product labelling, and on road and other public signs and street names. Resolution on Linguistic Minorities in the European Community, Official Journal 1994 C 61, p. 110. Resolution on Regional and Lesser Used European Languages, adopted by the Parliament on 13 December 2001, B-5 0770.

[59] P.E. 156.208.

[60] It ought to be mentioned that the Report talked exclusively about ethnic minorities, in the plural never referring to the legal term of "persons belonging to minorities", so suggesting a rather permissive approach to the group rights of minorities.

the Council the establishment of a European Agency on Linguistic Diversity and Language Learning, as well as launching a multi-annual programme on linguistic diversity and language learning.[61]

The changing legal background and developing political statements of this period are exemplified in the following statement by Commission President Prodi, "[...] *we must never forget that Europe is all about diversity. Therefore it needs us to respect and reap the rewards of diversity. European integration has always been about diverse peoples with varied cultures.*[...] *Diversity is one of Europe's greatest treasures* [...]".[62] His statement shows that diversity is perceived more and more as something to be protected, and as a principle, something that Europe must be based upon. The political commitment to the concept of cultural diversity and its correlation with the protection of minorities also results from the following declaration of the European Council: "*Europe, characterised by solidarity and a rich cultural mix, is founded on respect for diversity and on tolerance. All Member States* [...] *are continuously striving to build and maintain a Europe based on* [...] *the diversity of its cultures and languages, a Europe where* [...] *rights of minorities are protected*".[63]

The mainstream approach reflected in relevant EP resolutions, and also in the perceptions formulated on 'cultural diversity' in the EU context suggests that despite the reticent approach in the EU on minority issues, there have been some identifiable priorities in this field prior to the adoption of the Constitutional Treaty. First, the respect for cultural diversity indeed resonates with the EP's primary concern for the protection of minority languages, i.e. linguistic diversity characterising the EU. Second, neither the EP resolutions nor the emerging EU policies on preserving 'diversity' reflect the particular restrictions that usually characterise the international protection of minority rights. Nevertheless, unlike the principle of non-discrimination, the respect for cultural diversity is still much more a political slogan than a legally elaborated concept within the EU.

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[61] Resolution on Regional and Lesser Used Languages – Enlargement and Cultural Diversity, adopted by the Parliament on 4 September 2003, P5_TA(2003)0372

[62] Speech at the inauguration of the European Monitoring Centre on Racism and Xenophobia (EUMC) in Vienna, 7 April 2000. SPEECH/00/128.

[63] See *Declaration by the Council and the representatives of the Governments of the Member States on respecting diversity and combating racism and xenophobia*, Official Journal 1998 No. C 001, p. 1. (On the other hand diversity is not always meant to include minority cultures. This can be seen e.g. in the discussion regarding the inclusion of minority languages in the "European Year of Languages 2001" launched as Community program in 2001, see <http://eurlang.net/news.asp?id=181>).

Difficulties in the interpretation of Article I-2

It would surely prove premature to unravel the possible interpretations of the term "rights of persons belonging to minorities" under the application of the Constitution Treaty. Whenever the Treaty enters in force, the most interesting will be to see whether any case before the European Court of Justice (ECJ) will inspire the ECJ to elaborate a specific interpretation on minority rights under the *acquis*.

Nevertheless, despite the strong pessimism on the future of the Treaty, at least a few questions can be addressed here.

The first striking feature of the formula is the use of the term "minorities" without any further qualifications. Usually, international documents on minority rights tentatively delimit their sphere of application by referring to "national" minorities (as most European international documents do) or to "national or ethnic, religious and linguistic" minorities (as e.g. 1992 UN General Assembly Declaration[64] uses the term). Although in practice these additional denominations do not qualify applying any distinction between minorities displaying a linguistic, religious, cultural or national identity differing from the majority. Clearly they do not include, for example, sexual minorities. From this perspective, one can not say at present whether Art. I-2 also refers to the rights of other "non-classic" minorities, or if it remains in the traditional interpretation of minorities. Analysing the discussions in the European Convention and the context in which minority rights have appeared until present in EU policies, it may be argued that national or ethnic and linguistic minorities can be considered the natural addressees of this provision (see e.g. Art. II-81 of the Constitution Treaty, i.e. the former anti-discrimination article of the Charter of Fundamental Rights, prohibiting discrimination based on membership of a *national* minority). The inclusion or exclusion of other minorities, however, remains to be seen.

Another problem of application may emerge regarding the sanctions prescribed by the Constitution Treaty for member states not respecting the fundamental values of the Union. The values of the Union do not imply that the EU would have any additional competence for their effective regulation, they merely signify those fundamental principles, which both the EU organs and the member states shall respect. The Constitution Treaty attaches rather

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[64]   Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, G.A. res. 47/135, 47 U.N. GAOR Supp. (No. 49) at 210, U.N. Doc. A/47/49 (1992).

severe political sanctions for the breach of these values, in extreme cases suspending certain rights of a member state in the Union.[65] While in regard to the evaluation of the violation of human rights the ECHR and the EU Charter of Fundamental Rights may provide an appropriate background, it remains difficult to say exactly which minority rights are covered by Art. I-2. In this respect, the assessing whether or not a member state violated specific rights of minorities seems rather difficult. As in the process of enlargement, here again external sources, the observation of the FCNM or other international documents, may serve as a point of orientation, but such evaluations clearly remain vulnerable to contrasting interpretations, more so than human rights in general.

Despite the fact that the interpretation of minority rights under EU law remains largely open to speculation, the evolution of Art. I-2 may prove instructive for external influence of legal development in the EU. The implications of the enlargement process in this field gained resonance under EU law, resulting in a new formulation of the Union's values. The effects of the 'internalisation of an external norm', however, remain to be seen.

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[65]   See Art I-59, under paragraph 1, it states „[o]n the reasoned initiative of one third of the Member States or the reasoned initiative of the European Parliament or on a proposal from the Commission, the Council may adopt a European decision determining that there is a clear risk of a serious breach by a Member State of the values referred to in Article I-2. The Council shall act by a majority of four fifths of its members after obtaining the consent of the European Parliament."

STUDIES

NÁNDOR BÁRDI

Generation Groups in the History of Hungarian Minority Elites

This study discusses an issue that forms part of the historical periodization of Central European Hungarian minorities. It attempts to map the development of elites who constructed and led Hungarian minority communities, as well as the strategies and socialisation frameworks they developed for these communities. This issue represents one component of the development structure in which I interpret the history of Hungarian minorities. This model also focuses on periods defined by epochal divides, and the changes in relations that can be reconstructed from texts and activities of elites throughout various periods. In this study, "relations" refer to the following integration approaches: minority elite views on society and the organisation within their own community; the relationship between the minority and (majority) central governmental institutions; the relationship between the minority and the (linguistic) mother country; and adaptive approaches of the minority towards international processes and intellectual movements.[1]

In this study I present generation groups and strategies by offering an overview of the eighty-year-long development of elites representing Hungarians living abroad. In doing so I would like to continue efforts began in the thirties. At that time, the central issue of debates concerned to what extent the intellectual-cultural-spiritual development (in modern terms "the values") of Hungarians who became a minority was different from "public

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[1] For a more detailed explication of the three-element model see Nándor Bárdi: Összezárkózás és szétfejlődés. Kísérlet a magyar kisebbségek történetének periodizációjára. [Tight-drawing and diverging evolution. A periodisaton of the history of minority Hungarian societies] In Fedinec Csilla (ed.): *Nemzet a társadalomban*. [Nation in Society]: Budapest: Teleki László Alapítvány, 2004. 251–274.

spirit" in Hungary.[2] I cannot undertake to answer this question, but detailed information can be obtained from the research of the Balázs Ferenc Institute and György Csepeli–Antal Örkény–Mária Székelyi.[3] Furthermore, I do not aim to complete the indispensable group-bibliography suggested by László Szarka.[4] Instead, I attempt to grasp a group socialized in a given context of policies towards minorities and Hungarians, and to map their strategic choices and decisions.

Comparisons tend to blur differences in this research, but as the elites living in different countries were in contact with each other, and could become acquainted with each other's ideas through literature and media, it can be proven that they have influenced each other. Group-similarities allowing for the (re-)construction of groups is also sustained by the fact that, as the chronological sketch shows, the period frames are roughly the same.

The history of Hungarian minorities in Central Europe in the interwar period involves four countries (Austria, Czechoslovakia, Romania, and the Kingdom of Serbia, Croatia and Slovenia). After 1944, with the annexation of Transcarpathia to the Soviet Union, their numbers grew to five. Then, after 1989, with the independent statehood of the Czech Republic, Slovenia and Croatia we can speak of these processes occurring in eight states. In this study I discuss only the four largest Hungarian minority groups, since it is in their case that we can speak of more or less continuous institutionalisation of minority society and of autonomously organised communities in the political sense as well.

Before mapping the generation groups, I would like to point out the most important epochal divide. The history of Hungarians abroad can be divided into four main periods: a) in the interwar period, Hungarians abroad

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2   For an overview of the issue and published documents see Nándor Bárdi: A kisebbségi értelmiség önképe a második világháború előtt. [The self-image of minority intellectuals before the Second World War] *Magyar Kisebbség,* Nr. 3–4, 1998. 55–59. See the studies of Béla Nánay, Pál Szvatkó, István Borsody, Ferenc Kende, József Venczel, Imre Mikó, Jenő Krammer, 60-127.

3   Dobos Ferenc (ed.): Az *autonóm lét kihívásai kisebbségben.* [The Challenge of Autonomy] Balázs Ferenc Intézet – Osiris, 2001; and Csepeli György – Örkény Antal – Székelyi Mária: *Nemzetek egymás tükrében. Interentikus viszonyok a Kárpát-medencében.* [Nations – Reflecting Each Other. Intererthnic relations in the Carpathian Basin] Budapest: Balassi, 2002.

4   Szarka László: A (cseh)szlovákiai magyar közösség nyolc évtizede 1918-1998. [Eight decades in the history of the Hungarian community in (Czecho)slovakia.] In László Tóth – Tamás Gusztáv Filep *(eds.): A (cseh)szlovákiai magyar művelődés története 1918-1998.* [The history of Hungarian culture in (Czecho)slovakia] vol. I., Budapest: Ister, 1998. 55.

lived in constitutional monarchies in two states,[5] and in civic republics in two others (1918—1938/1940/1941.) b) After the first and second Vienna Treaties and in the period from the attack on Yugoslavia until the end of the Second World War, most of the territories where minority Hungarians lived returned to Hungary. The younger belonged to the majority nation for the first, and the older for the second time (1938/1940/41–1944). Due to the lack of community revitalisation, the Hungarian population remaining a minority in Slovakia and Southern Transylvania was greatly weakened in its very existence and in its national knowledge. c) The third period is that of the socialist world system, in which, apart from Hungarians in Austria, each community was confronted in a different way with the various versions of socialist minority policy (1944–1989.) d) In the period following the Central European regime changes, and in the context of the establishment of the rule of law and Euro-Atlantic integration, not only the differences in national interests, but, in the case of national minorities, clashes of conflicting nation building emerged.

I consider 1944–45 the most important turning point in this eighty year span, apart from its beginnings with the peace treaties and changes of empire following the First World War. This epochal divide marks four significant changes in the situation of Hungarian minorities.

In the interwar period, political parties representing Hungarian minorities gained legitimacy through Hungarian voters on parliamentary and, in certain cases, local government elections. They formulated their minority policy and promoted the interests of their communities based on these elections. With the demise of constitutional monarchies and civic republican forms of state, or more exactly with rule of law and parliamentary democracy, the situation changed. Those that tried to promote the interests of Hungarians were either institutions created from above by the majority communist government of the given state (Hungarian People's Union, CSEMADOK – The Cultural Union of Hungarian Workers in Czechoslovakia), or certain individuals and groups of intellectuals, who had not been endorsed by their own national minority group in elections. Hence, *we are not dealing with independent minority politics* – as in the interwar period and after 1989 – *but with the promotion of interests in the framework of the given state / majority party government policy towards Hungarians.* The minority group could not formulate its own vision of the future, elect its own leaders or control its own institutions. This,

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[5]   Royal dictatorship was later instituted in both countries: in the Kingdom of Serbia, Croatia and Slovenia in 1929, and in Romania in 1938.

however, was part of the greater context of the "Leninist nationality policy", the very simplified essence of which was that communists should first come to power (ruling from a single centre, based on the principle of democratic centralization), and then national problems can be dealt with on the basis of proletarian internationalism.

The second change of seminal importance was *nationalisation, collectivisation, and the expropriation of ecclesiastical and community possessions.* This not only meant a significant loss of social and economic positions for minority Hungarian societies, but also made it impossible for them to support their own community institutions. The situation was aggravated by the fact that rule of law ceased in the region, and that peace treaties abolished the international complaints forum which in the interwar period could be used to attract attention.[6] Loss of institutions and atomisation were followed by a near ban on travelling with private passports from the late forties until 1956 making contact with Hungary nearly impossible.

As a result of these social changes, *Hungarian minority societies* that until then could be considered fully stratified *became much more homogeneous.* The strata of landowners, mill-owners, financial and commercial enterprisers, and the bourgeoisie disappeared. The number and importance of burgesses and tradesmen also significantly decreased. Apart from the Holocaust and population exchange in former upper Hungary, deliberate changes of nationality proportions in small Hungarian towns, and the destruction of rich peasantry triggered this. By the fifties, the lack of Hungarian intellectuals became acute everywhere.

As a result of the Second World War, the Holocaust, and of the waves of emigration that followed, the *Jewry* basically disappeared from Central European countries. *Germans* partly *fled* during the Second World War, were partly *relocated* to, or, in the case of Romania, were *"bought out"* by the mother country from the '70s and '80s. Thus, Hungarians remained the most numerous national minority group in the region. *Hungarians therefore became the focus of majority policies towards minorities.* The most numerous ethnic group of the region were the Gypsies. Their problems, however, only caught the attention of political elites in the neighbouring countries in the second half of the nineties. Until then, the Roma issue was dealt with separately from the policy towards Hungarians.

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6   The right of complaint in minority issues at the League of Nations.

If we regard the 19th and 20th century history of Hungarians as an instance of Central European nation building, the key historic question would be how Hungarian minority elites created after the First World War used this national knowledge, and how they shaped (or could shape) their communities in the framework of state institutional orders serving other nation building projects.

1. In the history of Hungarian minorities, the first defining generation, the *torn away Hungarians* existed until the thirties.[7] They were basically pre-1918 regional, Hungarian political elites who remained on territories lost by Hungary; elites socialised in pre-war Hungary, and those who participated in the public life in the new conditions, having gone from majority to minority. It was they who mostly determined Hungarian minority policies in the interwar period. Their vision of the future was defined by the hope for the restoration of historic Hungary. They trusted that the change of empire was temporary, and basically, though not without objections, accepted the instructions (and the support) of the Budapest government. In Romania and Yugoslavia, the elite contrasted the new situation with the liberalism of pre-war Hungary (the situation of nationalities and the self-government system), and demanded that the majority elite follow the liberal practices of the early 20th century. The other line of argument they followed existed in all three countries; demanding respect for the stipulations of the minority protection treaty and the national declarations of the (later) winners (the Alba Iulia Resolutions, the Pittsburgh Treaty).

From the phenomena dividing the generation groups, I consider the following to be the most important:
1. The pre-1918 party allegiances and the pro-labour or pro-independent leanings were defined by whether one had been a Member of Parliament or a higher municipality official before the war, or rose to such a position only after 1918.
2. Divergences arising from their respective fields of activities. We must differentiate between the interests of cultural, political and economic minority elites. *The torn away Hungarians* basically corresponds with the following divergences over strategies:

a) Some believed that Hungarians should be organized from below, involving wide social strata. Others held that politics was the task of the historic, ruling classes, which possessed the necessary political culture and back-

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7   Béla Nánay: A kisebbségi magyar lélek. [The minority Hungarian spirit] *Láthatár,* Nr. 1, 1937. 3-14.

ground. This was of great importance as in this case leading minority political positions would be occupied by "reliable persons" who would not deviate from the Budapest directives.

b) A debate between activists and pacifists arose concerning integration into the political life of the succession states. In Romania this debate opposed autonomous political organization with a policy of drift and position conservation. In Yugoslavia, activists supported autonomous political organization while pacifists thought more in terms of economic organization and regional-national self-assertion. Yet, the debate carried on in both countries until the formation of parties in 1922. In Czechoslovakia, the same divergence surfaced in debates over participation in ever-changing government coalitions. In Romania, by the thirties, the issue was transformed into a debate over self-organisation of minority society or the sheer preservation of positions, but soon it became obvious that without organising the minority society, the social and economic positions could not be preserved.[8]

c) The twenties cherished a revisionist vision of the future, but the officially endorsed political aim was that of national autonomy. Several autonomy projects were drafted in Transylvania, whereas in Transcarpathia, they demanded the political autonomy promised in the peace treaties.[9] The other alternative vision of the future relied on the development of regional political or cultural ideologies: Transylvanism in Transylvania, autochthonism in Transcarpathia, Slovenskoism in Slovakia, and a local literary idea, the "colour locale" represented by Kornél Szenteleky in Vojvodina.

Szüllő Géza, president of the Christian Socialist Party of Czechoslovakia took the most consequential stance regarding the relationship with the Budapest government and the climate of opinion in Hungary. He gave rather overt primacy to the political values of Hungary over those of the (minority) Hungarians. He followed a national, not a national minority policy.[10] I con-

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[8] This is clearly exemplified by an anthology of the *Hitel* journal from Cluj: Éva Záhony (ed.): *Hitel, 1935–1944.* Budapest: Bethlen, 1991, vol I–II.

[9] Nándor Bárdi: A szupremácia és az önrendelkezés igénye. Javaslatok, tervek az erdélyi kérdés rendezésére (1918-1940). [Supremacy and the demand for self-government. Proposals and plans for solving the Transylvanian question, 1918–1940.] In *Források és stratégiák.* [Sources and strategies.] Csíkszereda: Pro-Print, 1999. 29-113.

[10] Béla Angyal: A „magyarországi" és a „magyar" politika vitája a Felvidéken. [The debate between „Hungarian" politics and politics „in Hungary" in Slovakia] In Nándor Bárdi, Csilla Fedinec (eds.): *Etnopolitika.* [Ethnopolitics] Budapest: Teleki László Alapítvány, 2003. 127-140, and Béla Angyal: Szüllő Géza elnökségének időszaka. [The period of Géza Szüllő's presidency] In *Érdekvédelem és önszerveződés. Fejezetek a csehszlovákiai magyar pártpolitika történetéből 1918-1938.* [Interest promotion and self-organisation. Chapters

sider György Bethlen, leader of the Hungarian Party from Romania to belong to the position conservationists. He had, however, been elected leader against the same intents in Budapest, since György Bernády, whose candidacy István Bethlen endorsed in 1924, and whom the governing Romanian Liberal Party also trusted, would not have been able to integrate the minority politics of Hungarians in Romania (to uphold the unity of the party). In Yugoslavia, the Hungarian members of parliament, Imre Várady and Dénes Sterliczky, preferred background-talks to open confrontations, although the Budapest government pressed them for more activism. They did not have significant manoeuvring space, as they could only win a seat in parliament on the lists of the Serbian radical party.

To clarify these categories, in Romania we can speak of the left and right wings of the Hungarian Party. At the time, Károly Kós, Árpád Paál, Miklós Krenner, and György Bernády were considered to belong to the former, while Emil Grandpierre, György Bethlen, Elemér Gyárfás, Elemér Jakabffy, and Gábor Pál to the latter.[11] In Slovakia, József Szent-Ivány, Jenő Lelley, Ödön Tarján, István Maléter can be mentioned among the society-building activists, whereas on the other side István Kürthy, Iván Rakovszky, Géza Szüllő could be named.[12] In Transcarpathia, I consider Ákos Árky, Endre Korláth and Aladár R. Vozáry to have belonged to the position conservationists.[13] In Vojvodina it seems artificial to divide the more important public figures into distinct groups. Their relationship to the Belgrade government offers a possible criterion for differentiation. György Sántha, Imre Várady, Árpád Falcione, Leó Deák supported the autonomous functioning of the party, although one that would

from the history of Hungarian party politics in Czechoslovakia] Galánta-Dunaszerdahely: Fórum Intézet-Lilium Aurum, 2002. 131-180.

[11] Nándor Bárdi: A romániai magyarság kisebbségpolitikai stratégiái a két világháború között. [Minority policy strategies of Hungarians in Romania in the interwar period] *Regio,* Nr. 2, 1997. 32–67. Nándor Bárdi: Az ismeretlen vízmosás és a régi országút. Stratégiai útkeresés a romániai Országos Magyar Pártban (1923-1924). [The unknown ravine and the old road. Finding ways and strategies in the Hungarian Party, 1923–1924.] In *Etnopolitika, op. cit.* 153-194.

[12] Béla Angyal: A „magyarországi" és a „magyar" politika vitája a Felvidéken. op. cit. 127-140. For a work uncovering inner stratification and dilemmas see the collection of studies by Gusztáv Tamás Filep: A *hagyomány felemelt tőre.* [The raised dagger of tradition] Budapest: Ister, 2003, 443.

[13] Csilla Fedinec: A *kárpátaljai magyarság történeti kronológiája 1918-1944.* [The historic chronology of Hungarians in Transcarpathia, 1918–1944.] Galánta-Dunaszerdahely: Fórum Intézet-Lilium Aurum, 2002. 533. Csilla fedinec: *Iratok a Kárpátaljai magyarság történetéhez, 1918–1944. Törvények, rendeletek, kisebbségi programok, nyilatkozatok.* [Documents for the study of the history of Transcarpathia, 1918–1944] Somorja-Dunaszerdahely: Fórum – Lilum Aurum, 2004.

observe the Budapest directives, whereas Gábor Szántó accepted the full political integration into the political organization of royal dictatorship, and by doing so achieved some small results (the naming of Hungarians to public offices). Former bailiff, Lukács Pleszkovich, the president of the Subotica People's Society in his turn advocated the co-operation of the Vojvodina minorities and leaned towards the democratic party.[14]

2. The second generation appeared in the early thirties, and publicists of the time saw in them the birth of the *minority man.* Members of this generation gained their secondary education after 1918, and no longer belonged to the majority. They were familiar with the official language, climate of opinion, and interest promotion techniques of the given country. They were also in contact with contemporary youth movements in Hungary,[15] with whom they shared the same cultural idols (Endre Ady, Dezső Szabó, Béla Bartók, Zsigmond Móricz, and popular writers). Partly based on the findings of Jenő Krammer, characteristics of their approaches can be summarised as follows:[16] a) They stood for a concept of the nation that no longer included only the historic ruling classes, but peasantry and workers as well. They separated the concept of home from that of patria; and considered their patria their region and Hungary \. In clarifying their relationship to the succession states, they tried to situate their problems in the context of Central European nationality issues. b) The new concept of the nation, which directed their attention towards the village and popular culture, gave their movements more social sensitivity. It became clear that "the preservation of the nation" was impossible without "the elevation of the people." c) This called for modern programs of economic and social organisation. Self-organisation and bourgeois transformation were central to the concerns of all of them, despite their ideological differences. The organizers of minority Hungarian co-operative movements also came from these circles. d) By the thirties it became clear that national autonomy could not be achieved in the existing framework, therefore organizing their own (Hungarian) society, educational system, co-operative movement, training of elites etc. became prominent concerns

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[14] An overview more detailed than the works of Enikő Sajti, but without any documents published is János Csuka: A *délvidéki magyarság története 1918–1941*. [The history of Hungarians in historic Southern Hungary, 1918–1941.] Budapest: Püski, 1995. 499.

[15] Bertalan András Székely: A *közép-európaiság eszméje a magyar tudományban, közgondolkodásban és a közművelődésben.* [The idea of central-europeanness in Hungarian science, everyday mentality and culture] Budapest: Népművelési Intézet, 1984. 61.

[16] Jenő Krammer: A *szlovenszkói serdülők lelkivilága*. [The psychology of slovensko teenagers] Budapest, 1935. 77.

in the process of drawing tight the nation. They conceived of national autonomy not only in terms of a legal form provided from above, but, combining the idea of Hungarian union with the corporatism of the time, thought of it as something to be constructed by self-organising social institutions.[17] It also became clear that identity ideologies were unable to cross ethnic boundaries in the political sense, and could only have a cultural and literary impact.[18] e) This was the period when political ideologies became central in forging minority elites into groups. The most important such ideologies were: civic radicalism – anti-totalitarian liberalism, Marxism, social democracy, Christian socialism, National Socialism.[19]

It is easiest to refer to the different generation groups via reference to their movements and publications. In Romania, we can note the Transylvanian Youth group, the *Hitel* circle, the MADOSZ (Hungarian Worker's Union) and the participants of the Târgu-Mureş Reunion (including: Béla Jancsó, József Venczel, Imre Mikó, Sándor Vita, Béla Demeter, Áron Márton, László Bányai, Lajos Jordáky). In Czechoslovakia, the Sarló (sickle) movement and the Prohászka circles can be named (Edgár Balogh, Lajos Jócsik, Pál Szvatkó, Rezső Szalatnai, Rezső Peéry and some other public figures from their generation: István Borsody, János Esterházy, and Andor Jaross). In Yugoslavia the *Kalangya* circle, the reading group of the Subotica People's Society and the Belgrade and Zagreb Hungarian student organizations can be mentioned.

The Second World War prevented this generation from becoming public figures. Most Transylvanian figures ascended to leading positions after the

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[17] József Venczel: Metamorphosis Transilvaniae. 65-73., idem, Művelődéspolitikai terv. [A cultural policy plan] 269-277., Dezső Albrecht: Társadalmunk átalakulása. [The transformation of our society] 98-108., idem, Magyar Szövetség [Hugarian Union] 119-120. In *Hitel.* Kolozsvár 1935-1944. Ed. Záhony Éva, Bethlen Gábor Könyvkiadó, 1991, 386.

[18] K. Lengyel Zsolt: *Auf der Suche nach dem Kompromiss.* Ursprünge und Gestalten des frühen Transsilvanismus 1918-1928. München: Ungarisches Institut, 1993. 470; György Nagy: A kisebbségi helytállástól a közösségi desirabilitásig és vissza. A transzilvanista ideológiáról. [From minority resistance to collective desirability and vice versa. On the transilvanist ideology] In *Eszmék, intézmények, ideológiák Erdélyben.* [Ideas, institutions and ideologies in Transylvania] Kolozsvár: Kom-Press-Polis, 1999. 7-37. Csaba Utasi: *Irodalmunk és a Kalangya.* [Our literature and the Kalangya] Újvidék: Fórum, 1984. 208.

[19] László Virt: *Nyitott szívvel. Márton Áron erdélyi püspök élete és eszméi.* [With an open heart. The life and ideas of Transyvanian bishop Áron Márton] Budapest: Teleki László Alapítvány–XX. Század Intézet, 2002. Szabolcs Ferenc Horváth: A romániai Országos Magyar Párt viszonya a jobboldali áramlatokhoz a harmincas években. [The relationship of the Hungarian Party to the right-wing movements in the thirties] *Magyar Kisebbség,* Nr. 3, 2003. 368–386. Gusztáv Tamás Filep: A *hagyomány felemelt tőre,* op. cit, 443.

reannexation and exercised a great influence on the politics of the Transylvanian Party. MADOSZ leaders organized the Hungarian People's Union after 1944. József Venczel and Imre Mikó again played a decisive role in the academic life of Hungarians in Romania in the sixties, while Áron Márton served as Roman Catholic bishop until the seventies. Of the Slovak and Yugoslav generation group, only members of the communist party later became public figures.

3. The following generation group includes the latter, along with individuals socialized in the forties, who in the fifties *represented Hungarians as old left-wingers.* Here one must be very careful with wording in order to avoid unilateral formulations as we can only analyse individual careers, the instances when and where the given persons were mere power instruments, and when their work included the promotion of minority interests. I include here primarily those persons who in the given period (from 1944 to the sixties) headed Hungarian institutions and represented the community to the outside. These individuals had participated in communist movements within of the given countries before 1944 or even before the war. They hoped that the internationalism the communist party stood for would elevate people from minority existence and would do away with ethnic divisions. They saw securing bilingualism and maintaining the minority system of institutions as guarantees of the preservation of national identity. Since in the interwar period minorities were over-represented in the communist parties of the succession states, and could not really experience negative discrimination, they were deeply shocked by the anti-Hungarian measures of 1945–46, by the prevalence of the majority nation in rapidly growing parties, and by the marginalization of "old nationality cadres" in the sixties. This generation was the first to formulate the grievances of Hungarians in terms of the socialist equality of nations and nationalities, and it was they who built (or in Transylvania defended) the aforementioned institutions guaranteeing the use of the mother tongue. This generation carried out the socialist transformation and revitalisation of their own society.

In Romania, the representative personalities of this group were the leaders of the Hungarian People's Union, Gyárfás Kurkó, Sándor Kacsó, as well as Edgár Balogh, József Méliusz, István Nagy, László Bányai, Lajos Takács, Lajos Csőgör. Whether persons belonging to the innermost circle of Romanian party leadership can be included here presents another case. This is the case for Sándor Mogyorós (Alexandru Moghioroş) and László Luka (Vasile Luca), who as public figures represented the will of the communist party, and not the Hungarians. In Slovakia, those protesting against relocation and population ex-

change, and the leaders of the Hungarian Committee can be included here (Zoltán Fábry – not a party member –, István Fábry, János Kugler, István Major and Gyula Lőrincz, founder and president of CSEMADOK.) In Yugoslavia we cannot point to such a discernible group, but Pál Sóti, belonging to Tito's centre, and through him József Nagy, Mihály Olajos, György B. Szabó, all of whom played a decisive role in the Hungarian affairs of Vojvodina political and cultural life belong here.[20] In Transcarpathia we cannot speak of a distinct group playing such a role, only of individuals representing Hungarians, among whom were author László Balla, and historian János Váradi-Stenberg. Although I have assembled here a great number of careers, I must emphasize the important difference in their attitudes and of the turning points in their sidetracks – suffice it to say one can hardly compare the careers of Gyárfás Kurkó and Balla László.

4. The next generation includes the key figures who, socialized as "left-wingers" in the fifties and sixties, promoted minority interests inside the system in the second part of the sixties. Given the crucial importance of 1968 in each territory, for all practical purposes they can be termed *the sixty-eight generation*. These intellectuals made extraordinary achievements in the field of ideology, as concerns both their relationships to socialism and to the majority nation. We can only grasp bits and pieces of their careers today as the memoirs they have this far published have mostly proven biased when confronted with available archive materials. I see no point in confrontations and callings to account here. What should be of greater interest to us are the complex inner inducements and the complicated workings of give-and-take socialization, which could reveal the mechanisms of the system. It would be presumptuous to analyse these without case studies, which have not been written. What we are dealing with here, however, are not only the individual accomplishments, but through them, the manifestations of the minority, Hungarian, public spirit. CSEMADOK activists, intellectuals organising people's academies, debate clubs, language cultivation movements, cultural festivals all shared enlightening, public-spirited ideals.

The common elements of their careers can be listed as the following: a) they were mostly first generation intellectuals attending some kind of higher education in the fifties and sixties. They became leaders of cultural and liter-ary institutions, and chief editors of journals. b) They were quite familiar

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[20]   János Vékás: A jugoszláviai magyarság történeti kronológiája 1944-1997. [The historic chronology of Hungarians in Yugoslavia, 1944–1997.] vol. IV. Lexicon, manuscript, TLA Kv 1958/97.

with the majority language and culture. They were well acquainted with the
inner workings of party organs and knew how to use this information. c)
Apart from propagating the popular service ideology characteristic of the pre-
vious, leftist generation, they were also familiar with the language of allu-
sions and double meanings shared by their community[21] (such as the András
Sütő's topos: "grass bends but survives"). d) Their activity in the contexts of
the given country and its policy towards Hungarians is inseparable from the
power struggles inside the given party elites. At this time they tried to present
themselves everywhere as autonomous groups promoting community inter-
ests. When the failure of this strategy became obvious, they switched to differ-
ent ones: protest and stepping down, defence of institutions and conserva-
tion of positions, emigration to Hungary or serving the given political sys-
tem. g) While in 1968 they mostly resented the declaration of the Hungarian
Pen Club on the shared responsibility for Hungarian literatures abroad,[22] by
the late seventies/early eighties they developed their connections with Hun-
gary, and in the last twenty years they have also joined the cultural and politi-
cal elite of Hungary. From the mid eighties, they played a significant role in
shaping the policy towards Hungarians of the Hungarian Socialist Worker's
Party, especially in determining Hungarian foreign policy to stop treating the
issue as an "internal affair". e) They played a decisive role in minority Hun-
garian parties dominated by the cultural elites after 1989. Populist Party aims,
everyday political work and professional politicians edged off this generation
from the frontline. In certain cases, however, they played a crucial part in the
selection of new leaders, i.e. Sándor Fodó's opinion of Miklós Kovács,
András Sütő's and Géza Domokos' endorsement of Béla Markó's candidacy,
the consultative role of Tibor Várady and Nándor Major in the affairs of the
Alliance of Vojvodina Hungarians, and the links of László Dobos with
Együttélés (Coexistence).

In Romania I include in this group – without aiming at a complete list –
Ernő Gál, editor in chief of *Korunk,* Győző Hajdú, editor in chief of *Igaz Szó,*
Géza Domokos, director of Kriterion publishing house, author András Sütő,
author Pál Bodor, Sándor Huszár, editor in chief of *A Hét*, Károly Király,
prime secretary of the Covasna county party organization (1968–1971), and
philosopher Sándor Tóth. In Czechoslovakia: jurist Rezső Szabó,

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[21] A detailed analysis of the issue is provided by József D. Lőrincz: A kelet-európai
ambivalens diskurzusról. [On the ambivalent Eastern-European discourse] *Regio*, Nr. 1,
2002. 226–248.

[22] *Élet és Irodalom,* May 18, 1968.

CSEMADOK leader László Dobos, jurist József Gyönyör, and literary historians Lajos Turczel and Sándor Csanada. The Hungarian youth movements institutionalised in 1968 present a different stratum, from where Miklós Duray, László A. Nagy, and Sándor Varga emerged. In Yugoslavia, members of the April *Híd* group, who appeared together in the Hungarian literature of Vojvodina in 1950, pursued parallel careers in the Vojvodina political, literary and academic life, but were all connected to the *Híd* journal: author and politician Nándor Major, literary historian Imre Bori, poets József Papp and Kálmán Fehér, and author Károly Ács should be included in this group. A younger group, also familiar with the Western European new left, the first generation of *Új Symposion* consisted of: poet Ottó Tolnai, author László Végel, jurist Tibor Várady, literary historian János Bányai and prose-writer István Brasnyó. In Transcarpathia, this „sixty-eight" group is identical with the first literary circle of their new literature, the Forrás Studio of whom we find author Vilmos Kovács, linguist Sándor Fodó, cultural historian András S. Benedek, poet László Fábián Vári, poet Zselicki József and Gyula Balla.

5. After the changes in the late sixties, the new generation of the seventies and eighties could not completely integrate into the insufficient Hungarian institutions. As compared to the earlier generation, they were much more diverse, and not only in their world views, but as they markedly stood outside party rhetoric and the bargaining mechanisms of national minority politics and created their own system of expression (public discourse and public sphere.) They functioned both inside the system (in editorial offices and educational institutions), and in separate informal/illegal organizations. Thus, for lack of a better term we might call them *self-organizers*, or, to use a more lofty formulation, *minority-dissidents*. Apart from the *Committee for the Protection of Hungarian Minority Rights in Czechoslovakia* and the *Ellenpontok* (Counterpoints) circle, created with the explicit aim to promote minority interests, they formed cultural organisations that could not be integrated into institutional frameworks of the time. Members included young, university-educated, Hungarians who had participated in the Hungarian public life of the universities, were familiar with Hungary (the Slovaks did part-time studies in Hungary), and who were connected to the opposition groups of the eighties.

In Romania the circle of disciples of György Bretter marked the search for a new philosophical language in the early seventies, a language that did not fit into the publication possibilities of *Korunk* and Kriterion. These included: author Vilmos Ágoston, author and philosopher Péter Egyed, philosopher Vilmos Huszár, philosopher Gusztáv Molnár, linguist Sándor

N. Szilágyi, and philosopher Miklós Gáspár Tamás.[23] Political protests had already begun with protests and memoranda written to Ceaușescu and party leaders by members of the previous generation, Károly Király, Lajos Takács, András Sütő, after the Jiul valley miners' revolt in 1977–78. The Transylvanian Report published in 1978 and 1989 by Sándor Tóth and Zádor Tordai addressed western public opinion and illegal media from Hungary. Active resistance began with the 1982 issue of *Ellenpontok* samizdat journal.[24] Hungarians from Romania came to know the publication edited by Antal Károly Tóth, Attila Ara-Kovács and Géza Szőcs primarily through Radio Free Europe. After the authors were discovered and persecuted, Ara-Kovácz and Tóth had no choice but to emigrate to Hungary, where the former founded the illegal *Transylvanian Hungarian News Agency* which tried to provide Western agencies with reliable information concerning Transylvania via several hundred reports issued between 1983–1989. As the genesis of *Ellenpontok* can be partially traced back to the narrowing Ady-circle from Oradea, the *LIMES* circle, functioning between 1984–86, and organised by Gusztáv Molnár, also came into existence due to limited publication possibilities. Molnár served as an editor of the Kriterion publisher and convened potential authors to varying locations to discuss topics relevant to Central European and all-Hungarian processes after the foreseeable collapse of the system. Such participants included among others: Sándor Balázs, Gáspár Bíró, Péter Cseke, Éva Cs. Gyímesi, Ernő Fábián, Levente Horváth, Csaba Lőrincz, Gusztáv Molnár, Levente Salat, Sándor N. Szilágyi, András Visky. Molnár's premises were raided in 1986, after which he emigrated to Hungary. The circle also included Sándor Balázs, who in 1989 published the *Kiáltó Szó* (Voice that Crieth) samizdat with two issues total. In Miercurea Ciuc, the Centre for Regional and Anthropological Research began in 1980 under different names, with the participation of local social researchers. The bases of their researches on everyday minority life and of their institutional analyses at this time triggered significant debates after 1989. The group was also present in the official public sphere through publications in the *Tett*

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[23]   Their collective volume is *Szövegek és körülmények.* [Texts and contexts] Edited and intro-
duction by György Bretter, Bukarest: Kriterion, 1974. 121.

[24]   The new collected edition of the publication: *Ellenpontok.* Edited by Antal Károly Tóth,
Cf. Idem, Az Ellenpontok rövid története [The short history of Ellenpontok] 5-20., Géza
Szőcs:Tizenkét képkocka a nyolcvanas évek elejéről. [Twelve stills from the early eighties]
349-354., Attila Ara-Kovács: Tétova ellenállás. Román ellenzék, magyar szamizdat. [Undecided
resistance. Romanian opposition, Hungarian samizdat]   355-364., Csíkszereda: Pro-Print,
2000. 368.

(Action) supplement of the A *Hét* weekly and at the Kriterion publishing house. The most prominent members of the group included: Zoltán A. Biró, Júlianna Bodó, József Gagyi, József D. Lőrincz, Nándor Magyari, Enikő Magyari Vincze, Sándor Oláh, Zoltán Rostás, Endre Turós.[25] The *theory of science* group from Sfântu Gheorghe, lead by Levente Salat, functioned as the reading group of local intellectuals in semi-illegal conditions. Neither group addressed political issues directly, but qualified as a "reasoning association", that in the second half of the eighties, defined the non-public debates of Hungarian intellectuals from Romania, as well as the academic–self-interpreting public discourse after '89.

The *Committee for the Protection of Hungarian Minority Rights in Czechoslovakia,* lead by Miklós Duray, was based on a group socialised in the Slovakian club movement, who graduated from the university together in the eighties, with links to the Prague opposition, but connected mainly to the democratic opposition in Budapest. Apart from status reports and school preservation activities, Károly Tóth, as editor of the Madách printing house, organised the programme of Hungarian social research in Czechoslovakia under the heading of the *Új Mindenes Gyűjtemény* series, whereas István Gyurcsik worked in the CSEMADOK as a "legal aid official". Members of the group included: Iván Gyurcsík, László Gyurgyík, Imre Molnár, Zsuzsa Németh, László Öllős, Eleonóra Sándor, and Károly Tóth.

In Yugoslavia we cannot speak of a similar political opposition. A highly qualified group of editors came together around the *Új Symposion* journal, critical of the Vojvodina Hungarian institutions and elites, and attentive to the changes in Hungary. Its members were: János Sziveri, Béla Csorba, Erzsébet Juhász, Alpár Losoncz, and Ferenc Mák. The line taken by the journal, one of reactions to current issues, presented a real problem for the Hungarian cultural elites of Yugoslavia who accepted the extant power relations, and who destroyed the group of editors in a witch-hunt-like manner. This affair, along with other Hungarian "scandals" in Vojvodina, prove interesting not only for their content, but also for the resulting internal reprisals among Hungarian elites – among certain members of the Yugoslav generation of the sixties and those identifying with Titoism in the seventies and eighties – and hence, truly show the divided nature of the elite. This was the country where the well-integrated elite was best connected if not with the central (Belgrade), then at least with local (Vojvodina - Novi Sad) power, and hence, to the ideas of an ideologi-

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[25] For an overview of the history and researches of WAC, see their web site: www.topnet.ro/wac

cally surpassed period; to Yugoslavism. The most important representative of this Hungarian elite, Nándor Major was the political leader of the region when territorial autonomy of Vojvodina was retracted. This relatively "good situation", and subsequent integration sparked divisions of political organizations of the Yugoslavia Hungarian minority after 1989, or in the manner of István Bibó's, their "political hysterisation".

This attempt at a generation-based periodisation is only a partial approach to mapping the processes of change in the history of minority Hungarian elites, remains to be completed by the two, additional elements referred to in the introduction. The present approach is also limited by the fact that it only analyses these processes from the perspective of the activities of minority elites. To gain a full picture, we should also periodise the Bucharest and Budapest governments' policy towards Hungarians, as well as the transformation of the minority issues in the context of transformations in international relations. Furthermore, I have approached the issue here from the perspective of the elites and macro-correlations, not from an everyday-life, grass-roots perspective. The approach could be completed if the minority historical periodisation would be confronted with the epochal divides in the given country's economic and social history.

It is clear from the present draft, however, that the history of Hungarian minorities is basically a history of reactions to changes in high politics. They participated in these processes not as a dominant party, but from a defensive position. Hence, the political stances and minority policies of the elites aimed at maximum exploitation of the given possibilities.

*Translated by*Vincze Hanna Orsolya

LÁSZLÓ GYURGYÍK

On Assimilation and Change of Nationality Based on Surveys Conducted Among Hungarians Living in Slovakia

The results of censuses conducted around 2000 in the countries neighbouring Hungary, and the ensuing discourse, call our attention to some important developments and changes. Among others, the theoretical-methodological aspects of assimilation and nationality change have come to the foreground. This increasing interest creates an opportunity for the concept of assimilation to be cleared from all the residua which it has accumulated – partly as a result of lack of data characteristic from previous decades and partly due to uncertain, misty and careless usage of concepts. In the course of analysing the etno-sociological and ethno-demographical processes of recent years, a close scientific study of these concepts has become inevitable.[1]

In analysing social change on micro- and mezzo-levels, the issue of assimilation and nationality change has come to the foreground in connection with relatively swift and significant changes in the ethnic demographic of regions or settlements. These changes have included change in the number of children attending Hungarian schools as opposed to the national average, changes in language usage and changes in the number and proportion of mixed marriages.

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[1] In comparison to a census conducted ten years earlier, the number of Hungarians living in neighbouring countries has changed unfavourably for Hungarians. The size of major Hungarian communities beyond the border has significantly decreased. The degree of reduction in the number of Hungarians region by region has called attention to the etno-demographic process of Hungarians living beyond the border and has called for thorough scientific analysis of assimilation and nationality change. See László Gyurgyík – László Sebők (eds.): *Népszámlálási körkép Közép-Európából,* 1989–2002. [Censuses in Eastern Europe, 1989–2002]. Budapest: Teleki László Alapítvány, 2003.

The present study summarises the outcome of earlier sociological and demographic surveys on the assimilation processes of Hungarians living in Slovakia. It aims to reconsider the results of such recent surveys according to the accepted co-ordinates of social sciences and place them into a unified theoretical structure. Where we have insufficient knowledge, presumptions are provided, taking the risk of possible mistakes. This study does not aim to summarise what has been repeatedly said on the development of assimilation theories.

After clarifying our concepts, we will take a look at the relationship between assimilation processes and segments of social reality. We will then make an attempt to construct interethnic social reality as seen through the assimilation processes. Placement among social co-ordinates is determined by the nature of our fundamental assumptions. My starting point is the obvious, plausible assumption that the assimilation process is headed from minority to majority communities.[2] Let us look more closely at this process.[3]

Concepts

Assimilation is a process blurring the borderline between two or more communities, including ethnic or smaller social groups, when members get come contact with each other. It begins with cultural exchange and interaction and ends with the profound fusion of groups. As an accomplished process assimilation means the melding of previously discernible socio-cultural groups. The process of assimilation may be divided into initial, advanced or final stages.

The present study interprets assimilation as a process whose stages are interactive; they develop separately but not wholly independently of one another.[4] A distinction must be made between intergenerational and intragenerational assimilation, the former referring to assimilation between generations, the latter referring to assimilation within one generation. In the

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[2] This assumption may be made more precise: in Slovakia the assimilation processes modify in differing degree the ethnic characteristics of minority and majority nations in contact. Their relation is asymmetric as regards its ethnic effects. Some individuals of minority origin consider themselves belonging to the majority nation as a result of nationality change. Those belonging to the majority nation tend to assimilate into the minority in a lesser degree.

[3] The relationship of national-ethnic communities is not necessarily determined by assimilation processes, on the one hand it can be characterised by cultural pluralism and on the other by segregation.

[4] Yinger, John M.: *Ethnicity: Source of Strength? Source of conflict.* Albany: State University of New York Press, 1994.

course of empirical surveys these types are frequently merged. A distinction on a conceptual level, however, is of the utmost importance. The present study measures assimilation by comparing the ethnic affiliation of the individual to the origin of the parents.[5]

As opposed to sociological approaches, nationality change based upon demographic data should not be regarded as assimilation. It is simply a change of nationality or a change of ethnic identity. The demographic approach regards nationality change as assimilation and does not take into account the process of assimilation.

As regards these two concepts we can safely say that considerable assimilation may take place without a change of nationality and vice versa, individuals may change nationality without considerable assimilation taking place.[6]

Aspects of the social reality and assimilation processes

Now let us examine the assimilation process in relation to certain determining factors of social reality. According to my main hypothesis, assimilation is directed from the minority to the majority community. This will be examined from the aspect of interethnic relations.[7]

	Dimensions	Variables
1.	Cultural assimilation	Degree of knowledge of Hungarian
2.	Structural assimilation	Language of schooling
3.	Intergenerational amalgamation	Homo- or heterogeneity of parents' marriage
4.	Intragenerational amalgamation	Nationality of spouse
5.	Assimilation of identification	Nationality of person

Dimensions. Assimilation processes are influenced by various social factors, with differing impacts, weights and roles. The models for the survey car-

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[5] Such a definition primarily implies an intergenerational change but includes intragenerational elements as well. Determining the beginning of intragenerational change is quite problematic as the direct and indirect impact of origin is realised in the individual's lifetime.

[6] An individual may consider himself a member of a given nationality while others consider him to be of another nationality due to language use, language of his schooling, nationality of his spouse and the ethnic socialisation of his children. Opposed to this, a change of nationality enforced by violence, ethnic terror or violation of rights does not necessarily enhance a significant assimilation process, especially if only for a short time or ending in the foreseeable future.

[7] In my analysis the concept of minority and majority covers both their macro (national) and micro (local) senses.

ried out among Hungarians living in Slovakia were created based upon the theory of Gordon and Yinger, and five dimensions were distinguished.[8]

We tried to answer two questions, or rather, two aspects of the same reality. On the one hand we tried to clarify which factors are responsible to the greatest extent for the maintenance or change of national affiliation. On the other hand, we wanted to find out how the ethnic affiliation of members of ethnic groups in contact develops, and what kind of assimilation processes take place between them.

To answer the first question we applied a one-dimensional model in which nationality was the dependent variable and all other factors – (homogeneous-heterogeneous) origin, language of schooling, degree of knowledge of Hungarian and nationality of spouse – were explanatory variables.

The impact of factors influencing national affiliation was analysed in several stages. Initially, the impact of certain explanatory variables on the dependent variable was examined. The results show that homogeneous Hungarian origin plays the greatest role in maintaining national affiliation: 93.6% of persons of homogeneous Hungarian origin considered themselves Hungarian, while 20.1% of persons of heterogeneous origin regarded themselves Hungarian. Not a single person of Hungarian nationality was found among persons of homogeneous Slovakian origin. This may lead us to say that 6% of persons of homogeneous Hungarian origin changed their nationality in comparison to that of their parents. Furthermore, 60% of persons born in mixed marriages change their nationality.[9]

In addition to origin a new dimension was added to our model in turns. We looked at how the proportion of people changing nationality modifies if origin remains the same while the newly included variables are different. We found that the addition of other explanatory variables made significant difference on the number and proportion of Hungarians. A typical case is the change of the language of schooling. In the case of individuals of Hungarian origin who attend Slovakian primary schools, 28% of those interviewed con-

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8   Gordon, Milton M.: *Assimilation in American Life: The Role of Race, Religion and National Origin*. New York: Oxford University Press. 1964. 60–84; Yinger, op.cit.

9   In the case of persons coming from mixed marriages, the proportion of those changing nationality is counted unlike that of persons born in homogeneous marriages. If persons coming from mixed marriages belonged to one and the other nationality in equal proportion, i.e. 50–50%, heredity would be balanced since descendants would share in equal proportion between the two nationalities according to origin. This would lead to the simple reproduction of the number of persons of Hungarian nationality; i.e. there would be no assimilation (on group level) within mixed marriages.

sidered themselves Slovak. 2% of those attending Hungarian schools considered themselves Slovak. Change in language dominance resulted in an even greater differentiation than the preceding one. We found that people of Hungarian origin who speak the language of the majority better than their own, almost half (49%) of those interviewed regarded themselves as Slovak. And, as in the previous example, 2% of those who speak Hungarian better considered themselves Slovak. The smallest change in the nationality of those interviewed was effected by the choice of a spouse of different nationality. 16% of those married to a non-Hungarian person and 3% of those married to a Hungarian considered themselves Slovak.

Descendants of mixed couples reflect an even more differentiated assimilation process. 95% of people of heterogeneous origin consider themselves Slovak if they attended Slovak schools (the typical case) while 74% of those who attended Hungarian schools have Slovak identity. There is a similar proportion concerning language proficiency: 99% of those whose command of Slovakian was better than Hungarian consider themselves Slovak while 41% of those who spoke Hungarian better than Slovak still considered themselves Slovak. Ethnic affiliation is the least influenced by the homogeneous-heterogeneous nature of marriage. 89% of people married to a Slovak partner and 66% of those married to a Hungarian partner regard themselves as Slovak.

As it has already been mentioned in the case of persons of homogeneous Slovak origin there is a deterministic relation between origin and identity. They tend to regard themselves as Slovak in every case, even if they happen to attend a Hungarian school or if they speak Hungarian better than Slovakian.[10] Mixed marriages therefore cannot be placed mechanically mid-way on the imaginary line binding homogeneous Hungarian and homogeneous Slovakian marriages. As regards ethnic characteristics mixed (Hungarian-Slovak) marriages are closer to homogeneous Slovak marriages. There is no sign of balancing the two ethnic backgrounds if we consider language usage or cultural customs. The most important asymmetry can be found in the aforementioned transmittal of ethnic affiliation.[11]

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[10] Four explanatory variables may lead to 81 possible combinations, out of which 54 were represented in the survey.

[11] In an earlier survey (György Csepeli – Antal Örkény – Mária Székely: *Grappling national identity. How nations see each other in Central Europe.* Budapest: Akadémiai Kiadó, 2000.) the authors concluded that while homogeneous national identity within a family does not prompt children to change their nationality, in a mixed marriage the nationality of the parent who belongs to the majority nation becomes a norm for the growing child when

If every variable added to the model was of Hungarian dominance and strengthened Hungarian affiliation (i.e. those interviewed of homogeneous Hungarian origin, who spoke Hungarian better than Slovakian, attended Hungarian primary schools and had a Hungarian spouse) about 0.3 % of interviewees would change their nationality in comparison to the nationality of their parents. The various values of explanatory variables make nationality changes of varying degree likely.

Complex model. The survey described in the preceding paragraphs examined nationality change in a context significantly differing from the demographic approach.

In reality, however, the ethnic relations of two national communities are much too complex to be expressed by the data, number and proportion of nationality as these hardly tell us anything directly about the delicate ethnic structure of the population of a given territory. Similarly, the ethnic affiliations of those living in the interethnic space of two nationalities mean continuous variables rather than a stack of separate, hermetically sealed categories.

In order to reveal the delicate ethnic structure of the population living in the Hungarian-Slovakian interethnic space, several dimensions have to be taken into consideration when examining ethnic changes. In this approach the interviewees are fixed at some point – let us call it the position of national affiliation (PNA) – in the Hungarian-Slovakian interethnic space. At the two ends of this interethnic space we find people who are extremely bound to their national community – these are the Hungarian and Slovakian core groups – and the various forms of transitional ties occupy intermediate positions between them. According to the results of our survey, the arrangement of the population living in the Hungarian-Slovakian interethnic space forms a U-shaped curve with most people living in the homogeneous ethnic core found at the two poles of the imaginary ethnic space, and the fewest people between the two poles (those equally tied to both ethnic groups).

In the survey sample, 29.1% belonged to the Hungarian and 27.1% to the Slovakian core. 7.5% of those interviewed could qualify as double, transitional: 19.3% as Hungarian between the Hungarian core group and the transitional group, and 17% as Slovakian.

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choosing identity, thereby decreasing the maintenance of minority identity. This survey compared the strategies of identity transmittal in the Hungarian communities of Transylvania and Slovakia and found that the transmittal of homogeneity among Hungarians in Slovakia is smaller than among Hungarians in Transylvania.

In this approach, national affiliation extinguished the nationality category and allowed for the examination of the delicate structures of multiple ties.

Let us now examine assimilation processes with the help of the PNA construction. In the following, assimilation refers to the divergence between origin and the national affiliation of the person interviewed.

Assimilation processes can be divided into several phases, from the initial stage to complete, accomplished assimilation. According to the outcome of the survey, the position of national affiliation of nearly half of those interviewed did not change compared to their origin. Assimilation in the direction of Slovakian nationality is of greater extent and intensity than assimilation in the opposite direction. 38.8 % of the population living in the Hungarian-Slovakian interethnic space moved towards Slovakian PNA and only 10.8% towards Hungarian nationality. Differences in the intensity of assimilation processes are also conspicuous. One can find strong (2.1%) and accomplished (0.7%) assimilation in the Slovakian direction even within one shift of generations (the percentage of weak or moderate assimilation is 26% and 10% respectively), while apart from weak (8.2%) or moderate (2.6%) ones, no assimilation can be detected in the Hungarian direction.

Considering all types, assimilation in the Slovakian direction is 4.1 times greater than that in the Hungarian direction.

Macro (national) level – political aspects. Thus far I have tried to reveal how certain dimensions of the assimilation model may influence the change of nationality and the assimilation process. Now let us look more closely at the direction of the assimilation processes. My hypothesis is that the assimilation process is determined primarily by the nation state, and that changes in the political framework lead to changes in the minority or majority status of ethnic groups. Earlier historical-demographic surveys unanimously confirm the role of the nation state. Before the Trianon peace treaty on the territory of present-day Slovakia – which once belonged to Hungary – the proportion of people whose mother tongue was Hungarian significantly increased, while that of Slovaks decreased. [12] If we look at the history of the territory that belonged to Slovakia in 1921, in 1880 63.1% of the population was native Slovak and 23.3% was native Hungarian. By 1910 these numbers changed to 57.6% and 30.6% respectively.

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[12]   At the same time we have to note that when tracing census data several decades back one should take into account the difference in fertility, mortality and migration rates among certain ethnic groups.

The study of censuses carried out within the frames of the Czechoslovakian nation state after the change of empire in 1918 demonstrated a steady and significant rise in the number and proportion of Slovaks. Aside from a short period between 1950 and 1961, the proportion of the Hungarian population steadily decreased. It has been dwindling since 1991. Between 1921 and 2001 the percentage of Slovaks rose from 65.1% to 85.7% while that of Hungarians fell from 21.7% to 9.8%.

In our sociological survey conducted in 1999–2000 the impact of changes to the nation state on the assimilation process was examined based on answers to questions concerning several generations of ancestors. We looked at the nationality composition of the grandparents and parents of the person interviewed. Parents born before 1918 were regarded as people socialised within the frame of the Hungarian state before Trianon, and those born after 1918 were considered socialised within the frame of the Czechoslovakian state.) The results showed that in the generation of parents born before 1918 the percentage of Hungarians was higher (69.9) than in their grandparents' generation (66.7). In the generation of parents born between 1919 and 1938, the percentage of Hungarians was already lower (55.6) than in the generation of the Grandparents (61.8). A tendency in the opposite direction revealed itself among Slovaks. Among parents born before 1918, the percentage of Slovaks was lower (29.1) than in the generation of Grandparents (30.3). Differences between the two generations in the case of people born after 1918 was even greater; among Grandparents the percentage of Slovaks was 35.7 and among parents 42.8.

At the same time it should be noted that even without significant change in the frames of a nation state, different attitudes towards minorities develop in certain periods. In the history of Hungarians in Czechoslovakia, the years of statelessness (1945–1948) were followed by a kind of Czechoslovakian "socialist nationality policy" consisting of several phases. Efforts for reintegration in the 1950s (when due to lack of rights certain layers of the Hungarian community integrated themselves into various hierarchical and horizontal segments of Czechoslovakian society) bore ethnic messages very different from the normalisation period of the 1970s or the anti-Hungarian hysteria of the Mečiar era. These periods influenced strategies of national affiliation/nationality change in varying degrees. Following the years of statelessness, the 1950 census registered the smallest number of the Hungarians in Slovakia (354,532 people). The 1991 census, partly due to national euphoria following the velvet revolution, showed an increasing number (567,296 persons),

while the significant drop in the number of Hungarians in 2001 (47,000 persons) might be interpreted as a consequence of the Mečiar years.[13]

The difference between the number of those belonging to the Hungarian community and those declaring to be of Hungarian nationality can be indirectly inferred through divergence of mother tongue and nationality. The number of people belonging to a national minority is higher based upon mother tongue data rather than nationality data. As regards people belonging to a majority nation, the tendency points in the opposite direction. According to our hypothesis, the greater the difference between these two indexes, the more intensive assimilation takes place in interethnic relations. From 1970 the smallest gap between the number of Hungarians according to mother tongue and the number according to nationality was registered in 1991 (mother tongue data was 7% higher), and the largest gap in 2001 (the number of people who considered themselves to be Hungarian according to mother tongue was 10% higher than the number of those who admitted to be of Hungarian nationality).[14]

Beside the political – or macro level – perspective we examined what role the ethnic character of settlements – the micro level – and its changes play in the assimilation process. The study of censuses confirms that the micro level – the percentage of Hungarians living in the settlements – exerts an important influence on assimilation. What happens at the micro level, however, is affected by strong or soft nation state policy. Consequently, the ethnic data of consecutive censuses vary within one region, especially in ethnically mixed settlements. In the long run, for several decades, the percentage of Hungarians in Slovakia has declined in every settlement inhabited by Hungarians. The degree of decline is much smaller in settlements of strong Hungarian majority, than in places where fewer Hungarians reside.[15]

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[13] In 2001 the number of Hungarians in Slovakia was 520,528.

[14] Scítania ľudu, domov a bytov k 3. marcu 1991 v Ceskej a Slovenskej Federatívnej Republike. FSU Praha, 1991. Scítanie obyvateľov, domov a bytov 2001. Byvajúce obyvateľstvo podľa národnosti, podľa materinského jazyka a pohlavia za SR, kraje a okresy. SÚSR, 2002. 8. Instructions how to fill in the questionnaire.

[15] A settlement qualifies as one inhabited by Hungarians if the proportion of Hungarians reaches 10%, or their number exceeds 100 persons. They can be divided into the following groups (the last two are variations of settlements with a Hungarian majority):

1. sporadic settlements: the percentage of Hungarians is less than 10 but their number reaches 100 persons;

2. settlements of Hungarian minority: the percentage of Hungarians is between 10 and 50;

3. settlements of moderate Hungarian majority: the percentage of Hungarians exceeds 50 but does not reach 80%;

Between 1950 and 1991 the number of Hungarians grew countrywide and in some settlements both the number and the proportion of the Hungarian population increased in the period between the two censuses. Nevertheless in the long run a drop in the proportion of Hungarians can be observed in some settlements inhabited by Hungarians. In the period between 1991 and 2001 the proportion of Hungarians in Slovakia fell by nearly 10%, in settlements of strong Hungarian majority by 5.2%, in settlements of moderate Hungarian majority by 7.6%, in settlements of Hungarian minority by 14% and in sporadic settlements by 18.5%.[16]

One can thus see that changes in ethnic set-up at the regional and local level are much more mouldable than at the national level. The ethnic constitution of a settlement is often a question of migration and administration. Looking back on the period of dualism, historical-demographic analyses reveal structural changes in opposing directions- in some settlements a shift took place in favour of minorities, and in other places in favour of the Hungarian majority population. Nevertheless, these changes were and are favourable for the prevailing majority.

The results of our questionnaire again indicate the defining role of the ethnic character of settlements in the assimilation process. In settlements inhabited by Hungarians additional explanatory variables created different impacts on nationality change and the assimilation process.[17] In settlements with a Hungarian majority, the transmittal of Hungarian national affiliation was greater than in settlements with a Hungarian minority. 96% of those born in homogeneous Hungarian families considered themselves Hungarian in settlements with a Hungarian majority and 85.2% in settlements with a Hungarian minority. Differences are still more pronounced in the case of people born in Hungarian-Slovakian mixed marriages: in settlements of Hungarian majority 33.6% and in settlements of Hungarian minority, 4.8% admitted to be Hungarian. Similarly, the position of national affiliation- the delicate ethnic structure – of the population of mixed settlements were also significantly different. In settlements of Hungarian majority the percentage of those having double, transitory affiliation was the lowest (6.7%), the percentage of those belonging to the Hungarian core group was the highest

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[16]   There were a few settlements in 2001 where the proportion of the Hungarian populations increased.

[17]   The settlements involved in the survey were divided into three groups unlike the typology of settlements inhabited by Hungarians: settlements of Hungarian majority (where the Hungarian population is above 60%) mixed settlements (between 40 and 60%) and settlements of Hungarian minority (between 10 and 40%).

(51.9%) and the percentage of people belonging to the Slovakian core group was lower (7.2%).

Changes in the ethnic character of settlements significantly modify the delicate ethnic structure of the population. In mixed settlements the percentage of those having double affiliation is the highest (8.7%) with more people belong to the Slovakian core group (31.1%) than to the Hungarian (24.8%). In settlements of Hungarian minority, aside from the relatively high proportion of people with double affiliations, 40.4% of the population belongs to the Slovakian and 13.7% to the Hungarian core group.

The direction and intensity of the assimilation process also varies in settlements with various ethnic compositions. In settlements with a Hungarian majority, the percentage of unassimilated persons is highest (56.7), and the percentages of people assimilating into the Slovak and Hungarian community are the lowest (33.4% and 9.9% respectively). The percentage of the unassimilated persons is the lowest (45.9%) in settlements with a Hungarian minority. At the same time, the percentage of those assimilating into the Slovakian community is the highest (43.6%) here.

The ethnic composition of a settlement implies the quality of the system of national institutions. The proportion of the population of a settlement bears an important influence on the maintenance of national institutions like schools, cultural organisations, programs, and practice of religion. In general, the largest scale of Hungarian institutions is to be found in settlements with a Hungarian majority. In settlements with a Hungarian minority one can hardly find a Hungarian school. Furthermore, Slovakian legislation ensures the possibility of official language use in settlements where more than 20% of the population is Hungarian.

The issue of *time* must be dealt with from two perspectives: changes through time must be examined at the community and the individual levels. At the *community level* we examined how the intensity of assimilation processes changed in the chosen settlements. We asked our interviewees questions regarding the national affiliation of their relatives. When creating generations our starting point was the person interviewed, thus we had the grandparents for the first generation, the parents for the second, the interviewed for the third, the children for the fourth and the grandchildren for the fifth. 64.8% of the grandparents' generation, 61.3% of the parents', 53.1% of the generation interviewed, 47.2% of the children's generation, and 39.9% of the grandchildren's generation was of Hungarian nationality. Within the generation

of the grandparents there were twice as many Hungarians as Slovaks, whereas among grandchildren there were 50% more Slovaks than Hungarians.

The results of the survey conducted with the help of the aforementioned one-dimension model were very similar. We examined two shifts of generations (grandparents – parents, parents – the interviewed) concerning national affiliation and found that the role of homogeneous Hungarian origin seems to determine change through both generation shifts. Concerning the transmittal of Hungarian national affiliation, the role of mixed origin significantly diminishes by the second shift of generations. Its function to transmit identity to descendants is taken over by additional dimensions added to the model. The weight of other variables did not change significantly in either shift. Following the command of Hungarian and schooling in the Hungarian language, the impact of Hungarian nationality of the spouse is the weakest.

Taking another perspective we looked at the changes of ethnic affiliation occurring within the life of *individuals*. At present there is no direct (survey) data at our disposal concerning the various changes of affiliation in the course of an individual's lifetime.

We examined the processes of nationality change according to age based on census data. We compared the changes that took place in the number of five-year-olds in the total population, and of Hungarian and Slovakian na-tionalities. At first we analysed the changes that took place between 1991 and 2001 (See fig.1).

The difference in changes that took place in the proportion of those be-longing to certain age-groups of the population within Slovakia, and of the nationalities surveyed provides a basis for an estimation of nationality change according to age only when certain conditions are met.[18] It can be seen that the decline of the age groups for the five-year-olds between the two censuses slightly intensifies with advanced age, significantly increases with the 50–54-year-olds age group. This natural process is different in the case of the total population of Slovakia, and in the case of the Hungarian and Slovakian nationalities.

While the decrease of Slovaks by age groups is almost identical with that of the total population, the situation of Hungarians is different. The drop in

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[18]   The idea behind our survey is that several factors influence the number of five-year-olds in the period between the two censuses. One of the most important among these is the mortality rate, which increases as we approach older age groups and another one is inter-national migration. It follows that this approach lends us reliable data only if the age-spe-cific mortality and migration indexes of the ethnic groups under survey do not differ greatly from each other.

1. *figure:* Changes in the age-group of five-year-olds of the Hungarian
and Slovakian population in Slovakia, 1991–2001, %
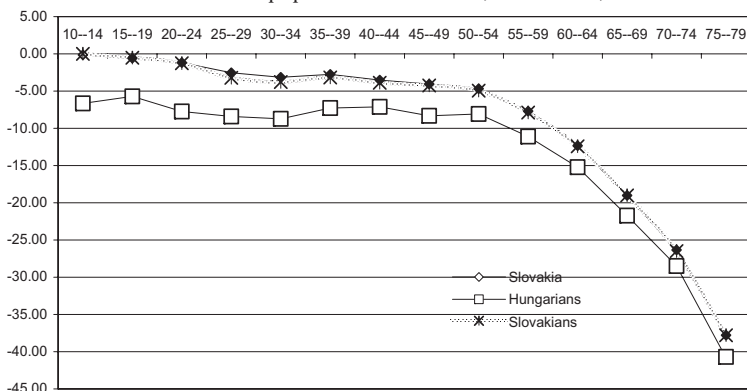
the number of people belonging to the five-year-old age-groups of Hungari-
ans roughly follow country-wide tendencies, but the decrease of the
five-year-old age-groups of the 10–34-year-olds exceeds national values by
5–7 score. Approaching older age groups this divergence becomes smaller,
yet the decrease of Hungarians remains greater than the national average.
Thus it can be observed that the decline of the Hungarian population by
five-year-old age-groups from the age-group of the 10–14-year-olds to that
of the 40–45-year-olds is at least twice as much as in the case of the total popu-
lation. In the first figure the 10–14-year-olds constitute (in 2001) the youn-
gest age group. The data of those who were born between the two censuses
are not shown here as they were first registered only in the last census (in
2001). The number of people belonging to certain age groups between 1991
and 2001 is known from demographic statistics.[19] Examining the data of the
0–9-year-olds we saw that the divergence is greater than in the case of census
cohorts. The number of the Hungarian 0–4-year-olds was 10.3% lower, that
of the 5–9-year-olds was 15.6% lower in the 2001 census than the number of
births according to the data of birth register.

The tendency of Hungarians to change nationality is also an age-specific
phenomenon. It is highest among children and youths, while decline de-
creases among the middle-aged and dwindles further on among the elderly.
The pattern of the tendencies of nationality change according to age groups

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[19] Consequently, data registered with two different methods were compared.

between 1991 and 2001 may be applied to earlier decades as well. The pattern of the drop in the number of Hungarians according to age groups between 1970 and 1980 and between 1980 and 1981 was similar to that of the period 1991–2001.[20]

Gender. We examined the role of gender in the transmittal of national affiliation. We wanted to know which influence is stronger: the mother's or the father's. Our two competing hypotheses were that on the one hand the traditional structure of Hungarian families living primarily in rural areas strengthens the influence of the father. While on the other hand, the role of the mother in the upbringing and socialisation of the child might mean a stronger maternal influence.

In the survey of two generation shifts, of the four lines of descent, three reflected a strong paternal influence. The survey of cross tables also confirms that the father has a stronger impact on the nationality of the child. 84.2% of children of Hungarian fathers and 82.8% of children of Hungarian mothers considered themselves Hungarian. However, we have also seen that the difference between maternal and paternal influence on the national affiliation of children has decreased, most likely as a result of the high level of modernisation.

The degree of urbanisation of settlements. Assimilation processes are affected by other factors including settlement size, or more exactly, their urban or rural character. According to a very frequent hypothesis, in towns assimilation (nationality change) is faster than in villages. We examined the data of the 1991 and 2001 censuses with the help of a panel survey (in longitudinal approach). In towns we registered a greater decrease of Hungarians (9.9%) than in villages (7.3%). At the same time, in the case of every type of settlements classified according to ethnic character, the proportion of the Hungarian population fell to a lesser extent in towns than in villages. In sporadic settlements there was hardly any difference: the proportion of Hungarians fell by 18.7% in towns and by 19% in villages. As regards settlements with a Hungarian minority, the proportion of Hungarians dropped by 13.3% in towns and 15.6% in villages. Similarly, the degree of decrease was 2 or 3% lower in towns of moderate or strong Hungarian minority than in villages of the same type. The roots of this seeming contradiction can be found in the distribu-

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[20] Comparing the differences that took place during 3 decades it turns out that the decline of the Hungarian population according to age groups was the most intense in the 1990s. In the 1970s, decrease was similarly dispersed in time but its degree was smaller. In the 1980s dispersion in time was again very similar yet the degree of decline was significantly smaller and the numbers of certain age-groups increased during ten years, which means that a kind of (transitory) dissimilation took place in favour of the Hungarians.

tion of the Hungarian population in settlement types (towns or villages) according to their ethnic character. The Hungarian population living in rural areas lives in greater proportion in settlements of Hungarian majority than Hungarians living in towns do. Thus, the unfavourable distribution of the Hungarian population in towns results in a decrease of Hungarians of a greater extent in villages.

We can reasonably suppose that migration into towns leads to nationality change of a higher degree not because migration is directed into towns but because the proportion of Hungarians in the target towns is lower than that of Hungarians in the villages of departure. Therefore, it seems that we have to doubt that long-standing and widely accepted assumption which drew a direct relation between the assimilation of Hungarians in Slovakia and the process of urbanisation and migration.

The question arises, what is the reason for towns having a more favourable influence on maintaining Hungarian national affiliation in the various types of settlements with a given ethnic pattern? There are only hypotheses to answer this question, one of which may be the yet unknown ethnic consequences of internal migration between villages and towns.

Summary – Outlook

Based upon the results of our surveys, the factors determining assimilation processes can be divided into four groups and can be illustrated with a figure made up of three concentric circles (see figure 2).
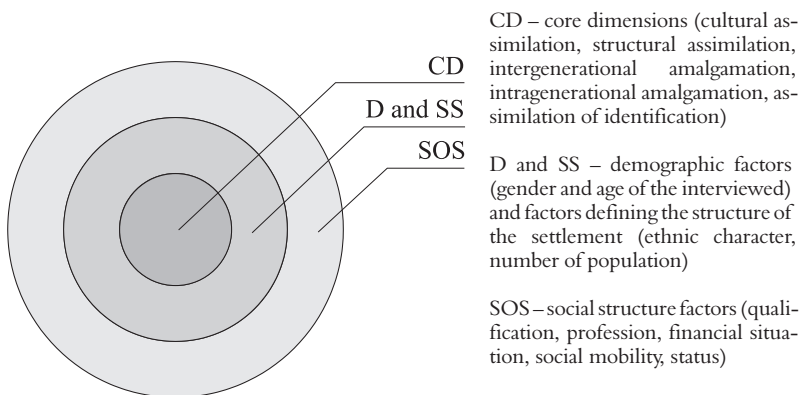
- The innermost circle includes the five dimensions constituting the core of assimilation processes – cultural assimilation, structural assimilation, intergenerational amalgamation, intragenerational amalgamation, assimilation of identification – these bear the strongest and most direct influence on the assimilation process.
- Between the innermost circle and the second concentric circle we find demographic factors (gender and age of individuals) and factors defining the structure of settlements (ethnic character, number of inhabitants) – these have an indirect influence on the process of assimilation. Among these factors, ethnic character and the proportion of Hungarians living in the given settlements have an outstanding importance. The latter is to be found on the borderline between the belt of core dimensions and that of demographic and settlement structure factors.
- In the outermost circle, social structure factors (layers, mobility) are to be found. The profession, qualification, status, lifestyle and finan-

cial situation of individuals are factors which may have a more indirect, tinged influence on national affiliation. Certain professions are more tied to the national state than others. In such professions (e.g. in the case of employees within the apparatus of the state, the police and the army) the impact of structural assimilation manifests itself through the professions. People who have the same occupation but who work in institutions with different ethnic connotations and whose ethnic affiliations change accordingly, are also to be listed here. Most likely, the delicate ethnic structure and transmittal of national affiliation in the case of Hungarian teachers, or even school attendants, who work in Hungarian and Slovakian schools differ.

• Those factors that according to our knowledge at present, have no impact on assimilation processes, are to be found outside the outermost circle. Taking into consideration that surveys until present have covered a small sample and a relatively small number of the hypothetically influencing factors, we can only assume which factors can be included here, namely certain consumption, entertainment and lifestyle characteristics whose connection with the process of assimilation we do not know.

Translated by Ivett Császár

Figure 2: Factors and dimensions affecting the intensity of the assimilation process

CD

D and SS

SOS

CD – core dimensions (cultural assimilation, structural assimilation, intergenerational amalgamation, intragenerational amalgamation, assimilation of identification)

D and SS – demographic factors (gender and age of the interviewed) and factors defining the structure of the settlement (ethnic character, number of population)

SOS – social structure factors (qualification, profession, financial situation, social mobility, status)

ATTILA Z. PAPP

The Hungarian Press System in Romania During the Nineties: The World of the Operators

The main goal of the theses presented here is a descriptive understanding of the role of the written press of the Hungarian minority in Romania[1] – maintained, safeguarded and developed in the nineties – as a decisive sub-system of minority institutionalization. We build this 'understanding' on our preliminary three-tiered studies: a) press-history analysis; b) surveys prepared by means of written questionnaires among journalists; c) interviews conducted with the editors of the most important dailies and weeklies of the Hungarian media in Romania.

We hope to answer the following questions with our multi-level analyses: 1. Which theoretical, cultural and political constraints impact the minority public operators in question? 2. How can the society of journalists that exists behind the examined press be described in sociological terms? 3. Can gatekeeper-functions be identified by means of approaches focused on the individual level or that of the layer of journalists? If so, which taboo-creating mechanisms gain prominence in the minority press in the course presenting characteristic content?

Frames

The importance of press-history – selective inheritance: What did Hungarian press in Romania in the nineties inherit and how?

Public fragmentation and appreciation of the local press ('Mócs Syndrome') characterized the Hungarian press in Transylvania prior to the First

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[1] According to a 1992 census, the Hungarian minority in Romania consisted of 1,624,959 individuals. According to the 2002 census, 1,434,377 Hungarians resided in Romania, of whom 99% live in Transylvania.

World War (Trianon). Between the two world wars, in the first decades of minority existence, a kind of elitist/cultural-defensive attitude emerged as a singular 'minority ethos' or constant reflection concerning 'fate-questions' of the minority community. In other words, the modalities of minority and majority group co-existence, permeated the thinking of journalists who had arrived to the profession mainly via literature.

After a short reprise, a period of clear political compromises and obtrusive influences developed in the life of the Hungarian public in Romania and continued in the decades following the Second World War. The press was forced to continuously relate, on the one hand, to the central (communist) powers and, on the other, to its own minority organizations. The public had to assume extramedial functions in the midst of political constraints until – in the final years of the communist dictatorship – it had to fight for its very existence. Under these circumstances, in the midst of the restrictive formal and informal measures of censorship, (some) journalists internalized the use of metaphorical, ambivalent language and attempted to mark (with more or less success) the boundaries of a gray or second public.

In the nineties these cultural inheritances led to the continued fragmentation of the Transylvanian Hungarian press with the increased importance of localities. During the first half of the decade, journalistic activities and published materials were heavily saturated with (defensive) answers to nationalistic aspirations freely exhibited in early 1990 by certain segments of majority society, as well as political parties. In the second half of the decade, partly in response to the transformation of the internal situation of Romania (the entrance of the DAHR[2] into government), and partly on the Hungarian model, cleavages appeared in the previously unified and defensive minority attitude. It became clear that the minority was not unified community, but one divided along lines of differing interests. These divisions also appeared and became accepted in the minority press. Currently, as occurred previously in Hungary, the press exhibits a dualistic character with the 'left-wing' (i.e. Markó-supporters, prepared for compromise with majority parties) on the one hand, and the 'right-wing' equivalent[3] (i.e. Tőkés-supporters, Fidesz-friendly and following a more radical strategy) on the other.

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2   Democratic Alliance of Hungarians in Romania
3   Placing "left-wing" and "right-wing" in quotation marks is warranted. The 'question of the Hungarian nation,' 'minority existence and permanence,' etc. belong, for the most part, in the dictionary of the right-wing in Hungary, while they assume a central place for both sides in the context of the Hungarian minority in Romania.

The continuity of 'frameism'

This press-history suggests that the operation of the present-day press system reflects recurring (and as we indicated above, selective) inheritance. This 'inheritance,' which determines the journalist's wiggle-room, stands in close proximity to the very fact of minority existence. Any intellectual creation by a minority likely assumes acceptance of some (conscious or unconscious) minority ideology. This acceptance contributes to the designation of quasi-permanent frames for the minority press. We can call this phenomenon 'frameism.'

The '-ism', in hindsight, suggests that the existence of the frame assumes some ideological determination. The journalist considers her/himself as the insider 'frame-familiar' and, as a result of her/his situation-consciousness, adjusts her/his actions to this frame. She/he contributes to the creation of such frames as their existence facilitates her/his daily work. Guided by these frames, she/he does not question matters that may disturb the unity of the former frame. As a minority journalist, this frame also serves to protect her/his ethnic group and assumes some connection between her/himself and the imagined reading community. The functioning of the frame may contradict with professional principles or the conscience, but the journalist nevertheless continues to maintain them. Frame maintenance is partially consistent with work routine, but is in greater part due to the agenda-setting in the minority press. Thus, the journalist turns with higher probability to subjects that strengthen the frames guiding her/his work.

Widening professionalism v. minority ethos

Professional logic and the minority ethos are often at odds. They appear as exclusive attitudes. Although it can be shown that a kind of confrontative professionalism emerged toward the late nineties, this does not mean an obvious move in the direction of dominant professional logic. The existence of 'frameism' described above provides exactly the main reason for this.

Professional clarity does not necessarily mean that the minority ethos, the morality that has pervaded the Hungarian press in Romania since its beginning, ceases to exist among the operators of the press system. Purely professional and minority moral values must be imagined accordingly as value-clusters existing beside each other that may distinguish certain journalists but that, with all likelihood, appear for individuals as hybrid-formations

containing elements of both clusters which prompt them (qua journalists) towards equilibrium.

The increased importance of professional logic does not mean that those 'frames' with deeper roots which determine the functioning of the press and which give space to public discourse cease to exist. As a consequence, ideological and cultural frames, the main traits of which we will describe through various mechanisms (primarily taboo-creation) remain. The minority journalist feels compelled to protect the imagined community (the minority itself), and in doing so allows that the operation of the frame may clash with professional logic.

The frames underlying the present-day press are hence ideologically-determined and bear political, cultural and inter-ethnic dimensions alike. These dimensions are continuously transformed, in part by internal professional matters and in part by other kinds of interactions (example-searching and example-taking in relation to Romanian and Hungarian press). The pluralization of the press system, as well as its development at a number of levels, leads to a variety of frames. The tension between community norms and professional expectations, however, is present everywhere. Perhaps one will never gain the upper hand or ideological dominance), and this gives minority press its constantly reproductive specificity. If professional logic were 'set to win,' the personifications of minority ethics would call attention to the mission-consciousness of the minority (based on the questions 'where are we from?' and 'where are we going?'). If minority feeling were dominant, the profession would sooner or later wear away the one-sidedness, which is exactly what occurred in the late nineties.

Operators

The Hungarian society of journalists in Romania: does its general characteristics differ from that of the society of journalists in general?

International, comparative studies of journalists are linked to the names of Weaver and Wilhoit[4] and begin with the assumption that, despite all kinds of constraints and influences, news (the general media), as well as the manner in which such news is presented, is influenced by the social background

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4   Weaver, David – Wilhoit, Cleveland: *The American Journalist: A portrait of U.S. News People and Their Work.* Bloomington: Indiana University Press, 1986; Weaver, David – Wilhoit, Cleveland: *The American Journalist in the 1990s: U.S News People at the End of an Era.* New Jersey, Mahwah, Erlbaum, 1996.

and the general, diverse attitudes of the journalists.[5] Splichal and Sparks have also done comparative studies, yet their 'expertise' is limited mainly to journalism students. They conclude that although the craft of journalism cannot be clearly defined, it has, through training, changes in specific journalistic knowledge, and through the high-profile declaration of ethnics and autonomy, become increasingly professional worldwide.[6]

The roots of Weaver's studies reach back to 1971. The studies prepared generally confirmed that journalists are basically recruited from what can be viewed as the dominant cultural group in society. Newer studies have also confirmed that (statistically speaking) the typical American journalist can be described as a Caucasian, protestant, male in his thirties.[7] In the nineties, perhaps a slight rise in the average age (36 years) could be noted, in addition to an increased presence of minorities in the media, and a higher ratio of individuals with non profession-specific university degrees. Weaver, in summarizing the results of an international study of journalists (extending to 21 countries), declares that the society of journalists consists, with one or two exceptions (e.g. Finland), of young men who possess university degrees unrelated to journalism. As regards the exceptions, Weaver hazards the presumption that in the near future, ethnic and racial minorities will not be present in journalism in accordance with their ratio within the general population of their states. As to the professional role of journalism, study participants almost universally acknowledged prompt information provision. There was also a relatively high level of agreement among journalists living in different countries as to the importance of public access. Opinions regarding objective coverage, entertainment value, communication of in-depth analyses and the media's watchdog role, however, differed. According to Weaver it can only be ventured that professionalism can to some extent be explained by the specificity of the given political system, while one's view of the ethical dimension is influenced by cultural patterns.

On the basis of written surveys among Hungarian journalists in Romania we can ascertain that this society of journalists also exhibits the characteristics demonstrated in international surveys. There are signs of a middle-class, as well as clear indications of in-class 'male dominance.' The most conspicuous difference is with regard to age: minority journalist-society

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5   Weaver, David H. (ed.): *The Global Journalist. News People around the World.* New Jersey: Hampton Press., Inc. Cresskill, 1998

6   Splichal, Slavko – Sparks, Colin: *Journalist for the 21st Century.* New Jersey: Ablex, 1994.

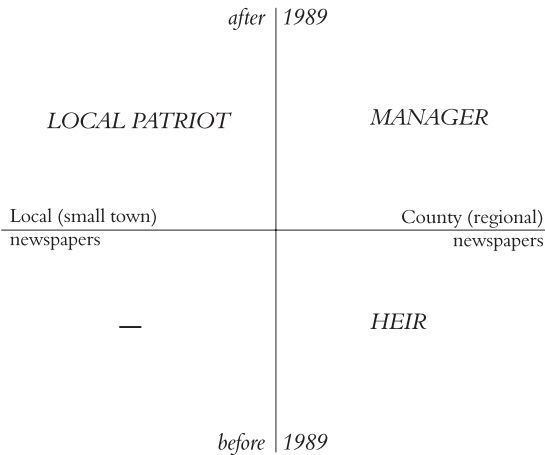7   Weaver-Wilhoit, *The American Journalist in the 1990s*

seems relatively old at the end of the nineties. This can be considered, in part, an inheritance of the seventies and eighties but, at the same time, portends a change of generation (increased youthfulness) in coming decades – something that will surely influence press content. Generational distinctions can already be observed within the society of journalists in internet-use, foreign-language abilities and attitudes toward minority interest organizations (DAHR). The aforementioned also bears an explanatory force in relation to possible press content.

Generational particularities can also be identified with regard to social and geographic mobility. Social mobility is more intensive in older circles than younger ones, due in part to greater journalistic prestige in previous decades and in part to changes in the school system. In their qualifications, younger journalists resemble their fathers to a greater extent than their older colleagues do. At the same time, geographic mobility is also less prevalent in younger generations than in those over 40, likely due to the termination of previous party-directed recruitment and the increased salience of novel local attachments.

Editor-in-chief types: the heir, the manager and the local patriot

The qualitative section of the empirical study (based on interviews) made it possible to distinguish among editors-in-chief, who carry out the decisive roles in the lives of newspapers, along sociological dimensions. On the basis of interviews, and taking into account major life-events and the characteristics of their present-day jobs, editors-in-chief were grouped into three types. These types naturally do not exist in real life, but do provide a handhold for the understanding of the Hungarian (written) press in Romania. We have assigned the labels *heir, manager* and *local patriot* to the three groups. We arrived at this identification system by determining whether editors-in-chief form the fields of an imaginary coordinate system. The horizontal axle signals the type of newspaper (one pole constituted by local and smaller town newspapers, the other by county and regional ones). And, the vertical axle denotes the amount of time spent gaining professional experience (considering 1989 the origo, so that we calculate the point when the present editor-in-chief began his career.)

These types are the results of hypothetical construction. In reality, the marks of each of the three labels are present to a greater or lesser degree in the case of any given editor-in-chief. The labels can thus really be considered metaphors:

after | *1989*

LOCAL PATRIOT   MANAGER

Local (small town)   County (regional)
newspapers   newspapers

—   HEIR

before | *1989*

- *Heirs* belong to the older generation and began their careers in the seventies and eighties. Their qualifications are very similar similarities: most studied in some department of philology (humanities) at the present-day Babeș-Bolyai University in Kolozsvár (Cluj). Their socialization can thus primarily be dated to the period of state socialism; during their editorial work they experienced and lived with censorship. They highlight public service as the main mission of the newspapers under their leadership, and hence view the spread of tabloids with distaste. They state that there are no taboos in the Hungarian press in Romania.
- Most *managers* are presently in their thirties, and received their labels as a number of commercial considerations appear among their newspaper strategies. They aim for a high degree of individualization in their lifestyle. With regard to qualification and family background they are a heterogeneous group, but share a growing professional consciousness prompting them to keep their distance from politics and to assume the watchdog function of the press. In formulating a sense of mission for their newspaper, information-provision stands out. In a related matter, they concede the existence of taboos stemming not only from a minority situation but also those arising from professional incompetence.
- *Local patriots* are at the head of town or small regional newspapers. They have no university qualifications, but have been in contact with press institutions since the eighties due to their literary inclinations. They are somewhat older than managers are. In their newspaper-man-

agement strategies they attempt to place themselves primarily within local systems of interest (so that their relations to the DAHR often mirror the local variety of 'politics at large'). At the same time, they bravely use tabloid elements as a means for survival.

The editor-in-chief types can be considered metaphors of the Hungarian elite in Romania, active in the change of political systems. The *heirs* represent the continuity that unifies inclinations before and after 1989, while prior to 1989 they were active near power, they now find themselves in power. *Managers* (or technocrats) embody a novel spirit, a rationalization (and professional ethics), and urge the necessity of generational change within the elite. *Local patriots* constitute that (not necessarily peripheral) portion of the elite that manages social change at the local, small town level. The *local patriot* understands 'politics at large,' but is often also a part of local power.

Minority Media Logic

The central elements of minority logic

Examination of journalist-society exposes the emerging patterns influencing content in the minority context. The model above can be considered 'neutral' from the minority point of view. According to our hypothesis, in the case of Hungarian press system operators (and especially considering the system characteristics that can be gleaned from political and press-history), a 'minority effect' must also assert itself in content-influencing[8] methods. This effect may result from a particular understanding of professional concepts, but also from the self-organizing characteristics of society. By embedding Shoemaker and Reese's[9] hypotheses concerning the individual level into a minority environment we can formulate the following sub-hypotheses:

- The particularities of media content can be explained by journalists' sociological characteristics (age, qualification, and gender), circle of interests and professional approach.
- Individuals with backgrounds and characteristics similar to that of journalists appear with higher probability in the press (e.g. more news appear about Hungarians).

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[8]   We must, however, consider that there are direct and indirect forms of influence and that it is not always easy to draw a distinction between them as power roles in and outside the media cause some blurring (compare Gurevitch-Blumler, 1982. 282–287).

[9]   Shoemaker, Pamela J. – Reese, Stephen D.: *Mediating the Message. Theories of Influences on Mass Media Content*. Longman, 1991.

- A journalist's extramedial attachments have an impact on content. In the case of minority press, the extramedial connection primarily means an organization linked to minority self-organization (in this case the DAHR).
- Published and publishable content is influenced by editorial staff position.
- The more an event falls outside the journalist's sphere of interest or ethical approach, the more unlikely she or he will be to participate in it (or report on it). It can be assumed from the role of the minority press that events detailing the minority-majority situation will appear with greater frequency.

On the one hand, the acknowledgment of the existence of taboos and, on the other, the particularities of journalistic autonomy indicate the most important dimensions of minority media logic. Since in a minority environment the journalist's role often extends beyond the function of press worker there to inform, one can assume that he or she works amid extramedial ties (to civil organizations and to minority politics) that leave their mark on methods of news selection and presentation. In other words, the minority journalist becomes, to a significant degree, the embodiment of social activism for a minority community. Community-based thinking, however, also becomes defensive thinking, which necessarily produces selective mechanisms (subordinate to communities of subjects describable in press organs). In our survey we found that two-thirds of journalists think that there are taboo subjects, among which DAHR internal matters occupy the first place, and the church, second. It is thus not surprising that politics attempts to influence the press to the greatest degree, while journalists feel that press owners are most vulnerable.

Structural self-censorship

Due to the connection between social activism (extramedial attachments) and intra-staff hierarchy, function-aggregation is an accepted fact among the minority elite. Staff position may, however, influence outward expression and acknowledgement of taboo topics.

The strong connection between denial of taboo subjects and editorial staff position may result in the phenomenon of *structural self-censorship*. By this we mean that a journalist's position in the professional hierarchy somehow hinders her/his ability/willingness to portray subjects in the newspaper that

could damage her/his position, and thus the network interests attached to it. Generational differences, including whether socialization occurred before or after 1989, lies in the background of these concerns. Age impacts self-limitation, but its effects dissipate – in a manner detectable through path-analysis – at the levels of staff hierarchy, political orientation and use of new methods of communication.

Narrowed structural self-censorship

We can give greater nuance to the phenomenon of structural censorship (which shows that there is an inverse correspondence between acknowledgment of taboo and position in the editorial staff hierarchy) through an analysis of interviews with editors-in-chief. Editors-in-chief occupy high positions in the editorial staff hierarchy, which could lead one to hypothesize that they will claim no taboo subjects exist. Based on our model of editor-in-chief types, however, this layer cannot be considered a homogenous social group. We can formulate a thesis of *narrowed structural self-censorship* based on our research thus far: news concerning DAHR and the church occupy a prominent place among taboo subjects. Furthermore, taking into account the habits of editor-in-chief types, as well as their attitudes towards the DAHR as described above, *heirs* will, with high probability, deny and *managers* confirm the existence of taboos. We expect that *local patriots* will represent an in-between position due to their involvement in local politics.

Mechanisms of taboo creation

An equilibrium-creating relationship exists between editors' image (auto-stereotype) of themselves (i.e. the Hungarian press in Romania) and unmentionable subjects: *taboo functions as protecting self-image*. The self-image editors construct, along the lines of Poppe structures[10] familiar from social psychology, can be grouped along moral and competency dimensions, both dimensions having negative and positive poles. A kind of minority morality occupies the positive side of the moral dimension, while blocked professionalism occupies the negative side of the competency dimension. The moral, positive dimension of the auto-stereotype is linked to the minority ethos and is generated by taboo subjects concerning the maintenance of a positive minority self-image. Meanwhile, the negative dimension of competency re-

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[10]   Poppe, E.: *National and Ethnic Stereotypes in Central and Eastern Europe. A Study among Adolescents in Six Countries*. Utrecht: ERCOMER, 1998.
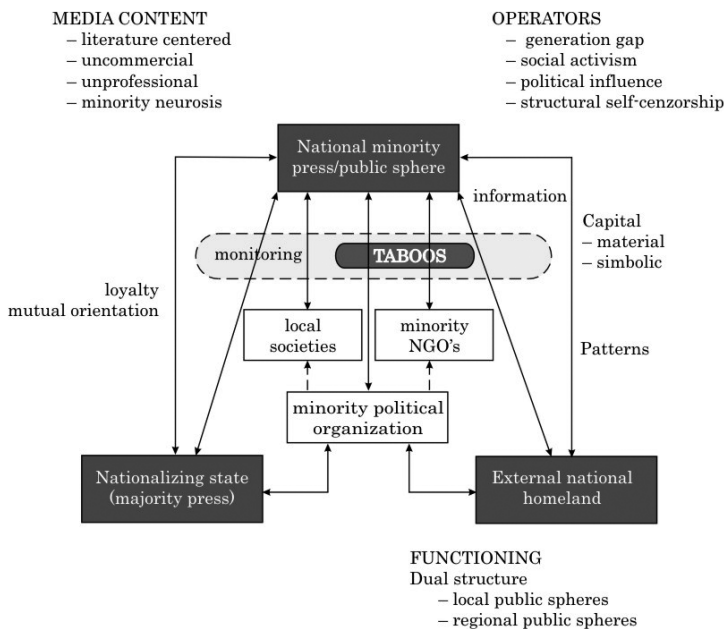
sults in the desire (one deduced from the minority ethos) to eliminate the lack of professionalism.

Taboo-creation in the Hungarian press in Romania does not imply that news regarding canonized institutions (on the level of political rhetoric, those serving minority 'conservation') does not appear. It implies that journalists intend to build on reader demand and on the placement of a particular message into a situation of potential inter-ethnic conflict, without penetrating the walls of certain institutions. The canonized institutions thereby become, to use the words of one of our interviewees, 'sacred cows.' *Taboo-creation thus fundamentally does not affect the institutions themselves but their operation.* The reasons for this may be found in part in competency dimensions. But, to a greater extent, can be explained by the fact that the minority press, and it intellectual elite operators, consider the formulation of Hungarian-related symbols of primary importance as they contribute to the maintenance of ethnic distinction consciousness. Symbols and their emotional content thus become more important for the elite than those social facts, or the presentation of events of crucial importance to daily life, which are not rendered sacred by symbolic politics.

Taboo-creation is thus a means of continuous ethnic-boundary building. Yet, editors-in-chief can be divided into two groups on the question of the existence of taboos, and hence produce duality within the ethnic boundary. Taboos are the result of a world-view based on continuous dichotomy and are the effect of an unceasing use of binary oppositions. Hence, taboos assume the existence of (publicly) mentionable and unmentionable differentiation between the saint and the profane. In the context of minority and majority ethnic groups, this results in the maintenance of semantic structures that bring ethnic stereotypes into play. Stereotypes, in turn, generate binary oppositions and concepts of an enemy.[11] Finally, the enemy gets a name: the 'moral us' will not surrender to the 'them,' the 'Balkan,' 'corrupt' external enemies. Taboos ensure the lack of border crossings. Belief in one's own morality necessarily does away with self-evaluation, however, so that reports on world events increasingly leave space for distorted caricatures forced upon reality by one's own erroneous images.

Accordingly, *two kinds of taboo-creation take place simultaneously.* One functions in the inter-ethnic field, the other proceeds in the intra-ethnic one. The former stands guard over minority ethos (resulting in 'literaturization' and the existence of a minority neurosis), the latter can be explained by lack of

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[11] Koselleck, Reinhart: Ellenségfogalmak. In Szabó Márton (ed.): *Az ellenség neve*. Budapest: Jószöveg, 1998. 7–23.

MEDIA CONTENT
– literature centered
– uncommercial
– unprofessional
– minority neurosis

OPERATORS
– generation gap
– social activism
– political influence
– structural self-cenzorship

National minority
press/public sphere

information

monitoring   TABOOS

Capital
– material
– simbolic

loyalty
mutual orientation

local
societies

minority
NGO's

Patterns

minority political
organization

Nationalizing state
(majority press)

External national
homeland

FUNCTIONING
Dual structure
– local public spheres
– regional public spheres

competence (and glimpsed in a lack of professionalism and commercialism.)[12] As previously mentioned, however, generational differences exist in journalist-society and in the narrower layer of editors-in-chief, with clear effects on the reorganization of the boundaries between 'mentionable' and 'unmentionable, and on the development in the repository of taboos.

A model of minority press

The operation of minority press systems can be better grasped, in contrast to earlier theoretical assumptions,[13] not only through a look at the relations between minority and majority, but also with the help of one of Brubaker's theo-

[12]   For more detailed discussions of literaturization, minority neurosis, lack of commercialism and lack of professionalism, see Magyari, Tivadar: Hungarian Minority Media in Romania: Toward a Policy of Professional Improvement. In Sükösd Miklós – Bajomi-Lázár Péter (eds.): *Media Policy Reform in East-Central Europe.* Budapest: CEU Press, 2003. 185–202.

[13]   Riggins, Stephen H.: *Ethnic Minority Media: An International Perspective.* London: Newbury Park: Sage Publications, 1992.

ries. In Brubaker's terms,[14] it is useful to operate with a triadic nexus when attempting to understand ethnic minorities. The key dimensions of this three-fold division are the national minority, the nationalizing state (the state on the territory of which the minority lives) and the external national homeland (the state with whose majority the minority form a linguistic and cultural community, but of which they are not citizens). Unlike Riggins implications, here we must consider not only the strategies of the minority and the state, but also a third web of relations constituted by the contacts between the minority and the home state. Naturally, in the case of Hungarians in Romania these contacts were in operation prior to Brubaker's approach – one could say they owe their existence to the assumptions of the latter. We have only experienced changes in the 'visibility' of these relations and in the degree of their institutionalization in the past few decades.

We can even place taboo-creation within Brubaker's approach, as taboos emerged as a result of interaction between the three actors mentioned above (the minority, the majority and the external national homeland). We can also add the minority (representative) organization to this list, which also generates taboos due to its important role in the political life of Hungarians in Romania.

Translated by Enikő Horváth

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14   Brubaker, Rogers: *Nationalism Reframed: Nationhood and the National Question in the New Europe*. Cambridge University Press, 1996.

CĂLIN GOINA

How the State Shaped the Nation: an Essay on the Making of the Romanian Nation

I approach in this study the ways in which the state influenced and shaped the organization of nation on the territory of modern Romania. I understand here the nation as a frame of perception, a conceptual device, a classificatory tool used by the individual to make sense of its surrounding world. Instead of seeing the world divided in people belonging to different religions, or as subjects of various dynasties, the modern man (and woman) tends to perceive boundaries dividing groups of people into homogeneous, horizontally linked community of equals.[1] How did the Romanian-speaking people embrace (or reject) the concept according to which they belong to an (imagined) community usually denominated as the Romanian nation?

I will focus on the organization and activities of the various state-forms that existed throughout the history in the area as my main explanatory variables. My study does not claim that other variables (such as rise of capitalism, the spread of literacy or the common history, language and myths) are not important, and indeed, essential, in understanding the contemporary ethnic and national landscape of Romania. Nonetheless, the presentation of the manner in which the state contributed to the tectonic movements that led to the current 'national' perception and self-perception constitutes the main goal of this essay.

I adopt in this study the 'modernist' perspective, according to which the concept of nation, as an intellectual notion aiming to describe the reality 'out-there', is a modern creation that dates from the 18th century. I intend to il-

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1   Anderson, Benedict: *Imagined Communities. Reflections on the Origin and Spread of Nationalism*. New York, London: Verso, 1983.

lustrate in the next pages the way in which the concept of a "Romanian nation" spread and got its current audience, stressing role of state policies and institutions in this process.

I will open my study with a section on the historical origins of the Romanian, state. I will continue with the survey of the developments that led to the creation of a modern state whose *raison d'être* was a putative Romanian nation. I elaborate on the ways in the state was created by the efforts of a political movement that grounded its claim for power on ethno-cultural terms. Further on, I address the ways in which the political entrepreneurs of the young Romania used state policies and state institutions in order to spread of the idea of a Romanian nation among its putative members, building a sense of community often grounded on the rejection of the non-Romanians –hence, the Jews. I end with three study cases (Bessarabia, Transylvania, and Dobrogea) upon which I test my main thesis: that the state was an essential factor in the building of the contemporary concept of a Romanian nation, as a frame of perception shared by the large majority of its citizens.

Historical origins of the idea of a state for Romanians

The speakers of the various regional dialects of Romanian seem to have shared throughout their known history several regional myths of origin (prince's Dragoș hunting expedition for Moldova, Negru Vodă for Walachia) but also shared a common one, which made them the "heirs of the ancient Romans." Nevertheless, they were subjects of different medieval states (Moldova, Wallachia and the Hungarian Kingdom). It is worth noting that, until the modern age, even in the cases in which one of these kingdoms or provinces happened to defeat and conquer the other, none of their rulers thought about uniting them into a single state.[2] The idea of a Romanian nation, deserving, or claiming its own state, was clearly not conceived, nor claimed by anyone before the XVIIIth century.

The first mention of the idea of a single state for all the people speaking Romanian seems to be born out of international relations arrangements: several XVIIIth century projects of the European diplomatic game suggested the unification of Moldova with Wallachia (and sometimes with Transylvania)

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[2]   I consider irrelevant for my purpose the brief intermezzo of less than a year in which the three provinces were ruled, in a personal (but not formal) union, by Michael the Brave, prince of Wallachia between 1593 and 1601.

and the creation of a new Dacian[3] kingdom[4]. Although these projects had nothing to do with the idea of a nation 'deserving' its state, they were the first to put forward the possibility of a common state for the inhabitants of Moldova and Walachia. Only few of these projects included also the Romanians from Transylvania, as they were under the solid Habsburg rule, and therefore, difficult to disentangle from the existing empire. The latent assumption that favored the unification of the two principalities emphasized their common features. On the one hand, they shared a similar position in the international arena, as semi-autonomous principalities under an increasingly weak Ottoman suzerainty. On the other hand, they comprised populations sharing the same language, ethnicity and religion. In addition, at least in the tradition put forward by the Russian or Austrian diplomats, the two states shared the same past, as the reference to the Roman province of Dacia indicates.

Another level of analysis that can help us understanding the ways in which the unification of the two principalities became conceivable came into being stresses the parallelisms and the similarities between the Moldavian and Wallachian states. While in the middle age they were autonomous states ruled by local dynasties, the rise of Ottoman Empire transformed them little by little in dependent principalities with no army and no foreign policy, except those of their suzerain, the Sublime Porte.

Between 1711 and 1821 the two principalities were ruled by the Sublime Porte, through the intermediary of its Greek diplomats who could afford to pay their way to the office by bribing the influential figures around the Sultan. The successful ones were appointed princes of Moldova or Wallachia. This practice resulted, naturally, in a very frequent rotation of these ruling princes as the Sublime Porte could always use some more bribes from fresh candidates. Rarely a ruler managed to stay in power for more than three-four years during this period. For example Constantin Mavrocordato, ruled six brief reigns as prince of Wallachia and three as prince of Moldova.[5] The century of Greek rule stressed, in my view, the similarity, the parallelism and the interchangeability of the two principalities. The historical sources confirm the surprisingly smooth functioning of a system in which one could be this year prince of Moldavians and next year prince of Wallachians (and then the

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[3] A reference to the state defeated by the Roman Emperor Trajan, which extended over a major part of the territory inhabited by Romanian speakers.

[4] Barbara, Jelavich: *Russia and the formation of the Romanian national state 1821–1878*. Cambridge: Cambridge University Press, 1984. 7.

[5] Seton-Watson, Robert W.: *History of Roumanians*. Cambridge: Cambridge University Press, 1934. 127.

other way around), transferring clientele, ministers and state clerks from one country to another. This state of affairs has surely eroded the medieval belief in the specificity and uniqueness of each principality.

First political movements justifying in ethnic terms their attempt to control the state

Following this almost "colonial" situation, at the turn of XVIIIth century the local elites began the fight against the "foreign" (Greek) rule, its protégées and its culture, appealing to the suzerain in Constantinople to appoint princes from the Moldavian or Wallachian aristocracy instead of non-Romanians. It was still an argument buttressed with "historic" rights of the local aristocracy but –especially due to the influence of rising Greek nationalism- it began to be permeated by the ideas of a particularistic culture entitled to its own state and development. When the Ottomans restored the local rulers to the thrones of the two principalities in 1821, these princes attempted to "clean" the local culture putting in practice anti-Greek policies: closing Greek schools and expelling Greek monks.[6]

According to John Breuilly's theory of nationalism[7] as a form of politics, a political movement becomes nationalist only when it defines its objective as the possession of state power and defends this goal in the name of a specific cultural community. The anti-Greek movement of 1820 in the Romanian Principalities implied *coordination*, a heterogeneous set of political elites, acting in common in the attempt to gain control over the state.[8] At the same time, the movement had a *mobilizing* aspect, as it was linked to a popular uprising that kept in close touch with influential local aristocrats (if it was not orchestrated by them). The leader of this uprising, Tudor Vladimirescu is famous for stating that: "*Greece belongs to the Greeks, but Rumania to the Rumanians.*[9]" Yet, he used Rumania as a particularistic term denominating Wallachia or Țara Românească ("The Romanian Land') and not a putatively Romanian state including Moldova, not to speak about Transylvania. More than that, Vladimirescu's immediate goal was to re-gain the medieval privilege of having local noblemen rule in Wallachia and another one in Moldova. In this sense, state control was gained by local elites *before* any serious attempt of unifying the two states into a nation-state. It is unfortunate that the illuminating

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6   Seton-Watson, 202.
7   Breuilly, John: *Nationalism and the State*. Manchester: Manchester University Press, 1993.
8   Breuilly, 382.
9   Seton-Watson, 198.

concepts developed by Breuilly are almost ruined in the case-study dedicated to "the Romanians and the Serbians[10]" by his insufficient knowledge of the cases he aims to cover. Breuilly sees the Romanian case as a pure case of separatist nationalism, missing perhaps the unique case in the modern European history when unification and creation of a modern state occurs not through conquest of a hegemonic state (such as Prussia or Piedmont, which 'made' Germany and Italy) but because of a mutually accepted union of two relatively equal states. As a matter of fact, the history of modern Romania involves all Breuilly's categories. The so-called "national movement" (partida națională) was moved at the same time by *unification nationalism* (as it struggled to unite the two principalities), by *separatist nationalism* (as it looked for complete independence from Ottoman Empire) and by *reform nationalism* (as it intended to modernize and reform the state).

The making of the modern national state and the idea of a Romanian nation

The rise of the modern Romanian state, issued out of the unification of Wallachia with Moldova was shaped by a protracted conflict between a party of usually older noblemen who favored the status-quo, and a group of young aristocrats who, after studying in Western Europe, were looking to modernize the two feudal principalities along national and liberal lines. All of them were members of the restricted oligarchy, which traditionally controlled the state.

Romanian nationalism, understood as the claim there is a Romanian nation, which is entitled to its own state, seems to have been born in the first half of the XIXth century. Under the impact of the Western European 'national' master-frame of perceiving and classifying the world, young noblemen studying in France discovered each other as members of a putative nation. In a published letter, a member of this generation remembers a first meeting of Modavian and Wallachian students in 1835 Paris in a highly significant insight, despite its obviously compressed and literary form: "*our mentors met on the street and began to talk- and we discovered each other, Moldavians with Wallachians, each speaking our provincial dialect, but understanding each other as if we would have spoken the same language. What a revelation! From that moment we weren't anymore Moldavians or Wallachians, we were all Romanians!*[11] It was these students and their followers who set up to unify the two principalities and orga-

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[10] Breuilly, 136.

[11] Ghica, Ion: *Scrisori către Vasile Alecsandri.* [Letters for Vasile Alecsandri] București: Editura Librăriei Leon Alcalay, 1905. 155–6.

nize them into a new state, created along the lines of the modern Western European states.

To set the framework for this process, I will note that by 1840–1850's the political arenas in the two principalities were monopolized by a handful of noblemen: 30 *boyards* controlled Moldova while 70 controlled Wallachia.[12] The political and administrative structures in both principalities dated from the middle ages. The modernizing policies pursued by the young Moldavian and Wallachian Westernizers can be seen in the light of Michael Mann's[13] theory on nationalism. He emphasizes on the *political economy of the state* as a main explanatory variable for the rise of nationalist policies, focusing on the increasing burdens states had to deal with at the beginning of XIXth century. For the young liberals, as well as for a significant part of the dominant class –which used to send their children to study in Western Europe- Moldova and Wallachia were backward and "uncivilized" states that had to be modernized. The hegemonic pattern of the time was the drive toward a centralized, modern nation-state, whose exemplary model, for the majority of the Romanian elite, was France. In consequence the Romanian state mobilized *top-down*, controlled from above by authoritarian forces that imposed a modernizing process upon the rest of the society, within the limits, and using the tools, of the state apparatus. In their attempt to reform the existing regimes, the Romanian Western-educated reformers tried to make space for a larger participation in the political arena, and thus for more of those who would support their policies. The generation gap that separated the young national-liberal group from the older representatives of the status-quo also favored the changes. The young reformers lost in 1848, when their revolutions were crushed by the intervention of Russia and Turkey, but things went better in 1859, when they managed to push through the double election of Alexandru Ioan Cuza on both the thrones of Moldova and Wallachia, creating the modern Romania. After this date, few forces opposed the major modernizing lines proposed by them: a modern national state apparatus, the rule of law and a democratic Constitution, independence from Turkey and a foreign prince from a major European dynasty on the throne. While these issues tended to convene the consensus of all the parties that composed the political arena, the major dividing lines turned toward social issues, the relations

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12 Durandin, Catherine: *Histoire des Roumains*. Paris: Fayard, 1995. 105.
13 Mann, Michael: A Political Theory of Nationalism and Its Excesses. In Periwal, Sukumar (ed.): *Notions of Nationalism*. Budapest: Central European University Press, 1995. 45.

between peasants and landowners, and agrarian reform, shaping a dual political spectrum: liberals versus conservatives.

In my perspective Romania's case belongs to the category of *state-creating nation* which I relate to the main claim of Mann's approach is that "moderate nationalism is the product of the drive toward democracy[14]." In their drive toward the control of the state power, and of reforming the medieval system of taxation and law, the young liberals were keen of obtaining the help of the middle class and of the craftsmen and tradesmen from the major cities. Several times during the 1848 revolution in Wallachia the revolutionary government was saved by Ion Brătianu's capacity of mobilizing Bucharest's masses. Again, after the election of Alexandru Ioan Cuza as prince of Moldova, the young liberal-nationalists mobilized the masses to pressure for his election of the throne of Wallachia too, achieving the creation of the modern Romanian state. The major asset of the 1848 generation was its ability to integrate in the political arena groups such as lower rank noblemen or the urban craftsmen –who, I claim, backed the national idea due to its call to a more inclusive political participation, and its rejection of the medieval oligarchy of few boyar families dominating the political life. In this sense, the drive toward democratization and the modernization of the society made possible creation of the nation-state and the rise of a powerful national-liberal party that will dominate Romanian politics in the years to come.

The role of the international arena

Another aspect that emphasizes the importance of state-related variables in the explanation of the creation of the Romanian nation has to do with the realm *international relations*. No historical development I have covered in the previous pages can be understood without an in-dept understanding of inter-states politics of XIXth century Europe, the so-called Concert of Europe. Without the Leibach Congress of 1820, and without the pressure coming from the Holly Alliance, the tsar might have chose to support the cause of the Greek rebellion "Hetairia," and the Ottomans would have not reverted to the appointment of Romanian princes in the principalities in 1821. Without the Russian defeat in the Crimean war, the Principalities would not have changed Russian protectorate for collective European guarantor-powers, and the double elections that allowed the unification would not have take place. Without the weakness of a set of seven protectors

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14   Mann, 45.

who were unable to take rapid decisions and to enforce them, the *fait accompli* pushed through by liberal Romanian elites by creating the personal union of Moldova and Wallachia against the decisions of the Paris Convention, would not have been tolerated. Also, the image of Napoleon III as the 'godfather' (*parrain*) of the modern Romanian state is, perhaps, not entirely misleading. The creation of the modern Romanian state remains the fortunate result of the skilful and daring way in which several groups of local elites took advantage of the structural configuration of international relations at certain propitious historical moments.

The modern state

It was after the creation of the modern Romania that the state had a major task: to create Romanians, citizens loyal to the new young state and to the new nation. Before the advent of the state only a rather small enlightened elite shared the 'national ideas'. This fact was so universally accepted that even classical short stories, often included in children text-books imply it as an undisputed fact. Ion Creangă's 1880 famous "Old Ion Roată[15]" tells the story of a group of young noblemen trying to convince some peasants of the necessity of the unification of the two provinces. The Old Ion Roată, the archetypal peasant, cannot see the putative advantages of creating a Romanian state out of the two principalities. His wits make the story turn into a social fable: irrespective whether the two states unify, the hardship of taxation and work always to be bore by the peasants, and as long as that does not change, unification (and thus nationalism) does not mean much for him. In other words, to paraphrase a well-known Italian adagio, while the young reformers made Romania by 1859, they still had to make Romanians. It was the task of the new state to change the state of affairs. The process I am set to sketch in the following paragraphs is somehow similar, *mutatis mutandis*, to the pattern described by Eugene Weber's "Peasants into Frenchmen: the modernization of rural France, 1870–1914." After 1859 the Romanian state changed in a radical manner. I follow Eric Hobsbawm[16] in covering these changes. According to him the modern state uses its powerful machinery for communications with its inhabitants. The main element of this communication is constituted above all by primary schools, which have to disseminate the image and heritage of the 'nation' and to inculcate

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15 Creanga, Ion: Moș Ion Roată. In *Opere* [Writings] Chișinau: Literatura Artistică, 1989. 30.
16 Hobsbawm, Eric: *Nations and Nationalism since 1780*. Cambridge University Press, 1990.

attachment to it and to attach all "to country and flag, often using 'invented traditions' or even nations for this purpose".

The new free and universal elementary education system, created in 1865 by prince Cuza, although under funded by a poor state, increased significantly the number of those able to read and write. At the same time, it shaped loyal citizens of Romania: history was re-invented and re-wrote as an inevitable march toward the modern state and the fulfillment of the nation-state. Patriotic poetry had to be learnt by heart, as well as the newly created national anthem and national symbols. At a different level, the modern Romanian state commissioned the writing of its history and supported research that produced Romanian-centered accounts on the regional events. Grammar and orthography were standardized, and the Latin alphabet replaced the old Cyrillic one. The state was the main sponsor of the development of national culture, national arts and national industry. In fact, the adjective "national" seemed to have pervaded almost everything in the public life of the young Romanian state. One of the classics of Romanian literature, Ion Luca Caragiale poked fun around 1893 of the "national" vogue of the time writing about firms like "The national doughnut" or jobs such as "national wall-painter": *"I used to be a Romanian wall-painter, your honor, …but when I saw I was terminated by the competition of the foreigners I opened a lottery at the fly-market[17]."* The claim Caragiale's hero is making using the Romanian/foreigner dichotomy is that the national criterion should take precedence even over the market forces: it does not matter whether he was a good craftsman or not, it was enough he was a Romanian one.

The army represented a double way of transforming peasants into Romanians. On the one hand, most of the conscripts had never gone further than the villages neighboring their birthplace. The army offered a meeting place for people from different regions, speaking slightly different dialects, who learned they are all a part of the same entity, Romania, and that they are all *Romanian* soldiers. On the other hand, the young Romanian army intervened actively in the Russian-Turkish war of 1877 on the Russian side. The war (and the victory) offered the occasion to heighten the patriotic spirit and to reinforce the recent Romanian identity in its fight against the old master, the Ottoman Empire.

Last but not least the modern state institutions created after 1861, the new codes of law, the new administrative organization of territory, the civil

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17 Caragiale, Ion-Luca: Justiție. [Justice] In *Momente* [Moments]. Cluj: Biblioteca Apostrof, 1997. 248.

procedures took away from the church recording of births, weddings and deaths, all created a new structural framework that help shaping the national awareness among previously indifferent individuals. The electoral law allowed for a two steps voting system in which a larger part of the (male) population was involved in national politics, including the better off peasants and craftsmen. The liberal Constitution of 1866, although a slightly altered copy of the Belgian constitution ("*offered to us by Mr. Carada after a sleepless night of translating*", according to the same sparkling Caragiale), proved able to set up the modern institutions and structures of the modern state.

The building of railways, the new communication facilities (modern roads, the national telegraph company) as well as the protective tariffs and regulations that shaped local and regional trade along the lines dictated by the state, all represent aspects that emphasize the role of the state in the creation of a Romanian national consciousness. In the vein of Mann[18] I will claim that the modern nation state *penetrated* its territories with both law and administration, increasing its *infrastructural power*. At the same time, citizens and parties also penetrate the modern state, making it more accountable toward its citizens. In conclusion, within the new state, "*more of social life is coordinated and shaped by state institutions caging more social relationships within the "national" boundaries and along the radial lines of control between center and territories.*[19]"

Rejecting the Jew

At the same time, creating Romanians meant defining non-Romanians: the Jews, in the case of post-1859 Romania. Although state-led, the post unification nationalism cannot be equated with Hobsbawm's[20] concept of *state patriotism*. According to Hobsbawm, the modern state faces to major tasks: it has to create a complex and efficient machine of administration and it has to capture the loyalty of its citizens. In order to reach this second goal, the state promotes a secular religion of 'nation,' the state-based patriotism. For Hobsbawm, ethnicity is entirely irrelevant to this sort of nationalism, as the "revolutionary concept of the nation" embraces of the members of the political community. If there are cases of xenophobia and ethnic or racial distinction, these appear because of a different sort of nationalism, "whether demotic xenophobia or chauvinism."

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[18] Mann, Michael: *The Sources of Social Power, vol. II, The Rise of Classes and Nation-States.* Cambridge, New York: Cambridge University Press, 1993.
[19] Mann, A Political Theory of Nationalism …, 59.
[20] Hobsbawm, op. cit.

Yet, the politics and the constitutional law make a strong argument in favor of a state-led definition of the Romanian nation that rejected non-ethnic Romanians and non-Christians. According to the medieval tradition protecting the principalities from Turkish interference, non-Christians were forbidden to owe land or to become citizens of the two states. From this study's perspective the major difference separating the Romanian Constitution of 1866 from the Belgian one consist in the inclusion of this medieval provision in the text of the fundamental law. The Article 7[21] was used as a weapon against the Jewish population, which settled in the two principalities at the beginning of XIXth century, denying its rights to citizenship. The state elite, embarked on a program of modernization and 'Romanianization' of the country, took advantage of every legal possibility of keeping away from the political arena the significant Jewish population, which, especially in Moldova, overwhelmingly dominated the urban areas, the middle class occupations and the industry. Thus, the definition of the Romanian nation involved a powerful religious exclusionary dimension. In 1878, the major European powers conditioned their recognition of Romania's independence from Turkey by the removal of article 7. It was only in these conditions that the Jewish population became from a legal point of view a full member of the state. In reality, anti-Semitic feelings continued to be present at different levels of the society and culminated with a strong indigenous fascist movement in 1930's and 1940's.[22]

How the state created the nation– three case-studies: Dobrogea, Transylvania and Bessarabia.

The distinction between members and non-members of the nation involved more than rejecting the Jewish population. I will cover here three case-studies of projects aiming at changing the boundaries of the nation in order to highlight my state-centered thesis.

Bessarabia: a land Moldavians who did not turn into Romanians.

The medieval kingdom of Moldova was partitioned in 1812, as a consequence of the Russian-Turkish war. The defeated Ottomans agreed to split

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[21] Focşăneanu, Eleodor: *Istoria Constituţională a României, 1859–1991*. [The Constitutional History of Romania, 1859–1991]. Bucureşti: Humanitas, 1992. 30–31.

[22] See Livezeanu, Irina: *Cultural Politics in Greater Romania: Regionalism, Nation-Building and Ethnic Struggle, 1918–1930*. Ithaca: Cornell University Press, 1995; and Mann, Michael: *Fascists*. Cambridge, New York: Cambridge University Press, 2005.

Moldova into two parts, along the river Prut. The Eastern side became a part of the Russian empire and it is usually called Bessarabia, while the Western part remained an autonomous principality under Ottoman suzerainty. Thus, the Romanian-speaking population from Russian Bessarabia was not included in the political project that ended up in the creation of the modern Romanian state. The existence of this population beyond the reach of the nationalizing policies[23] of the young Romanian state allowed for the preservation of the (Moldavian) regional identity shared by the majority of its inhabitants, as opposed to a (Romanian) national one. I her illuminating chapter on Bassarabia, Irina Livezeanu[24] offers strong documentary and ethnographic proofs that by the time Bessarabia joined the Romanian kingdom in 1918, its inhabitants did not consider themselves Romanians, nor was there a grass-roots, well-spread national movement as it was the case in another province beyond the Romanian kingdom borders, Transylvania. I suggest that the spread and the acceptance of the idea that there is a Romanian nation, and that Romanian-speaking people are its members it is due to a large degree to the nationalizing policies pursued by the modern Romanian state. For those beyond the reach of these policies, the process of turning peasants into Romanians simply did not take place.

Also, the Tsarist Empire was less keen to make sure that the Romanian speaking population from Bessarabia was to be Russified, although it did put in practice its own nationalizing policies. Moreover, the urban and middle classes, which are mostly affected by nationalizing exclusionary state policies, formed just a tiny fragment of the overwhelmingly rural society of Bessarabia. Therefore, the province remains until today an illustrative case study of a putative member of the Romanian nation whose members do not identify with it, despite meeting all the cultural, historical and mythical attributes that would make them 'Romanians.'

Transylvania – nation making by (another's) state policies

The same story would have been repeated in another Romanian-speaking province, Transylvania. Yet, this province of the Hungarian kingdom experienced and active and well-entrenched nationalist mass movements, involving not only the bourgeoisie and the urban classes, but also large categories of peas-

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23 Brubaker, Rogers: *Nationalism Refrained: Nationhood and the National Question in the New Europe*. Cambridge: Cambridge University Press, 1996.
24 Livezeanu, 111–157.

ants.[25] I claim that the difference between the two provinces should be assigned to the modernizing and nationalizing policies of the Hungarian state. It is the Hungarian state, which is the major responsible agent for the success of the process of Romanian nation building in Transylvania.

Transylvania was the largest and the richest of all the provinces inhabited by Romanian speaking populations. In the pre-world war I era 51.1% of its population was literate, compared to 39.3 % in the old kingdom of Romania and 19.4 in Bessarabia. According to the Hungarian statistics, by 1910 its population included Romanians (53%), Hungarians (31%), Germans (11%) and Jews (3%).

In a situation that parallels that of Irish under the British rule, historically the Romanians from Transylvania were mostly poor peasants and serfs, inhabiting overwhelmingly the rural areas. They were denied political rights in Transylvania, their Easter-Orthodox church was not officially recognized, and they were restricted from buying land or settling into most cities. Since early XIXth century, the Hungarian landed aristocracy that dominated Transylvania and Hungary proper (which were two distinct administrative bodies) had to face the challenges raised by the modern state. Many members of the Hungarian landed aristocracy, as well as by the middle class and urban Hungarian strata soon backed a political movement seeking Hungarian rule for the lands of the historic kingdom of Hungary and directed against the Habsburg Empire.

This movement, articulating its demands in national terms, provoked the counter-nationalisms[26] of the other ethnicities that inhabited regions that historically belonged to the Hungarian kingdom. In my view the Romanian national movement in Transylvania was a direct response to the Hungarian national movement, especially to its exclusionary provisions codified in its projects, laws and state policies. Had the Hungarian liberal nationalists provided for some minority rights for populations they claimed to rule, history would have probably took a different turn. Unfortunately, if Hungarians were keen to defy their Habsburg rulers over the issue of national rights, they were utterly against granting the same rights to the non-Hungarian speaking inhabitants of their kingdom (Slovaks, Croats or Romanians). After the 1866 partition of the empire in two distinct sides, one ruled from Vienna and the other from Budapest, the Hungarian political elite embarked on a relentless state policy of Magyarization of the all other nationalities. According to

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[25]   See Hitchins, Keith: *The Rumanian National Movement in Transylvania, 1780–1849.* Cambridge: Harvard University Press and also Livezeanu, op. cit.

[26]   Hobsbawm, op. cit.

Kahn[27] "*in 1910, the Hungarian parliament included only eight non-Magyars, though Hungarians were only 45% of the population. Some 96% of government employees were Magyars.*"

In my perspective, these figures are suggesting the reasons that gave birth and nurtured a Romanian national movement lead by unsatisfied intellectuals and small bourgeoisie, to whom the Hungarians denied access to state jobs. Consequently, the Romanian political entrepreneurs developed their own nationalistic claims, which would have entitled them to a slice of the state cake.

As the advent of capitalism and of the modern state created the conditions for the development of a Romanian middle class in Transylvania, the nationalist Hungarian policies forced the Romanian elite to take sides and to look for support among the other Romanians. The anti-Hungarian peasant war led by Avram Iancu during the revolution of 1848 is a clear illustration of the way in which Romanian political elite from Transylvania managed to get mass support for its national-minded perspectives.

At the time when the Hungarian state collapsed due to its defeat in World War I, the modern Romanian state found in Transylvania a well-organized, mass-based national movement that facilitated province's unification with Romania. The unification itself was due as much to the national mass movements of the Transylvanian Romanians, as to the capacity of the Romanian kingdom to successfully occupy and manage the province, and to use the international relations arena in order to adjudicate Transylvania.

Dobrogea: constructing the nation – a success story

In my last case, I cover the case of a region that was not considered Romanian, (despite the fact that some Romanians lived there) got incorporated, territorially and conceptually in the body of the nation. Dobrogea[28] is a region between the Danube and the Black Sea, delimitated to the North by the Danube Delta. During the 1877 Russian-Turkish war, Romania fought alongside with Russians, and won its independence from the Turks. At the end of the war, the Russians occupied two Romanian counties that included the Danube delta and the North of it (currently Ukrainian territory), offering as compensation the region south of the

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27   Kahn, Robert: *The Multinational Empire*. New York: Columbia University Press, 1950. 110.

28   I ground my case study mainly on the illuminating article of Constatint Iordachi: California of the Romanians. In Trencsényi et. al (eds.): *Nation-building and Contested Identities: Romanian and Hungarian case studies*. Budapest and Iași: Editura Polirom and Regio Books, 2001.

Danube Delta, the so-called Northern Dobrogea, previously under Ottoman control. The first reaction of the Romanian political class and society was outrage. The prime minister rejected the "onerous bargain" and promised to fight for the integrity of the country, stabbed in the back by an unfaithful ally. In time, and after consultation with the major European powers, the Romanian leaders had to face the inevitable and to accept what has been offered. In a matter of weeks Dobrogea became a "ancient Romania land," historians remembered an illustrious medieval prince of Wallachia who conquered and controlled Dobrogea in the XIXth century and an invented coat-of-arms of this region was soon to be added to the Romania's coat-of-arms. The history of Dobrogea became an integral part of national history. Until very recently, this official history emphasized as much as possible the links between Romanians and the region and downplayed or literally neglected the role of all other ethnic groups that inhabited the region. A protracted and successful process colonization and Romanization of the new province was put into practice. It involved a selective access to citizenship which granted to the Romanian colonists and to the rural population (mainly Romanian and Bulgarian) and which disenfranchised the urban one, mainly Greek, Armenian and Jewish. In long term, the process of integration was a twofold success: today Romanians constitute the absolute majority in Dobrogea and most of the ethnic groups were assimilated. Nobody questions anymore neither the position of Dobrogea as an organic part of the Romanian state, nor the links make the inhabitants of Dobrogea consider themselves, and be considered as organic members of the Romanian nation.

Conclusions

It is the claim of the present article that the birth and the spread of the idea of a Romanian nation, as a frame of perception and classification of reality, can be perceived as the resultant of various state policies and state organizations. I surveyed the history of the various state-forms on the territory of present-day Romania, focusing on the instances and inflection points in which these forms produced, reinforced and catalyzed the spread of an ethnic and cultural frame of perception which melted Moldavians, Wallachians, Transylvanians into Romanians, and legitimized the modern nation state. I see here the idea of a Romanian nation from a cognitive perspective[29] and

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[29]   Brubaker, Rogers: *Ethnicity without Groups*. Cambridge: Harvard University Press, 2004. 64–88.

I test my thesis on three case-studies (Bessarabia, Transylvania and Dobrogea). I claim that each of them reinforces my conclusion: that the success (or the lack of it) of the political entrepreneurs of promoting a 'national' understanding of the reality is due in a large part to the state and its policies as crucial explanatory variables.

LISA MOOTZ

A Separate Diagnosis? Improving Civic Health for Hungarian Roma

Hungarian civic health currently suffers from the general exclusion of Roma in processes of reciprocity, trust, networking and voluntary association according to a recent study conducted by Robert E. Koulish.[1] This study focuses on participation of Hungarian Roma in civil society via Minority Self-Governments (MSGs) and non-governmental organizations (NGOs). It concludes that while Roma are aware of their individual and group interests, and desire greater involvement in civic issues (at least in cities), they have little impact through the channels available to them (MSGs and NGOs).

In this article I explore the validity of suggesting that participation in modern civil society for a minority group like the Roma depends upon special rights and channels rather than inclusion in the wider "social imaginary"[2], and thus, the notion that a separate civil society exists for Roma within Hungary. Furthermore, taking into consideration the results of Koulish's survey, I question the possibility of social change[3] in general, and hence, the ability to adapt a western model of civil society to the present Hungarian "imaginary".

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1 Robert E. Koulish: What Roma Want Survey: Roma Civic Attitudes in Hungary. In Partners Hungary Foundation (ed.), *Partners Studies*, vol. 4. Budapest: Cicero Press, 2001. Also available on the web at: http://www.romacentrum.hu/aktualis/tudkut/attitud_a.htm.

2 Charles Taylor: Modern Social Imaginaries. *Public Culture,* Winter 2002 14 (1) 91–123.

3 Henri Tajfel defines social change as "change in the nature of the relations between large-scale social groups, such as socio-economic, national, religious, racial or ethnic categories…" In Henri Tajfel: *Human Groups and Social Categories.* Cambridge: Cambridge University Press, 1981. 244.

Social Imaginary and Social Change

Charles Taylor uses the term "social imaginary" to refer to "the ways in which people imagine their social existence, how they fit together with others, how things go on between them and their fellows, the expectations that are normally met, and the deeper normative notions and images that underlie these expectations".[4] According to Taylor, the modern "social imaginary" developed along with the evolution of human relations/knowledge concerning ideas of natural rights of individuals and moral obligation in which mutual contributions lead to mutual benefit (security of rights and means to live). He cites the Protestant Reformation as a major milestone influencing modern social imaginaries through an emphasis on economic reciprocity and the "notion that economic activity is the path to peace and orderly existence".[5] Yet, this development of shared meanings has led to a variety of common practices and actions (economic and otherwise) which in turn feed into the public sphere, which also helps to keep political power in check. Fundamentally, however, these shared meanings and common actions for mutual benefit remain based upon an underlying acceptance of a moral order developed in the evolution of modern, western imaginings via human rights.

The model which modern, western "social imaginings" projects, revolves around three interlocking social forms: a self-governing people, the development of a public sphere, and market economy. In Taylor's scheme the public sphere, the "common space in which the members of society meet through a variety of media…wherein they discuss matters of common interest and thus are able to form a common mind about these", seems to most closely reflect present uses of the term civil society.[6] The public sphere, as civil society, ideally acts as a self-corrective mechanism, or restraint in the relationship between citizens, the state, and the market by creating a common consensus and means of expressing the needs of the people, and holding both the government and market in some ways accountable to fulfilling these aims. Thus, public sphere as civil society remains separate from, but interconnected with both the state and market.

Yet, as Éva Kuti noted, civil society also bears the tasks to "…motivate and help individuals to act as citizens in all aspects of society rather than bowing to or depending on state power and beneficence, [and] promote plural-

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4   Taylor, 106.
5   Ibid, 104.
6   Ibid, 100.

ism and diversity in society, such as protecting and strengthening cultural, ethnic, religious, linguistic (and other) identities".[7] In this case we find a divergence between Taylor's conception of the public sphere as "coming to a common mind, where possible, through the exchange of ideas" and organization based on a philosophy of mutual efforts/benefits coupled with the protection of certain rights, albeit, the latter certainly reflects the underlying moral order of the former.

This aspect of Taylor's public sphere shares some overlap with Gregory Bateson's[8] concept of mind: "…a mental system… with a capacity to process and respond to information in self-corrective ways, a characteristic of [all] living systems … a mind is composed of multiple material parts, the arrangements of which allow for process and pattern…[thus] the unit of survival is always organism *and* environment".[9] One can thus easily apply the concept of "mind", "aggregate of ideas"[10], or "social imaginary" to the ecology of individual, group, state, regional and international relations. For example, the international environment provided Bateson with a prime illustration of the vulnerability of such systems to schismogenesis as in the case of the Cold War armaments race. Yet, with the collapse of the Soviet Union and the schismogenic mechanisms of Cold War politics, one can note the evolution of this mental system, or new equilibrium (dissemination of western social imagining and widening public sphere), developing throughout Europe. The mechanisms of this equilibrium rest normatively in the agreements between states to apply certain models in political, economical and social settings based primarily upon the notion of universal human rights. Hence, with the collapse of the Soviet Union, the formerly socialist states of East and Central Europe officially joined the "mind" of the West and began a transition process towards becoming part of the West's social imagining.

Yet, again we can note a difference in applying Bateson's concept of the mind to the public sphere wherein ideas develop into metatopics and action takes place on the collective and as part of the collective, and "mind" encompassing the whole of the political, economical, and secular system which "re-informs" the public sphere.

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7   Éva Kuti: *The Non Profit Sector in Hungary.* Manchester, Manchester University Press, 1996. 75.
8   Gregory Bateson (1904–1980), anthropologist perhaps most widely known as Margret Mead's husband, whose scope of interest and research spanned the fields of biology, psychology, communications theory and aesthetics.
9   Gregory Bateson: *Steps to an Ecology of Mind.* Chicago: University of Chicago Press, 2000. x.
10 Gregory Bateson uses the phrase "aggregates of ideas" as a synonym for "minds" in his introductory essay "The Science of Mind and Order", xxiii.

Furthermore, being of the "same mind" in Taylor's sense does not necessarily involve functions of civil society such as "motivat [ing] and help [ing] individuals to act as citizens in all aspects of society.[11] These activities must be linked to the notion of popular sovereignty for "the people". Herein lies Taylor's conception of civil society; belonging to an invented people who "are linked in an economy, can seek access to a public sphere, and move in a world of independent associations".[12]

Taking the example of post-1989 Hungary as a means to examine how new orders and social imaginings can come to transform older systems of "the ways in which people imagine their social existence", one must take into consideration not only the relationships between "the people" and the political body and/or the economic system, but the very definition of "the people" themselves. In Hungary one can describe at least two general tracts for this definition. On the one hand, Hungary began to define itself politically as a nation, "a people" in a new supranational structure via debates on the Hungarian Status Law and subsequently through the 1993 Law on the Rights of National and Ethnic Minorities. On the other hand, sociological research into the "winners" and "losers" of the transition revealed that "along with the rise of consciousness of citizens' rights and democratic norms", xenophobia and social distance have increased between "Hungarians" and the Roma.[13] Hence, new relationships among "the people" developed in which ethnic/cultural differences gained importance with political/economic change. Furthermore, the recommendations of these researchers, that social change and inclusion of Roma can only take place through human rights discourse, self-organization, and better media representation, suggest foremost that Hungarians have not successfully adopted the western social imaginary, and that doing so requires self-organization beyond that offered by the state on the part of Roma (Minority Self-Governments- MSGs).[14] One can also gather from these conclusions that in general non-Roma distrust Roma, viewing them as beneficiaries, rather than contributors to the Citizen State and blaming Roma for the inadequacies of MSGs.

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[11] Kuti, 75.

[12] Taylor, 122.

[13] Tamás Kolosi, István György Tóth, György Vukovich (eds.): *Social Report – 1998., Budapest: TÁRKI, 1999. 456.*

[14] Ibid, 473–4.

Returning to Koulish's investigation of Roma civic health in light of Taylor's notions of civil society, one must focus on the manner in which Hungarian social imaginings (how people conceive of their reciprocal relationship with others) and notions of "the people" coincide. Does this perspective exclude Hungarian Roma who, for more than 500 years, engaged in interactions with Hungarians to define "the people"(if only in whom the people contrasted themselves with), from the Hungarian "social imagining"? Do not the interests and expectations of Roma who share the title "citizen" equate into the common interests and expectations within the Citizen State? And, if indeed a separate imagining or moral order exists within Roma communities, does this persist due to external exclusion, or internal means of perpetuating a separate Roma identity?

In order to answer these questions and suggest where and how social change can take place, one must look at the past 500 years of interactions between Roma and non-Roma in Hungary as it impacts the three outlined aspects of Taylor's civil society: public sphere, market economy and popular sovereignty/Citizen state.

Assimilation, Market Economy, and the Public Sphere

The public sphere developed in Hungary, as in much of Europe, primarily as a result of print capitalism, and thus excluded Roma who did not speak or read Hungarian. These numbers, however, decreased as a result of increased interaction with Hungarians, and early and persistent assimilation tactics such as those introduced by Maria Theresa and Joseph II. Such early efforts included settling nomadic Gypsies in part to create a peasant labor force, removing children from their homes for re-education (many of whom ran away and returned home), and the prohibition of travel, speaking Romani, using Romani names (which led to adopting a second, non-Roma name) and wearing traditional clothing.

A number of reasons may be cited for the instigation of assimilation policies towards the Roma such as the need for a new labor force and the moral imperative of the Protestant work ethic. At the introduction of Maria-Theresa's policies regarding the "Gypsy problem" Roma were actively engaged in the economic sphere by offering specialized crafts and services. The new notion of labor and acceptable economic activity, however, fed into conceptions of progress that no longer tolerated nomadic lifestyles in relation to labor, state education (socialization) and perceived mutual obligations towards the governing polity in order to receive mutual benefits. Furthermore,

as Taylor notes, labor and organized economic activity became the key to an ordered political, military, and secular life in which "money making serves our 'interest' and interest can check and control passion".[15]Hence, any person or group carrying out economic activity outside the accepted notion of labor and reciprocity could be considered of uncontrolled passion (a common stereotype of Gypsies) and thus, a threat to the social order.

Perhaps for this reason, the seeming dissonance with non-Roma economic models and hence, dissonance with a key structural element in modern social imaginings, a number of studies among Roma communities have centered on issues of wealth, production, labor and work. In Hungary, one of the most extensive studies comes from anthropologist Michael Stewart who worked with Roma men in factories and among Roma at open markets. According to Stewart, Rom social imagining involves living in the present in which attaining wealth should require as little labor as possible (e.g. trading and scavenging), and should be shared and consumed immediately among Rom brothers.[16] Furthermore, this ideal (as it should be considered as many Hungarian Rom must engage in at least part-time employment in order to meet their basic needs) seems predominant in many Rom communities across the globe.

According to Anne Sutherland who worked among Rom in California in the 1970s, the basis of Rom economic activity involves extraction from non-Roma who should otherwise be avoided for all intents and purposes. Furthermore, she found that Rom who engaged in full-time employment became ostracized by the community as "Americanized" and polluted.[17] In Hungary, however, Stewart claims that, "The symbolic potential of declaring that permanent wage work was 'polluting' and un-Gypsy was not taken up by these Rom"[18], and that, "…in some contexts the Rom were aware that receiving regular wages had changed their whole way of life for the better".[19] Stewart goes on to suggest that aside from the additional benefits of working for a wage (loans, etc.), wage labor offered Rom the opportunity to engage in, if not dominate, the second or informal economy, a practice which united nearly all Hungarians.

15 Taylor, 104
16 See for example Sophie Day, P. Evthymios and Michael Stewart: *Lilies of the Field: Marginal People who Live for the Moment.* Boulder: Westview, 1998. 1–24; and, Michael Stewart: *In the Time of the Gypsies.* Boulder: Westview Press, 1997.
17 Anne Sutherland: *Gypsies – The Hidden Americans.* London: Tavistock, 1975.
18 Michael Stewart, *In the Time of the Gypsies,* 241.
19 Ibid, 107.

Yet, despite the common acceptance of and participation in the informal market, and the fact that by 1971, 85.2% of Romani men were employed primarily in industry as unskilled, semi-skilled and skilled workers, Roma remained discriminated against and excluded from full participation in Hungarian society.[20] As Péter Szuhay noted, Roma, "particularly those working in industry, wanted to define themselves as Hungarians, not just with respect to citizenship, but also in terms of ethnic self-identification. And day after day they had to face the fact that the rest of society jeered "Gypsy" at them".[21] This trend seemingly continues today as evidenced by recent billboards suggesting that one out of three Rom prefer to "hide" their identity.

As previously mentioned, Roma clearly came out the "losers" in the 1989 political transformation. According to a report entitled "Labour Market Programmes for the Roma in Hungary", 50% of Roma were unemployed by 1993.[22] The report lists the reasons for the substantial loss of employment among Roma as: educational disadvantages (educational gains of the past fifty years made valueless in a matter of a few years), territorial disadvantage (more than half of Roma live in villages and areas of economic depression), vocational disadvantage (the disappearance of industry related jobs), and ethnic discrimination. As a result, poverty, which had become increasingly apparent in the 1970s, and which had led to the development and recognition of a number of cultural associations in part sponsored by the state in order to pass the burden of providing resources to Roma, continued to escalate creating a greater gorge in social distance.

One measure of social distance, and indirectly of Hungary's distance from the social imagining of the west, can be found in the results of surveys conducted in the 1990s on non-Roma Hungarians' view of Roma unemployment. According to a 1994 survey, 90% of adults concurred that "the problems of the Gypsies would be solved if they finally started to work".[23] Clearly, this statement overlooks the high employment rates among Romani men in the previous decades, not to mention its assumptions concerning "work" as opposed to labor. The 1997 survey showed that 83% of Hungarians believed that "Roma don't work because they live on social assistance," while only

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[20] István Kemény (ed.) A *Romák/Cígányok és a láthatlan gazdaság.* Budapest: Osiris-MTA Kisebbségkutató Műhely, 2000.

[21] Peter Szuhay: Constructing a Gypsy National Culture. *Budapest Review of Books,* Vol. 2, Nr. 3, 1995. 113.

[22] Anna Csongor, György Róbert Lukács, and Niall O'Higgins: *Labour Market Programmes for the Roma in Hungary.* Budapest: ILO, 2003.

[23] *Social Report – 1998*, 460–1.

39% stated that "Roma do not work because they cannot get a job".[24] Furthermore, these researchers found that in post-socialist countries poverty is attributed to personal factors, as are negative attributes in out-groups in general, while in western societies, poverty is linked to discrimination and inequality. While slowly a shift is taking place within Hungary, many still view poverty and hence exclusion from the market as the personal fault of an en masse out-group, and thus, not a matter of structural inequalities among "the people". Likewise, the view that Roma prefer to live on social assistance rather than contribute to the market lends itself to further justifications for exclusion from a social imagining based on the idea of mutual obligations and benefits. Clearly, the task set in order to allow Roma full participation within civil society involves changing the perception of Roma as work-shy hoarders of social assistance, and secondly, changing the perception that Roma comprise an "out-group" in relation to "the people".

As previously mentioned, these researchers have suggested that increased discourse on human rights, self organization and honest media representation may lead to such social change. Perhaps among these, media (newspaper, TV, radio, Internet, etc.) plays the greatest role in shaping the public sphere "wherein [members of society] discuss matters of common interest and thus are able to form a common mind about these".[25] It also plays a vital role in molding non-Roma beliefs, stereotypes and prejudice among those who rarely, if ever, knowingly encounter Roma in their every day life. Hence, while Hungarian media no longer uses derogatory phrases like "browns" to describe Roma, it still feeds into negative stereotypes and distrust among non-Roma by portraying them primarily in conflictual settings and as people lacking any social role aside from ethnicity.[26]

Some have questioned the role of oral tradition and "living in the present" as means of separating Roma from the time/space development of the public sphere. Yet, two arguments would refute this suggestion. First, Koulish's findings claim that Roma have knowledge about local matters and would like to contribute to civic issues, yet lack a proper channel to do so. Hence, in whatever capacity, Roma receive news that directly or indirectly affects their lives as citizens and desire greater participation or "say" in the outcome of these matters. Thus, the act of receiving and responding to public in-

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24   Ibid.
25   Taylor, 100.
26   For more on this see: "Nationalist Message in Mass Media," report prepared by Media Monitoring Agency, Media Works, MEMO '98, and Roma Press Center, 2001. 2–15.

formation does not necessarily depend on written or duration perspectives, and hence, neither should its contributions.

Second, based on his study of the Rom of Hungaros, Michael Stewart suggests that through relations with non-Roma, Hungarian Roma are "remind[ed] of 'who they are' and who they have been, and thus to help them recognize the durational world in which, despite their best efforts, they are condemned to live".[27] Here we can see the direct way in which reciprocal relations with fellow citizens take shape in daily interaction, developing notions of "who they were" have been, and will be in relation to "the people" and as "the people" developing a sense of shared time/space. Furthermore, the notion of "who they were/are", as influenced by media accounts is changing through media monitoring, media discrimination laws, and hence, moves towards better media representation of Roma, i.e. as individuals making positive contributions to society. In addition, a greater number of Roma supported by NGOs (e.g. Roma Press Center and Radio C) and grassroots initiatives (some utilizing community house/MSG Internet facilities) can contest or contribute to their representation as broadcasters and journalists.

Non-Governmental Organizations and Minority Self-Governments

In the early 1990s, re-defining "the people" and the rights thereof quickly became of the utmost importance in Hungary as seen through the number of laws and acts regarding citizenship and minority rights. Hence, the relations between Hungarian Roma and non-Roma, and Roma and the government underwent great changes, at least on paper. Most notable and/or visible were the institutional changes in the form of non-governmental organizations and Minority Self-Governments, both of which have been criticized for failing to include, or for side tracking Roma from full political participation and likewise, participation in Hungarian civil society.

As early as 1990, thanks in part to the opening of borders, dissemination of information, and certain tax breaks, a number of non-governmental organizations (NGOs) arose and latched onto "the Gypsy question"[28] as a matter of human rights. Many critics, with the benefit of hindsight, have stated that this massive influx of NGOs and their collaboration with international organizations interested in both human rights conditions and western security

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[27] Michael Stewart: Remembering without Commemoration: the devices and the politics of memory among east-European Roma. *JRAI*, Nr. 10, 2004. 575.

[28] Overtime, "the Gypsy question" became known as "Roma issues", and in some circles, "Roma Rights" or the "Romani movement".

concerns regarding migrants, led to two serious outcomes: the homogenous ethnicization of Roma, and pigeonholing the Gypsy/Roma question into an issue of ethnic rather than social discrimination.[29] As concerns the former, this allows NGOs to sacrifice accuracy and accountability in order to deal with a number of social issues and circumstances facing Roma, and continually restate the obvious (even within reports informing policy development at the EU level) without addressing the importance of specific economic factors. Furthermore, while ethnic discrimination clearly exists and should be addressed in relation to human rights, linking every social issue to ethnicity creates an "ethnic ghetto" and a dangerous scapegoat for politicians and non-Roma to pawn off the burden of ensuring mutual benefits.

In some respects this "ethno-business" or ethnicization of the "Gypsy Question" has led to some confusion concerning the development of a separate civil society operating for the Roma (as of yet, it cannot be said by the Roma). Yet, bearing in mind Taylor's conception of civil society; an invented people "linked in an economy, [who] can seek access to a public sphere, and move in a world of independent associations", one must really stretch the imagination and the limits of this definition to suggest a separate civil society exists for Hungarian Roma. If such is the case, the Hungarian Roma become the invented ethnic mass who share an economy of international and domestic donors, who can access the public sphere through human rights reports, training and conferences, and who move about in a world of think-tanks, political parties, academic, umbrella and satellite institutions. Such an interpretation can, on the one hand, be viewed as either overly optimistic (in regards to the actual participation of Roma in NGO activities) or jaded (in underestimating the aims, achievements and abilities of some NGOs). And, on the other hand, such a view turns a blind eye to the present situation of civil society as situated within domestic spheres of the nation-state, or rather, as the intermediary between citizens, the economy and the State.

As Koulish's findings show, very few Roma know about or can take part in the activities of NGOs, the majority of which base themselves in Budapest or other large cities. Hence, proposing that NGOs offer one of the few channels for civic engagement of Roma seems preposterous. Some groups, such

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[29] See for example, Martin Kovats: The Emergence of European Roma Policy. In Will Guy (ed.): *Between Past and Future: the Roma of Central and Eastern Europe.* Hertfordshire: University of Hertfordshire Press, 2001. 93–115; D. Petrova: The Roma: Between a Myth and the Future. *Social Research,* Nr. 70, Spring, 2003. 111–161; and Peter Vermeersch: Advocacy Networks and Romani Politics in Central and Eastern Europe. *Journal of Ethnopolitics and Minority Issues in Europe*, Autumn, 2001.

as the Hungarian Foundation for Self-Reliance, which aims to support poverty alleviation through local civil society, have positioned themselves in smaller settlements, supporting employment and income generating programs developed by local, Roma organizations. These groups readily admit the limitations of their own efforts as based on available funding from donors, the impetus of fulfilling daily needs among long-term unemployed over the aims of long-term projects, and likewise, the entrepreneurial aims of mediating, local organizations. Yet, a number of copy-cat organizations (public foundations) sponsored by the state which mimic NGO activity have risen with at least the promise of government accountability and semi-secure funding.

Regardless of misdirected or failed efforts, NGOs have contributed to the public discourse on human rights and raised the public's attention to issues facing the Roma which may otherwise been swept under the carpet. While NGOs have a limited amount of power in lobbying and the development of policies concerning Roma, they do offer the opportunity for some, mostly young and educated, Roma to enter into bureaucratic and technocratic networks of civil society. NGOs also have the capability to engage in social change by, as previously mentioned, serving as human rights and media monitors, by encouraging local self-organization, and by developing programs aimed at specific social problems faced by Roma and non-Roma (e.g. unemployment) which would require mutual contributions for mutual benefit.

Minority Self-Governments (MSGs) as institutions primarily established to ensure and protect cultural autonomy, despite the demands of those whom they represent, also exhibit limited impact on the immediate social needs, which exclude Roma from the market, and the social networks needed to gain power in the public sphere. Although, as a positive outcome, MSGs have created at least part-time employment opportunities for more than 3000 Roma, as well as experience with local political networks and organizations.

Martin Kovats has stated, however, that "The most interesting aspect of the Minorities Law…is its recognition that rights, in themselves, are of little value and that a mechanism is needed to transform them from paper into practice. The mechanism created by the Minorities Law is the system of mi-

nority self-governments".[30]If minority rights are of such little value that a mechanism requires their fulfillment, we must evaluate the effective nature of that mechanism. In this case we have to evaluate the government's ability to ensure the fulfillment of legal guarantees made to Roma.

First and foremost, the Roma minority self-governments, like all forms of government in Hungary, *elect* leaders. One of the major flaws of this system is that in no way does it monitor or restrict who can elect the members of the minority *self*-government. This criticism comes even from the 1997 representative of the Hungarian Parliamentary Commission for National and Ethnic Minority Rights, Jenő Kaltenbach, who also counted among the positive aspects of the GMSG that it "resolves the problem of legitimacy within minority groups in a democratic way".[31] In the past this "loophole" led to the election of non-Romani citizens to local GMSGs.[32] Additionally, no elections were organized for the constitutionally guaranteed seat in parliament.

Second, the Minority Law sets out an agenda for "cultural autonomy", yet Kovats points out that "the emphasis on 'cultural autonomy' exposes a tension in certain areas between the respect for 'difference' and the right to be treated equally".[33] Although lacking a clear definition of "cultural autonomy" the law makes mention of the preservation of the mother tongue, traditions and customs, the establishment of institutions such as schools, museums, etc., and the right to develop and nourish relationships with the home country. All of these elements of "cultural autonomy" prove especially problematic for Roma who can not claim in the same sense as the Croatian or German minorities a home country from whom to draw financial and other forms of support. In fact, the financial aspect of "cultural autonomy" proves a triple edged sword for GMSG leaders who can not rely on external funding from a home country, who must rely on the municipal government for their budget, and who face the intertwining of political participation and social issues through the "ethnicization of poverty". This proves especially complicated when even Florián Farkas, a leading figure in Lungo Drom and a long

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[30]   Martin Kovats: Minority Rights and Roma Politics in Hungary. In Karl Cordell (ed.): *Ethnicity and Democratisation in the New Europe*, London: Routledge, 1999. 147.

[31]   Kaltenbach is quoted in the report of the PER workshop *Self-Government in Hungary: The Romani/Gypsy Experience and Prospects for the Future* which took place May 9–11, 1997 in Budapest. A full report from he workshop is available at http://www.per-usa.org/ self_gov.htm.

[32]   See the article "Controversial Segregated Private School Approved after Election of Non-Romani Minority Representatives in Hungary," *Roma Rights*, Nr. 1–2, 2003, available at http://lists.errc.org/rr_nr1–2_2003/snap23.shtml.

[33]   Kovats, 150.

time representative of the National Gypsy Self-Government, claims that the NGSG "[is] not based on ethnicity, but thinks in terms of creating a grouping that organizes itself to fight poverty".[34]

Despite Farkas' claims, and the findings of Molnar and Schafft that the majority of GMSG activity involve welfare issues gladly, but illegally, handed over or often dumped on them by municipal governments, minority self-governments do not posses the political power to address social issues such as poverty. GMSGs can merely make recommendations to municipal and national governments in the interest of their minority group. On the other hand, municipal governments are free to disregard such recommendations as they please with little or no recourse. Furthermore, even on issues concerning media, culture and language, and education where GMSGs hold veto power and where the municipal government must gain their agreement, Claude Chan notes, that "there is no effective legal recourse where a local government" fails to do so.[35]

Without the political or financial backing to address those issues most pressing for their constituents, the Gypsy Minority Self-Government has been called "a farce" by groups such as MROP (Magyarországi Roma Összefogás Párt) who call instead for mobilization to elect Roma leaders for the Hungarian Parliament. Their efforts have yet to prove fruitful. Their claim and their intention, however, reflect the response of many Roma/Gypsies in Hungary to yet another Government program dictating the frame and the content of their ability to participate in matters which direct their lives in Hungary.

Conclusions

I would like to conclude by addressing the series of questions that began this investigation.

Does Roma participation in civil society depend on special rights and channels (i.e. NGOs and MSGs)? It seems that as of yet, Roma participation in civil society does not depend on NGOs and MSGs as their impact remains quite small and limited to predominantly ethnic issues. Furthermore, the "special rights" in question, are actually those human rights guaranteed to all citizens, as presently, no affirmative action measures have been taken (including the alleged positions for Roma in parliament which remain unfilled as

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[34]   Florián Farkas quoted in *Népszabadság,* August 26, 2000.
[35]   Claude Chan: Smoke and Mirrors: Roma and minority policy in Hungary. *Roma Rights*, Nr. 4, 2001. 35–40.

the government has yet to find a manner of voting which would not reveal the voters ethnic identity).

Does a separate civil society exist for Roma? No. As previously argued, taking into consideration Taylor's definition, we can not suggest that a separate notion of the people, economy, public sphere and world of independent associations exist for Roma.

Do the interests and expectations of Roma reflect a separate "social imagining"? No. The interests of the Roma reflect the same desire for security of rights, and means to live which motivate other Hungarians to participate in civil society. Furthermore, Roma have shown their desire to engage in the market economy and public sphere and have met with limited success not as a matter of personal fault, but as structural failures coupled with discrimination. Additionally, Koulish has shown that Hungarian Roma, while seeking improvements in the capabilities of their MSGs, do not desire self-determination.

Yet, changing the "mainstream" perspective on groups who live in the present- as a means of promoting plurality and protecting ethnic groups, challenges the values and ideology upon which the state (especially post-communist states) rests, or at the very least, the way in which concepts such as freedom and autonomy are used in political rhetoric. Acknowledging that such values exist to a certain degree throughout society, and the economic role they play, may prove important for deconstructing the myths of inherent deviance among socially disadvantaged groups and grant them recognition of their personal autonomy/relationship within the state.

How does the current Hungarian social imagining (how Hungarians imagine their social existence) coincide with the notion of "the people"? Clearly this remains in flux. Yet civil society exists as a tool for having a "say", for all citizens- "the people", to whom the government (citizen state) and market must be held accountable. Hence, diagnosing civic health in Hungary determines the overall distance from the imagining, as a product of human rights discourse, and the reality.

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REVIEWS

ANDRÁS L. PAP

The Status Law Syndrome

Review of Zoltán Kántor, Balázs Majtényi, Osamu Ieda, Balázs Vizi, Iván Halász (eds.) *The Hungarian Status Law: Nation Building and/or Minority Protection*. 21ˢᵗ Century COE Program, Slavic Eurasian Studies No. 4, Slavic Research Center, Hokkaido University, Sapporo 2004.[*]

In early 2005, one could hardly think of a more timely topic than a thorough, carefully edited investigation of issues involving nation-building, kin minorities, and the acceptable norms regulating minority and Diaspora politics in the post-communist region. Only a few months have passed since the European Union was significantly expanded, thereby introducing into the European political discourse the concepts of kin minorities, kin state and home states. (The very creation of this terminology is due to the Venice Commission.) The fierce legal, political and academic debates on ethno-cultural aspirations, Diaspora state policies and ethnicity-based dual citizenship, as well as a constitutionally recognized right for minority identity are now European issues, adding a new angle of scrutiny to questions that are already familiar.

For the Hungarian readership, this in-depth, multidimensional and multifaceted analysis of the Hungarian Status Law could not be timelier, as both the Hungarian Diaspora and politicians from the entire Hungarian political spectrum are in the process of recovering from the trauma of an unsuccessful referendum that proved to be damaging for all political platforms. Held on December 5, 2004, this referendum posed the question of providing dual citizenship for kin minorities.

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[*]   http://src-h.slav.hokudai.ac.jp/coe21/publish/no4_ses/contents.html

The selection of academic essays from authors with a diverse geographical background (Central-Eastern Europe, Western Europe, the US, East-Asia) also represents a wide range of disciplines (legal, historic, social scientific), providing a unique assessment of a very symptomatic social phenomenon: the Status Law-syndrome.

The book consists of nineteen essays by prominent scholars, followed by a fascinating and thorough chronology of the Hungarian Status Law's saga, and an exceptionally useful bibliography. The extensive selection of original documents included in the volume is also invaluable. As readers, we are ushered through the various stages of the Hungarian Status Law's legislative history, and find statements, declarations and other documents produced by an altogether unique Diaspora institution: the Hungarian Standing Conference. Also included are a number of bilateral instruments (memoranda of understanding, agreements), reports from international organizations—the Venice Commission, the Parliamentary Assembly of the Council of Europe, the OSCE, and various European Union organs—as well as texts of the Slovak, Slovene and Romanian status laws (or similar legislations).

The volume's greatest strength is its diverse range of essays. This also involves a slight shortcoming, one that is an inherent weakness of the essay-collection genre: due to the diversity of approaches and the authors' uncoordinated analyses, the descriptions on legislative and political history strike the reader as somewhat repetitive if the papers are read consecutively. This is nonetheless a is a price that is definitely worth paying, given the distinctive originality of the various contributors.

The book groups the essays by discipline, with a section each for history, social sciences, and legal studies. I will follow this tripartite division schema.

Approaches from history

The first section opens with a long essay by one of the editors, *Osamu Ieda,* a Professor of History at the Hokkaido University (Sapporo, Japan), entitled "Post-communist Nation Building and the Status Law Syndrome in Hungary". Professor Ieda gives a detailed description of the legislative history as well as a thorough analysis of the Act. On a theoretical note, he regards the status law syndrome –nation building across state borders and integrating the kin minorities abroad through legislation – as a clear symptom of the failure of mega-area nation state systems (such as the Soviet empire), and also as an institutional necessity for national re-conceiving and re-adjusting in the post-communist environment of European integration. He claims

"status laws were not simple reflexes of ethno-national concerns, but also reflected the requirements of the supranational process of regional integration in Europe." (p. 4.) The status law is thus a phenomenon generated by three interactive factors: the communist and Soviet imperial heritage; the emerging new national consciousness; and the eastward extension of European integration.

In his subsequent analysis, in addition to Rogers Brubaker's classic triadic interaction concept (of kin minority, kin-state and home state), Professor Ieda suggests a fourth factor, the external integrating power of the European Union. On the whole, he sees the Status Law as going hand in hand with ongoing EU integration, as an attempt for national unification where concern for the kin minority is to be transferred from the home state to the kin state as part of the latter's domestic affairs. This idea seriously challenged the conventional concept of state sovereignty and was ultimately defeated by it.

The second essay by *Nándor Bárdi*, research fellow at the Hungarian Teleki László Research Institute focuses on policy considerations behind the birth of the Status Law. The author covers the historical background through a detailed description of various post-1990 government policies concerning minority and Diaspora politics and provides a comprehensive assessment of Hungarian Diaspora politics throughout the 20th century, with special emphasis on the political transition of 1989, and subsequent bilateral (so-called basic) agreements between Hungary and its neighbors.

Social scientific approaches

Written by *George Schöpflin* of University College London, "Citizenship and Ethnicity" opens the social sciences section with an assessment (and defense) of the Status Law-concept. The author investigates the Hungarian legislation in the context of two opposing post-Cold War polarities that exist in reciprocal potentiation: universalism and particularism. He claims that ethnicity and the ethnic dimension of the nation has been the particularism that attracted the greatest attention and disapprobation, since in the past decades democracy was understood as dependent on universalism.

Following 1989, Professor Schöpflin claims, Europe "has lived in a complex struggle, that is best interpreted as a contest between universalistic discourses and the policies based on them (human rights normativity, the acquis commonautaire, multi-culturalism, minority rights) and particularistic ones (diversity, localism, particularistic forms of knowledge)." (p. 90.) Although it

is practically impossible to be European without an ethnic identity, he claims that Western Europe is in denial about its ethnic identities and "[i]t is only when it comes to Central and South-Eastern Europe that ethnicity is seen everywhere. Indeed, in the current popular, journalistic and political imagination, these regions are quintessentially characterized as being ethnic and only ethnic." (p. 92.)

The author points out that the citizenship legislation of all pre-enlargement EU member states contain ethnic elements (to do otherwise and stick to a pure ius soli principle would create chaos and absurdity, given the rising number of parents who work abroad when their children are born). He considers it a fact of life that the very existence of the Hungarian state generates some sort of relationship between Hungary and the kin minorities—just as the mere fact that the same philological language is spoken by the Francophone in Switzerland, Belgium and France makes them have "more in common then not and this necessarily means defining a relationship with France." (p. 94.) Given this, Professor Schöpflin is perplexed as to why the West became indignant when Hungary tried to regulate its ethnic problems overtly, legibly and transparently. All the Status Law does, according to him, is recognize and regulate ethnic problems, because "it is not possible to decouple culture from political power and political power is, at some level, necessarily vested in the state." (p. 94.)

The author concludes that the FIDESZ-government was ahead of its time with its belief that the shared sovereignty-principle of European integration could be applied to Diaspora policies; the Western answer consisted in a resounding "no" to ethnicity and the pooling of sovereignty was to be limited to the European Union. But this leaves the Hungarian government with very little choice according to Professor Schöpflin: no alternative but to opt for dual citizenship.

This otherwise fascinating analysis calls for a further, independent remark. The reader might wonder what Professor Schöpflin—now a member of the European Parliament for Hungary, representing FIDESZ—actually meant to suggest in one of his concluding passages:

> … Budapest is … struggling against one of the strongest currents in Europe—the denial of the validity and legitimacy of ethnicity on the part of the hegemonic elites, not to mention their universal allies in Hungary itself. For these elites, the simplest and cleanest outcome would be for all ethnic Hungarians to disappear, to sink below the horizon of political concern."… (p. 103.)

The next essay entitled "Status Law and 'Nation Policy'" was written by one of the volume's editors, *Zoltán Kántor* (Hungarian Teleki László Research Institute). Throughout the book, on many occasions, he is referred to as a leading expert and theoretician in the field. He scrutinizes one important aspect of the Status Law controversy: difficulties in defining the nation, membership in the national community and possible approaches to understanding what the concepts of cultural and political nation might mean. Besides providing a sharp, extensive analysis of the legislative history, he gives detailed descriptions of theories that oppose the concept of the status law (expressed by Hungarian opposition liberals and representatives of international organizations like Günther Verheugen and Eric Jürgens).

The central theme is the juxtaposition of the ethnocultural and the political conception of nationhood. Although the author does not refrain from showing moderate sympathy for the law, he manages to provide a well-balanced and thorough analysis of a number questions:

- How can one determine objective and/or subjective criteria for membership in the nation?
- What is the relationship between domestic minority rights and aspirations of the kin-state nationalism?
- How are we to understand constitutional languages (found in the Hungarian constitution, for example) like "minorities are nation-constituting elements"?
- If an ethno-national minority joins a government coalition, does that automatically make them member of the home state's political nation?
- How are we to perceive multiple identities of, for example, the Roma, Jews or Germans living in neighboring countries if they also identify themselves as Hungarians?

In the next essay entitled "The Hungarian Status Law: A New European Form of Transnational Politics," the anthropologist *Michael Steward* (University College London) provides an especially thorough and deep historical and anthropological background (dating back to the 19th century), rebutting the suggestion that the Hungarian Status Law would be a post-modern bypassing of the nation state. He shows that the paradoxical insistence to keep the kin minority in the host states is, in fact, an expression of residual territorial revisionism. He thereby dismisses arguments that see the Status Law as an envisioning of new, multiple and overlapping identities and affiliations,

that is, as a step beyond the territorial state and the modernist notion of a single, exclusive citizenship. He claims that the Status Law is in fact only a "transformation of an older set of concerns to recreate … a homology of democratic distribution and 'nation', … an attempt to give this kind of soft revisionism a new content." (p. 122.)

The paper also links the Hungarian case to the broader transnational literature—on Haitians, Filipinos or Dominicans in the United States. His inquiry centers on the role of the state as promoter and sustainer of transnational social fields. Using the distinction between "traditional" Diaspora (people living in some sort of an exile) and the new form of "deterritorialized nation" (people may live anywhere, but will always 'bring the state with them'), he argues that the Hungarian Status Law is "no more than an attempt to turn a 'traditional' Diaspora into a 'new' transnational nation. And in the very possibility of this simple shift much of the novelty of 'transnationalism' dissolves." (p. 147.) Also "… transnational links to the home-state that are constructed by Hungarians, like Haitians, are framed in deeply 'conservative' terms of ethno-national relatedness. There is, in this sense, precious little post-modern about the attempt to construct 'deterritorialized nation-states." (p. 148.)

What the author finds particularly interesting is that in the Hungarian case, the mobilizing home state is not a weak, post-colonial one (as would be the case with Haiti for example). The situation is quite the opposite: compared to many of its neighbors, Hungary is richer, better connected and more powerful (NATO and EU-member). In the "(t)ransnationalist studies of countries that send migrants and then try, by various means, not to loose these citizens (and access to their wealth) tend to concern poor and weak states, confronted with the might and wealth of recipient countries. In the Carpathian basin the situation is reversed." (p. 149.)This has interesting consequences:

> …whereas the United States barely acknowledges the 'home-ties' of immigrant populations, … the host states like Romania tend to exaggerate (at times grotesquely) the 'home-ties' of the Hungarians. For some Romanians, indeed, the Hungarian minority is a fifth column undermining the integrity of the state. Conversely, the Hungarian state, too, tends to be blind to the ways in which the Hungarians beyond the borders are not just Hungarians and have a distinctive regional identity, interests and goals. … So while both the Haitian and the Hungarian state tend to ignore the incorporation of their co-ethnics

into the countries in which they live, the Hungarian state is far more able than its Third World counterparts to pass this off as a fair and plausible representation of the way things really are. (p. 150.)

János Kis, probably the most influential Hungarian political philosopher, is the author the next essay entitled "The Status Law: Hungary at Cross-roads". He follows a traditional jurisprudential method of analysis in showing how and why the Status Law was a mistake.

First, he scrutinizes the notion of preferential status as provided for kin Hungarians in the neighboring countries. Second, he identifies the aims that the preferential status is supposed to achieve. Third, he considers whether those aims can be justified. He asks a further pair of questions: Is preferential status an effective means towards the aim? And assuming that it is, does it not violate others' legitimate interests or Hungary's international obligations? These last two questions receive less attention because the third question, according to Professor Kis, already runs into fundamental problems.

First, about preferential status. Professor Kis notes that by making the entitlement for the Hungarian Certificate a right, the law actually created a fundamental status, a new, unique and constitutionally unauthorized type of constitutional subject. The Hungarian constitution only recognized two such types of constitutional subjects: 'Hungarian citizens' and 'everybody'. The Status Law creates an additional category within the jurisdiction of the Hungarian state, held by citizens of other states who reside and intend to reside in the territories of those states.

Second, about the aims of having a preferential status. The author begins with a simple characterization: the aim is the prosperity of minority Hungarians. He then points out that this is actually ambiguous between two readings: the benefits of the law can be individual or collectivity-oriented, in other words, the law can benefit individual members of the Hungarian minority community or the unitary Hungarian nation. Professor Kis identifies the individualistic approach with liberalism and the collectivistic one with nationalism. In the Hungarian case, it was clearly the latter, nationalistic reading that the Status Law was intended to target, the essay therefore focuses on this reading.

On a side note, the author points out that nothing prevents liberals from being open to recognizing the nationalist reading's target community—the Hungarian minority, say. After all, a minority position may have inherent disadvantages that cannot always be counterbalanced by rights established for

the individual. International law is therefore not hostile to the idea of collective rights; still, de collective does not become an ultimate bearer of the rights. The community of democratic states does not recognize collective rights as non-derivative principles, a reasoning based on the well being of supra-individual collectives.

According to the nationalistic reading, the aim implicit in the Status Law is that of political nation unification. (p. 162.) Professor Kis considers such an aim problematic for several reasons. For example, it would be preposterous to think of the cultural nation as a collectivity of persons whose ancestors used to form a cultural nation at one point; it would be like arguing that present-day Austrians belong to the 'unitary German nation'. (p. 164.) Also, a "cultural nation does not have a center, its members living in different countries do not necessarily connect themselves via the capital of a particular country. The centre of the Hungarian nation conceived as a political entity is Budapest, and the Hungarian state is its organizational focus." (p. 162.)

Third, about justifying nationalism as an aim. Professor Kis points out that there is no need to justify political aims for those who already agree with them. Instead, justifications are needed elsewhere: they should be directed at those groups that (rightly or wrongly) (p. 158.) believe that the aims are contrary to their fundamental interests. These groups include, according to the author, the Hungarian taxpaying majority, majority citizens of the neighboring states, and the international community. At this stage, justification already founders. With respect to Hungarian citizens, formulating demands on behalf of the 'unitary Hungarian nation as a whole' violates the principle of political neutrality and the principle of freedom of identity (choice). The violation holds at least in a negative sense, as no Hungarian has any duty whatsoever to identify with any particular community, or to endorse a particular shape of the community they happen to identify themselves with. With respect to the neighboring countries (majorities), the author sees no reason why they should recognize or accept the Hungarian nation's right to be unified across borders. Even the Hungarian government is offering a deal, where the borders remain intact, and this 'unity over the borders' takes a more humble form (of entitlements given to kin minorities).

About the effectiveness of preferential status as a means. The author clearly states that sovereignty is not 'one and indivisible'. He mentions the voluntary self-limitation in favor of either another state, or a broader community of states, or a supra-state political institution. Examples involve of Northern Ireland, the EU or the International Criminal Court. However it is impossible to "divide and restrict it by a unilateral decision from abroad." (p. 169.)

In his conclusion, Professor Kis remarks that in general, even though collective minority rights can be recognized, the improvement of the minority situation should not begin with collective rights, because their recognition raises difficulties for the majority. Those rights should be demanded first which the majority can accept relatively easily, that is, classical individual rights. More specifically, the Status Law should support minority organizations and institutions, but not the creation of new constitutional subjects and status.

Brigid Fowler (University of Birmingham) is another author to whom a number of other contributions refer, some approvingly, others critically. In her essay ("Fuzzing Citizenship, Nationalising Political Space: A Framework for Interpreting the Hungarian 'Status Law' as a New Form of Kin-state Policy in Central and Eastern Europe") the author sets forth a sympathetic assessment of the Hungarian Status Law, seeing it as a possible model for a post-modern, post-national step beyond the traditional modernist notion of statehood, which is based on absolute territorial sovereignty, singular national identities, and exclusive citizenship as the only possible legal and political relationship between states and individuals. She argues that the Status Law polemics bring academic and political attention to notions of citizenship, or quasi-citizenship beyond the nation state. These post-modern conceptions of kin-state relations challenge the archetypal 'modern' norms of citizenship and territoriality. The Status Law goes even beyond the relatively new EU-practices and institutionalizes relationships between states and individuals who are neither citizens nor residents. "Inasmuch as Status Law-type legislation creates rights claimable by particular individuals against specific states, it creates a form of citizenship; but it is a 'fuzzy citizenship', since it is not full citizenship, it does not coincide with any existing legal relationship between states and individuals, and its terms are often unclear." (p. 183–184.)

Bridgid Fowler's paper first outlines the most important challenges to the modernist approach and norms of citizenship (such as the growth of international regimes of law, an emergence of a variety of rights that are conferred by international institutions and not the state of citizenship, increased international migration, dual citizenship, political bodies of expatriates and other nations of deterritorialized nation state, etc.)

Following these assessments, the author turns to the analysis of Central and Eastern Europe, where the notions of nation, state and citizenship have, for historical reasons, been separated, and thus a unique, sui generis kin-state relationship has evolved, which challenges the norms of territoriality and

citizenship and moves toward a new model of attenuated sovereignty and multiple identities.[1] This 'fuzzy citizenship', as she describes it, is a rather peculiar phenomenon: it is not full citizenship (similarly to emigrant citizens', post-imperial citizens', or re-naturalized, but not resettled immigrants' status), but is not (or not necessarily) residency either. What makes it extraordinary is that it is not defined by the legal construction of state citizenship, but membership in the cultural nation. Thus, while in the case of post-imperial citizenship (such as with Brazilians in Portugal or Commonwealth and Irish citizens in the UK) the fundamental bond is the common (constitutional) past that can be traced back to citizenship, in case of the East European Status Laws the relationships are created on the basis of a present connection between one state and some of the citizenry of another—and this will entitle these citizens to state services in the kin state. (p. 206.)

In addition, Brigid Fowler provides a detailed and thorough comparison of the various Status Law-like legislations in the CEE region (Slovakia, Poland, Romania), paying special attention to the Hungarian model. She also presents some of the modernist arguments that oppose the Status Law approach (as expressed by the Hungarian opposition in 1998, the Venice Commission and the EU).

In her concluding remarks, the author contrasts the Romanian and the Hungarian concepts, identifying the former as a representative of the 'modern' approach, one which adheres to the French style, state-led conception of equal citizenship rights built on a singular national identity and homogenous political community. Although her analysis is well-developed, we might have doubts about this classification; for example, Romania's sui generis minority parliamentary representation is hardly compatible with the French model.

According to the article, Hungary is supposed to represent the 'post-modern' conception. Unlike Romania, Hungary is viewed as embracing alternative principles of statehood, where the conceptual separation of state and nation implicitly opens the way to kin-state relationships that challenge modernist principles and make way for attenuated sovereignty and differential treatment to members of a single citizenry.

Brigid Fowler brings attention to another interesting feature that both "camps" appeal to: 'Europe' and the European Union as a savior and an arbi-

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[1]   After all, there are 1,5–2 million Poles and 7 million Romanians in the former Soviet Union, and 2,7–3,3 million Hungarians in the neighboring countries. Western Diaspora totals 12 million Poles, 3 million Romanians, 2,5 million Hungarians, and 2 million Slovaks. p. 194.

ter. The 'modern' approach envisages Europe as a place where differences of national identity are superseded by a culturally neutral, equal European citizenship which leaves existing state-based arrangement intact, while for the right-wing Hungarian government that advocated the Status Law, the European Union is the community of communities; a construction where different national identities are protected, cherished and can even supersede the territorial state.

It so happened that the Venice Commission and the EU Commission seemed to favor the modernist approach.

Constantin Iordachi (Central European University) employs a double comparative perspective in his essay entitled "Dual Citizenship and Policies toward Kin-minorities in East-Central Europe: A Comparison between Hungary, Romania and the Republic of Moldova". First it contrasts the Hungarian Status Law with Romania's legislation on dual citizenship and its impact on Romania's relationship with Moldova. Furthermore, it situates the Status Law within the overall patterns of ideological conflict between Romania and Hungary. The author looks at the various legislations: the Hungarian Status Law, the Romanian laws (1971, 1991 and 2003) and the Moldavian laws (1991 and 2000) on citizenship as attempts at reconstructing the national 'imagined communities' against the background of radical post-communist socio-political and territorial reorganization. (p. 240.)

Regarding the Hungarian Status Law, the author argues that it is in fact a substitute, or a veiled form of dual citizenship, providing a peculiar combination of ethnic, territorial and statist principles. He evaluates the 1991 Romanian citizenship law as an instrument for unifying ethnic Romanians into a single political community that will pave the road for a future reunification with Moldova.[2] By way of an insight into the complexity of the region's Diaspora politics, we also find here a valuable (and rare) analysis of the Moldovan citizenship legislation and policy.[3]

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[2] Between 1991 and 2000 alone, Romania granted citizenship to some 300,000 Moldovan citizens.

[3] Moldova granted full citizenship rights to all its permanent residents (who were former Soviet citizens). It means that Romania's offer for citizenship would only have applied to ethnic Romanian citizens of Moldova—who constitute only about two thirds of the latter's population. Also, the Moldovan legislation did not recognize dual citizenship. In light of all this, it is no wonder that no overwhelming political will has been formed to unify the two states…

Professor Iordachi argues that all these legislations are atypical, the Romanian citizenship law differs from classic repatriation laws, as it does not require former citizens to relocate in the country. The Hungarian Status Law, too, goes well beyond a law on minority protection. Furthermore, both employ a 'statist' perspective, by targeting former citizens who lost their citizenship as a result of border changes. The author notes that there is a difference here: while the Romanian law includes all former citizens, the Status Law introduces an "ethnic" filter. Nevertheless, this compensatory attitude towards involuntary loss of citizenship, according to Professor Iordachi, will create the suspicion of irredentism for both countries. Another similarity is that both the Hungarian and the Romanian laws clash with the internal legislation of the neighboring states (Romania and Slovakia, and Moldova and Ukraine respectively). Also, neither legislation seems to have served their political purpose, given that inter-state relations have become more tense…

The fascinating historical and political analysis provides witty descriptions of ironic occurrences. Consider the case of Ilie Ilașcu, whose case will be remembered in parliamentary history as the political prisoner in the Separatist Transistrian region, who was, during his imprisonment, simultaneously elected deputy of both the Romanian and the Moldovan Parliament, and a member of the Parliamentary Assembly of the Council of Europe. (p. 251–2.)

The author thoroughly explores the dual citizenship-phenomenon. The question is: how should it be perceived? As a legal anomaly "comparable to the moral sin of polygamy in the Christian moral order" (p. 240.), or as a form of trans-national globalization? Constantin Iordachi argues that in contrast with the Western European and North American practice of motivating the expansion of dual citizenship by the desire to integrate internal permanent residents, in Central and Eastern Europe, policies of dual citizenship have been related to the revival of national and ethnic policies of post-communist states, addressing the need for more effective minority protection provided for external compact kin populations. Thus in the former regions, the expansion of dual citizenship was part of (liberalizing) naturalization laws, whereas in the latter regions, dual citizenship remained in the sphere of Diaspora politics and has left internal naturalization regulations intact. Professor Iordachi sees the proliferation of such Diaspora politics as a reaction to novel socio-political stimuli in the post-Cold war and post-Maastricht era.

James Goldgeier and *Zsuzsa Csergő* (both at George Washington University) scrutinize the interplay between the two aspects mentioned in the title of their paper: nationalist strategies and European Integration.

They start with the (somewhat daring) claim that nationalism has been "the most powerful common characteristic of post-communist transitions, overshadowing alternative social and individual organizing principles, such as liberal democracy, universalism, non-national forms of regionalism and pan-Europeanism." (p. 270.) To prove their argument, they bring up the fate of communist federations (the Soviet Union, Yugoslavia and Czechoslovakia) all of which fell apart along ethnic lines.[4] Although there are occasional oversimplifications in the first few pages (e.g. "most contemporary scholars assume that nationalism is a potentially dangerous, destabilizing political activity" – p. 271.) the authors' project is definitely an intriguing one, and they provide a well-established theoretical framework for their analysis.

They offer a typology that distinguishes four models of nationalism, each with a separate set of strategies and institutional logic, as well as a vision of what kind of alliance the EU ought to be.

The first model is that of 'traditional nationalism', a political strategy aimed at ensuring the convergence of political and cultural boundaries. This envisions a territorially sovereign, culturally homogenous nation-state. The authors bring the examples of Northern Irish Catholics, Basques, Croatia, Estonia, Latvia, Lithuania, Macedonia, Serbia, Slovakia, Bulgaria and Romania. Not surprisingly, for this model, the European Union is ideally an alliance of nation states.

The second model of 'substate nationalism' describes those groups that consider themselves rightful owners of a homeland that they do not have. These historical, genuine minorities (as differentiated from relatively recent migrants) do not seek independent statehood (and thus are different from the secessionist movements that characterize the previous group), their aim is only secure existence for their community and strong political representation vis-f-vis the state. According to the authors, Bavaria, Catalonia, North Rhine-Westphalia, Salzburg, Scotland, Wallonia, and Flanders belong to this group. For this model, the European Union ought to be an alliance of nations.

The third model is that of 'transsovereign' nationalism, in which nations do reach beyond state boundaries, but for various reasons abandon the idea of border-changes. These states (like Austria towards South Tyrol, Russia towards Lat-

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4   These cases are particularly interesting given the fact that it is a commonly held view that federalism and autonomy were the only form of constitutional arrangements that communist legal systems took seriously. See for example, Rumyana Kolarova and Dimitr Dimitrov, Electoral Law in Eastern Europe: Bulgaria, *EECR*, Vol. 3 No. 2, Spring 1994. 52.

via or Ukraine, Romania towards Moldova) create institutions to link the nation with the kin minority across state boundaries. For this model, too, the European Union is ideally an alliance of nations. The authors see Hungary's nation-building strategies as particularly vivid examples of this model.

Finally, in the case of the last model of 'protectionist nationalism', the priority is the preservation of traditional national culture in the face of immigration and social change. This way, for countries like Austria, Belgium, France and Germany, the EU should also be an alliance of nation states—but, again, for a different set of reasons.

The authors' most important claim is that nationalism and integration are two inter-related and dynamic processes, and the fact that a particular state chooses a particular form of nationalism-model, does not set it into stone. The European Union not only 'pools and shares sovereignty', they claim, but members also pool and share different varieties of nationalism. Furthermore, EU-developments themselves may affect nationalism-strategies. If, for example, the European Union moves in the direction of an alliance of states, rather than an institutional framework that de-emphasizes boundaries, sub-state nationalists may decide to shift to secessionism as a way for better interest-representation.

Also, the authors claim that in contrast with the opinion widely held among scholars, nationalism is not necessarily anti-integrationist. Some projects—like Hungarian trans-sovereignty—fit well within the European Union's endeavors. What is more, some groups will see the EU as a vehicle for achieving long-sought goals through non-traditional and non-violent means. (p. 296.)

What is really important, the authors conclude, is that European integration may serve as a flexible tool for all these aspirations. President De Gaulle may have thought of the EU as a union of states, Chancellor Kohl could have imagined the EU as the Europe of regions, and Hungarian Prime Minster Orbán would have envisioned the European Union as a community of communities. (p. 287.)

Closing the social sciences section is a wisp of an essay by *Miroslav Kusy* (Komensky University, Slovakia), "The Status Law in the Hungarian-Slovakian Context", tuned to play in a reconciliatory key. The author starts off by claiming that both countries' Status Laws are necessarily discriminatory and that Slovakia's ethnic Hungarian taxpayers might legitimately ask why their tax money is being spent on Slovaks' kin minorities and not allocated to

the Hungarians' kin minorities abroad. Thus, he concludes, both laws may prove to be questionable as instances of public law.

The author draws attention to the fact that the Status Law dispute is not between two hostile states, but between two good neighbors, who otherwise co-operate intensively (for example in the framework of the Visegrád process, the Council of Europe, the OSCE, and recently in the European Union.) The solution should therefore consist in the use of discreet diplomatic language and a mutual search for consensus.

The author makes the remarkable point of comparing the case of ethnic Hungarians with that of Czechs, and offering the solution of dual citizenship, which worked perfectly well with ex-Czechoslovakian citizens, as the Czech Republic offered citizenship to all Czechs living in Slovakia. "They are just as at home in Prague as in Bratislava and they are registered both as Czech citizens living abroad and as members of the Czech minority holding Slovak citizenship." (p. 307.) The Hungarians could have listed historic and material arguments similar to the Czechs, Kusy concludes. "Their common state was similarly divided and through no fault of their own they found themselves on the other side of the border twice. … If the Czechs could make these arguments on the basis of a seventy-year-long past, the Hungarians could present as past of more than a thousand years." (p. 307.)

Legal approaches

The last section contains shorter, and occasionally quite technical legal essays. It is worth noting the degree of concurrence characterizing this section. Unlike the previous sections, which presented side-by-side defenders and witty critics of the Status Law-phenomenon, all of the legal approaches conclude that Status Law legislations are apparently permissible by international legal or constitutional standards. The reason for this seems to be the legal approach as such. A passage from Renate Weber's analysis (see below) demonstrates this rather characteristically: "…It has been said that it is ridiculous to hold and carry a document attesting one's membership of a national group. It may be. But what is ridiculous is not illegitimate as long as it is not used in order to discriminate against the holder…" (p. 357–8.)

Herbert Küpper's (Institute for East European Law, Germany) essay describes the political, constitutional and legislative background, as well as the foreign policy and international law implications of the Status Law ("Hungary's Controversial Status Law"). The author draws a parallel between the

attitudes of the Hungarian legislator and German public opinion, in that both have reservations about the mass-influx and immigration of their kin (in the German case the Spätaussiedler).

The vast majority of the author's analysis is dedicated to the poor legislative standards and technical shortcomings of the law. He criticizes its 'skeleton law' nature, which means that most pertinent legal matters are referred to special legislation. He also draws attention to the undesirability of using legal concepts that exist in European law (like the free movement of persons) with different meaning in the Status Law. Also, he points to the fact that varied phraseology has been employed for the same phenomenon in the domestic context and in the case of neighboring countries. For example, the domestic Act on Minorities uses the term "national and ethnic minorities", while the Status Law, referring to the kin minority, operates with "Hungarian national communities." The author also emphasizes that 'programmatic phrases', norms without regulative content (which should ideally be limited to preambles of Acts) are detrimental to the force of 'genuine' legal norms, because they serve to blur the difference between meaningful legal norms and propaganda. Another objectionable feature mentioned by Herbert Küpper is the all too frequent use of vague legal terms like "public educational institutions", "cultural goods", "Hungarian national traditions", "Hungarian cultural heritage", etc.

Three of the volume's editors co-authored the next essay: *Iván Halász, Balázs Majtényi and Balázs Vizi*. All are international lawyers and researchers at the Hungarian Academy of Sciences.

In "A New Regime of Minority Protection? Preferential Treatment of Kin-minorities under National and International Law", the authors' aim is to assess centrally recurring debates on the Hungarian Status Law. They focus on the question of whether or not the law violates the principle of equality by discriminating among citizens of foreign states on the basis of ethnic origin.

They begin by dismissing the claim that all differential treatment would amount to impermissible behavior. They invoke the standards of the Aristotelian concept of 'equality as justice'. This doctrine is based on the idea that not everybody should be treated in the same way, but only those who are in the same situation, thus one can act justly by treating similar cases similarly and different cases differently.

The authors then turn to the question of whether a positive distinction provided by a kin-state to its national minorities living in other countries can be seen as an acceptable practice under international and European law. By citing numerous international and European documents (such as the Report of the Venice Commission, the International Covenant on Civil and Political Rights, the Framework Convention for the Protection of National Minorities, the European Commission's Regular Reports, the Treaty on the European Union, the EU's Race Directive), as well as the case law of the European Court of Justice, the authors come to the conclusion that from the standpoint of international and community law, such practices are permitted and are in fact exercised by a number of states (even though the question remains unanswered by the provisions of the acquis).

Having found that positive distinctions are not discriminatory, the analysis turns to the question of whether the fact that the preferences are provided for citizens of other states would make such practices impermissible on the grounds that it would clash with the principle of state sovereignty. According to the authors, the problem of infringing the sovereignty of other states seems to be a more relevant and central issue of compliance with international law, and not that of discrimination. In addressing this, the authors first provide thorough analyses of national constitutions (of Russia, Romania, Slovakia, Poland, Ukraine, Portugal and the original German Basic Law[5]), then consider Status Law-like legislations across Europe (in Slovakia, Romania, Slovenia, Russia, Bulgaria, Greece, etc.), finding that this practice also appears to be in line with international customary law.

The authors conclude that the shortcomings of the Status Law have less to do with its objectives, rather than with the way it was drafted and the political terms in which it was presented.

Renate Weber (Open Society Foundation, Romania) is the author of the next essay entitled "The Kin-State and Its Minorities: Which European Standards?". Her claim is that even though Hungary's neighbors clearly overreacted and their response has gone far beyond any normal substantive critique of the law, their sensitivity should have been foreseen by the Hungarian government. Therefore, she concludes, not consulting neighbors on a number

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[5]   Which, in its preamble, had specific references to Germans who had lived in the Soviet occupation zone and were removed after reunification. Section 116 still has explicit references to Germans from the Volga region and Transylvania).

of the Law's details and the procedure of implementation appears to be a deliberate mistake.

Renate Weber aims to look beyond the rhetoric and evaluate the law from the standards of international law. All in all, her conclusions concur with that of the previous essay. First, she argues that there are no minority rights that could be affected by the Status Law at all, because the legal obligation to uphold minority rights should be clearly distinguished from the option of providing preferential treatment.

Second, she claims that no provisions of the law can be considered discriminatory against the majority or other minority populations in neighboring countries. She clearly dismisses that, for example, Romanian citizens of Romanian origin would be discriminated against on the basis of their ethnicity if another country provided benefits and privileges to its kin minority. Even if those privileges go beyond the human and minority rights recognized by international or community law, their application would not deprive "other" Romanian citizens of their universal human rights. (Whether such conduct may result in tension within the home country, she adds, is another issue entirely.)

The author argues that there are only two prima facie concerns that may hold water: one relating to a general principle of international law, namely that of friendly relations between states, and another, human rights protection for those who are potential beneficiaries of the law themselves. In her conclusions, Renate Weber dismisses the latter concern, while admitting a certain degree of culpability with respect to the first one.

Former president of the Hungarian Constitutional Court *László Sólyom* was also the most charismatic among the Court's presidents. As a member of the Venice Convention, in his essay entitled "What Did the Venice Convention Actually Say?", he takes on the duty of clarifying certain conclusions of the Convention's lengthy and often misinterpreted report on the Hungarian Status Law. Such an explanation is timely, the author claims, as there are indeed difficulties about the terminology (translation), and even Günther Verheugen, Commissioner for Enlargement of the EU, referred to the report incorrectly in a legal assessment sent to the Hungarian Prime Minister.

László Sólyom makes the following major points: The Commission declares that a new and original form of minority protection is emerging; the Hungarian Law is a part of this process. Although the appearance of such preferential measures is a positive phenomenon, they are too recent to account

for the legal concept of customary international law. Such unilateral acts are therefore acceptable only if they meet the following four conditions:

a) there is respect for the territorial sovereignty of states
b) respect for treaties,
c) respect for friendly relations between states, and
d) respect for human rights and fundamental freedoms – with special emphasis on the prohibition of discrimination.

In his conclusions, Professor Sólyom stresses the Commission's recommendations that the system of bilateral and multilateral agreements should remain the main tool for minority protection.

The next essay entitled "Connections of Kin minorities to the Kin-state in the Extended Schengen Zone" is written by *Judit Tóth*, professor of constitutional law (University of Szeged and the Hungarian Academy of Sciences), one of the field's leading experts.

Her article scrutinizes certain aspects of the Schengen regime and its ramifications with respect to Diaspora policy—thereby providing a unique angle and framework for the legal analysis of the Hungarian Status Law.

The author draws attention to the fact that although all candidate states have Diaspora and minority communities, these topics have not been included in the European Union-accession talks, nor were representatives of kin minorities or ethnic groups involved in the negotiations.

She describes in detail the European Union's approach to minority protection, and concludes that the EU prefers an 'indirect' approach: it tends to target contribution to cultural diversity, anti-discrimination, welfare, employment, regional development. Alternatively, the EU mentions minority protection vaguely as one of the political criteria for enlargement. With the European Constitution not yet in force, and with the resulting absence of proper regulatory mandate for EU institutions, the protection of minorities remains an internal matter for the member states—which are not necessarily members to relevant Council of Europe documents in the field.

According to Professor Tóth, the problem has to do with the following: the introduction and gradual enforcement of Schengen and migration acquis has had a fundamental impact on the strategic relation of new members with kin minorities outside the Union. Thus, while candidate countries were doing their best preparing to reconstruct their visa regime and border

control-policies, they felt obliged to adopt compensatory measures, such as unilateral acts on kin minorities or bilateral agreements.

This therefore is an additional important context in which the Status Law should be considered.

Fernand de Varennes's (Murdoch University School of Law) essay follows the classic tradition of legal argumentation by trying to answer the challenges that have been brought against the Hungarian Status Law. His paper ("An Analysis of the 'Act on Hungarians Living in Neighbouring Countries' and the Validity of Measures Protecting and Promoting the Culture and Identity of Minorities Outside Hungary") asks whether from the perspective of international legal obligations and minority rights, the statue would be extraterritorial, or alternatively, discriminatory. For the author, the underlying question concerns benefits provided for minorities, more precisely, whether or not states can provide these beyond their borders, and whether or not states can actually ban their citizens from seeking or accepting these.

The first issue concerns extraterritoriality: the claim that the application of a Hungarian law intended to provide benefits for kin minority, should not be applied outside the territory of Hungary. By such a claim, argues the author, one would suggest that individuals (in this case, members of a linguistic or a cultural minority) must not receive any benefit, prize, reward, grant or recognition from sovereign governments, unless public authorities in the country of their citizenship authorize them. According to the author's findings, such an argument is entirely devoid of validity under international law. It would make all government fellowships for university study abroad programs illegal—a clearly bizarre outcome.

Can NGOs assist in the selection of the eligible individuals? This is a different issue. According to the author, even if we were to accept that these NGOs are acting as agents of the Hungarian government (this is far from obvious), it would be farfetched to claim that such a recommendation would be an extraterritorial fifth column of Hungarian state power, since no law or power is being exercised by these NGOs. As an evidence for widespread international practice, the author brings Canadian and British examples for similar techniques applied in issuing academic fellowships and research grants.

The second question relates to the issue of discriminativity. Following an in-depth analysis of international law (the International Covenant on Civil and Political Rights, the European Convention on Human Rights, the Universal Declaration of Human Rights) and the case law of the ICJ (South

West Africa Case), the ECHR (Belgian Linguistic Case), the ECJ (Groener vs Minister), the Inter-American Court of Human Rights (Cost Rica Naturalisation Case), and the Human Rights Committee (Balantyne, Davidson and McIntyre vs Canada), the author comes to the following conclusion: "The basic principle, then, is that distinctions based on language, culture or nationality may be used by a state in determining who will have access to and receive the most benefit … but only when the specific context or object of regulation makes the preference a balanced and reasonable requirement." (p. 421.) Therefore, differences of treatment based on language, culture or ethnic origin will not be discriminatory if they are in pursuit of a legitimate aim and are reasonable (objective or justified) in the light of this aim. In the words of the European Court of Human Rights: if there is a "reasonable relationship of proportionality between the means employed and the aim sought to be realized".

As for the first element of the balancing-test, the author claims that it is generally considered a legitimate objective to seek the protection of minority identity; on a different level, burdening the home states, it even appears as an international obligation. The Status Law's aim is thus undoubtedly legitimate. The next question pertains to whether or not the provided benefits are related to the state aim, and thirdly, whether or not there is a reasonable relationship of proportionality between the means employed and the aims sought. The author concludes that considering the relatively small values of the benefits and the way it is administered, all questions can and should be answered affirmatively.

Along with Professor de Varennes' essay, we find two detailed, sometimes perhaps somewhat overly descriptive assessments of the Hungarian Status Law and its international and conceptual environment.

Kinga Gál (Hungarian Academy of Sciences) documents the legislative and diplomatic history of the Status Law, placing it in a demographic and an international legal context ("the Hungarian Legislation on Hungarians Living in Neighbouring Countries).

Enikő Felföldi (University of Szeged), another Hungarian academic, employs a somewhat similar approach in her essay ("The Characteristics of Cultural Minority Rights in International Law—With Special Reference to the Hungarian Status Law"). In her minority rights-oriented project, she first addresses the social and legal definitions for identity and culture—concepts that are corollary to minority policies. Following, she gathers applicable international legal materials (hard and soft law alike), as

well as case law pertaining to cultural and educational rights. She then weights these findings in the context of the Hungarian law.

Both essays provide useful additions to the international legal assessment of the Hungarian Status law.

The volume's closing essay, written by *Attila Varga* (Associate Professor of Babes-Bolyai University and Member of the Romanian Parliament), entitled "Leigslative Aspects and Political Excuses: Hungarian-Romanian Disagreements on the 'Act on Hungarians Living in Neighbouring Countries'", begins with a thorough analysis of various policies and legislative aspects of the Hungarian Law. The author carefully discusses the most often cited criticisms of the Law. Many of these objections (extraterritoriality, discrimination, the idea of national unity without border modification, the questionable nature of benefits going beyond educational and cultural support, the entitlement of non-ethnic Hungarian spouses, the issue of the Hungarian certificate) are already familiar for the readers and Varga's conclusions are also in line with those of previous authors.

The essay gives an illuminating account of the legislative counter-initiative that was prepared by the extremist Greater Romania Party, which would have regarded all Hungarian Certificate-holders as dual citizens and on those grounds would have disqualified them from holding any public office.

We can confidently say that the editors and the authors have produced a volume that is a unique, comprehensive and fascinating collection of wide-ranging analyses, approaches, and methodology. The book's value, and no doubt, its success, resides in its outstanding diversity of angles—its exploration of the conceptual and practical interdependence of identity, politics, minority rights, and Diaspora politics, as well as its travels beyond, towards other social, political and legal tribulations, ails and symptoms behind the Status Law-syndrome.

CĂLIN GOINA

Brubaker, Rogers: *Ethnicity without Groups*. Cambridge: Harvard University Press, 2004.

The latest book of Rogers Brubaker consists in a collection of previously published articles scattered over more than six years (the oldest appeared in print in 1998, while the latest in 2004). Although there is an inevitable degree of fragmentation in the eight chapters-articles, the work as a whole proves to be surprisingly internally consistent. The eight articles introduce the reader to a (mind) work in progress, to an intellectual journey in search of a more refined conceptual tool-kit for understanding nationhood, ethnicity and race.

These studies (as the author underlines in the book's Introduction) mark a departure from his previous works on macro-sociological comparative analysis such as immigration and the politics of citizenship in Europe and North America[1], citizenship and nationhood in France and Germany[2] or the 'the national question' in the successor states of the Ottoman, Habsburg and Russian empires.[3] Moving 'beyond comparativism' and macro-scale processes, Brubaker denounced already in 1994[4] the reification of nations and ethnic groups, and the conceptual confusion between the categories of practice and the categories of analysis in the scholarly literature on ethnicity and nationalism. According to him, the researcher should "decouple the study of nationhood and nationness from the study of nations as substantial entities[5]" and focus his or her analytical efforts in comprehending the 'work' done by

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[1]   Brubaker, Rogers (ed.): *Immigration and the Politics of Citizenship in Europe and North America*. Lanham, Md.: The German Marshall Fund of the United States and University Press of America, 1989.

[2]   Brubaker, Rogers: *Citizenship and Nationhood in France and Germany.* Cambridge, Mass: Harvard University Press, 1992.

[3]   Brubaker, Rogers: *Nationalism Reframed: Nationhood and the National Question in the New Europe*. Cambridge: Cambridge University Press, 1996.

[4]   Brubaker, Rogers: Rethinking Nationhood: nation as an institutionalized form, practical category, contingent event. *Contention*, vol. 4, Nr. 1, 1994. 3–14.

[5]   Brubaker, *Nationalism Reframed…* 16.

nation not as a thing out-there, but "as practical category, as classificatory scheme, as cognitive frame[6]." Consequently, Brubaker's methodological agenda switched toward a more ethnographical and ethnometodological approaches, pursuing a ten years project studying the salience of ethnicity and nationhood in the everyday life of the inhabitants of the ethnically mix city of Cluj, Romania[7]. While the results of the Cluj project, much expected for by the scholars of the field, are still 'in preparation' we are offered the present article collection, which I see as the collateral products of the process of intellectual alchemy, to paraphrase Goffman, of taking a mundane part of reality and transforming it into an illuminating piece of writing.

The pages of "Ethnicity without Groups" are entirely consistent with the agenda set up in "Nationalism Reframed": they pursue a step further the critique of reification ("groupism") and mark a sustained effort of conceptual clarification grounded on the distinction between categories of practice and analysis. As such, the book can be seen as a nuanced (and often path-breaking) *critique of the prevailing analytical vocabulary* covering several key themes, such as ethnicity, nationalism, ethnic violence, identity and migration. Successive chapters develop new conceptual distinctions while analytically deconstructing several major mantras of contemporary social sciences such as identity, the ethnic group, or the civic vs. ethnic nationalism dyad.

In Introduction Brubaker avows two major targets of his corrosive critical assessment: these are "groupism" (as a tendency to think social world as consisting from bounded entities) and "social constructivism" (as a theoretical perspective turned fruitless by overuse and fatigue). In their stead, the book sketches an alternative built upon the new "cognitive turn" in psychology and cultural anthropology. It is precisely this cognitive perspective, which, in my reading, marks the major break-through in Brubaker's stance toward ethnicity and nationhood. Although its influence can be detected in most of the chapters, I will address here the first, the third, and the eighth (in this order) as the key texts in which the new approach is being introduced, elaborated, and succinctly applied on an empirical case. I do not claim here that other themes such as the deconstruction of the conceptually flawed term "identity," or of the false opposition between "civic" and "ethnic" nationalisms do not deserve our attention. Yet, due to space constraints

6   Brubaker, *Nationalism Reframed* ... 16
7   Brubaker, Rogers: *Nationalist Policies and Everyday Ethnicity in a Transylvanian Town* (With Margit Feischmidt, Jon Fox and Liana Grancea). In preparation.

I chose to focus on what I perceive to be the crux of the argument put forward by the author.

The first chapter, "Ethnicity without Groups," continues the line of thinking sketched in "Nationalism Reframed. It consist in a re-analysis of reification of groups, not as a "bad intellectual habit," but as a social process essential as a category of practice pursued (successfully or not) by political entrepreneurs such as George Washington or Djokar Dudayev. Instead of starting from the notion of an American or Chechen nation fighting for independence (for example) we ought to inquire how and under what conditions did the reification process occur, and what made possible the mobilization of so many people under the flag of the 'nation.' In order to avoid analyzing reality in terms of bounded groups, Brubaker suggests eight basic starting points:

We should rethink ethnicity, nation and race as in cognitive terms, as "practical categories, situated actions, cultural idioms, cognitive schemas, discursive frames, organizational routines, institutional forms, political projects, and contingent events." (p. 11) This does not mean that ethnicity will be less real and less effective, in the same way in which no one would deny the existence of racism, just because he or she does not believe in the existence of race. Further on, we should focus on groups/groupness as events, as episodes of intense collective solidarity (or the lack of it). As such, the analytical distinction between groups and categories becomes imperative: we should see categories as a potential basis for group-formation as a variable, where the group is defined as a bounded collectivity with a sense of solidarity and collective action. The distinction will allow the empirical study of the politics of group-making, as successes or failures. At this point, we should be careful not to talk about groups when we are actually talking about organizations. Many times the empirical studies claiming to cover the resistance of Palestinians or Kosovars' fight for independence focus in fact on the work of organizations like PLO, Hamas, or the Kosovo Liberation Army. Last but not least, we should be attentive to the processes of framing and coding violence, for 'acts of framing and narrative encoding do not simply interpret the violence, they constitute it as ethnic." (p. 16) Consequently, Brubaker stresses, ethnicity, nationality and race are but ways of "perceiving, interpreting and representing the social world." Seeing them as such would allow us to bypass the overused statement that they are social constructs, and should allow us to move on in the analysis of how are they constructed.

It is in the third chapter that Brubaker continues the analysis sketched in the first one, and elaborates on the ways in which one could think of "Ethnicity as Cognition." The article, written together with his (former) students Mara Loveman and Peter Stamatov, offers a compelling intellectual argument in favor of adapting and embracing the cognitive perspective to the study of nation, ethnicity and race. The proposition put forward by the article is that ethnicity is not a "thing in the world, but a perspective on the world." (p. 65) This thesis is grounded on a survey of several historical, political, institutional, ethnographic and micro-interactional works that share the cognitive perspective. It is further developed by the analysis of several concepts specific to cognitive studies such as the stereotypes, the social categorization and the schemas. The three authors conclude that, from the perspective of the student of ethnicity, the concept of schema promises tot be particularly useful. I will survey their presentation of the concept as I find it as one of the most promising contributions of the volume.

Schemas are "mental structures in which knowledge is represented, (…) culturally shared mental constructs" (p. 75) through which people perceive and interpret the world. Thus we should think of them as unconscious, universalized, automatic structures of already acquired knowledge, making possible that each new event, person or thing be processed mentally "as an instance of an already familiar category or schema." (p. 75) As such schemas are necessarily incomplete, consisting in an invariant core and parts ("slots") which need to be "filled in," because otherwise they would be set on one single interpretation and would not allow for the perception and categorization of anything new. It is the incompleteness of schemas that makes them so attractive, as they are set into motion, activated by contextual triggers or cues. Thus, gestures, utterances, and situations are classified according to specific stimuli and to the distribution of schemas across persons. Despite the fact that most of the research on schemas has been made in experimental settings, the authors support strongly its use in the study of ethnicity. They distinguish between categories and schemas, noticing that while categories are used to ethnically classify people, only schemas enable is to categorize occurrences, standardized sequences of events, and other instances allowing the researcher to approach the issues of the ways in which ethnicity works.

This question brings me to the eight and the last chapter, as it is the only one that includes a consistent part of empirical analysis, if not an example on how to do in practice what the author advocates in theory. Written together with Margit Feischmidt, the article offers a comparative analysis of the 1998 cel-

ebrations of the revolutions of 1848 in Hungary, Romania and Slovakia. I see the article as a critique of the constructivist literature, from the perspective of a study of the public reception of a constructed/invented tradition.

The study analyses the official and officious practices and discourse occasioned by the sesquicentennial anniversary of the 1848 revolutions in the three countries, as well as their public audience. It places the commemorations at the intersection of a double frame of reference. On the one hand, they are to be seen along a continuum defined by *the manner and the mood* of the representation of the past, either heroic, pathos-laden, or carnivalesque, entertainment-oriented. On the other hand, it places them within an interval defined by *the narrative frames* with the help of which history is being remembered. They can be either *particularizing frames*, re-structuring the past in the light of local meanings, in a perspective relevant for a culturally specific type of audience, or universalizing *frames*, placing the remembered events in a wider context, relevant not only for local commemorators, but for others as well.

The main finding of the article reveals the stubbornness of the past facing the re-construction of the present. All the three countries (in different degrees) experienced attempts to publicly mark the anniversary of the 1984 revolutions. These commemorations interpreted the revolutions either as instances of a wider, European and liberal movement, or as a nation-centered, indigenist and particularizing instances of the freedom struggles of one putative nation or ethnic group against the other. For example, while Hungarians from Hungary proper did participate in large numbers to a universalizing framed, entertainment focused celebration, those living in Romania or Slovakia did it in a particularizing, ethno-centered frame and pathos-laden ethos. The Romanians paid little attention to the government sponsored anniversary framed in an universalizing narrative of a liberal democratic Wallachian revolution, but resonated regionally (although not in large numbers) to the nationalist (and anti-Hungarian) celebrations of the rather bloody Transylvanian peasant war of 1848. The Slovakian celebrations went unnoticed and found little or no resonance within the Slovak audience.

These differences are to be accounted by the contextually specific positions of the political entrepreneurs who organized and framed the commemorations. These were either government officials stressing the European dimension of each country's past in view of the much-awaited enlargement of the European Union, or nationalist politicians trying to reinforce and expand their constituencies. Yet, the difference in response to the various frames of the anniversary, as well as to the anniversary itself it accounted by

the two authors by a reference to the "available pasts," at which national and regional audiences did resonate or not.

Thus, I see the study as a possible manner of doing ethnic studies avoiding groupism and moving beyond social constructivism. Ethnic and non-ethnic discourses and frames are being comparatively studied, in order to assess empirically the level of groupness they trigger, through their resonance among various publics. Unfortunately, the authors did not intend to put in practice the micro-level of cognitive analysis advocated in the chapters I reviewed so far. It seems that we all have to wait for Rogers Brubaker's next book for a substantial study to demonstrate the way in which his latest theoretical suggestions can be put in practice.

CĂLIN GOINA

Michael Mann: *Fascists.* Cambridge: Cambridge University Press, 2004.

Fascists is the first part of a dyad: like Tweedldum and Tweedledee, what it says (and what it doesn't) is completed by its younger twin The *Dark Side of Democracy: Explaining Ethnic Cleansing.*[1] Both books originate in a projected chapter over fascism in Michael Mann's long waited third volume of *The Sources of Social Power* from 1914 until the present day.[2] According to Mann, the manuscript ended up having "nearly 1000 pages, which perhaps few would read, -and which no publisher would publish[3]." Consequently, the projected 'chapter' turned out as two books: while *Fascists* addresses the rise of classical early twentieth century political movements such as the Nazis in Germany and the Fascists in Italy, *The Dark Side of Democracy* is dealing with a larger array of movements sharing a family resemblance with the them, such as Arkan's Tigers, Croatian *ustashi*, or the Cambodian Angka.

One of the major practitioners of macro-sociology, alongside with Charles Tilly or Theda Skocpol, Michael Mann offers in this book a brilliant display of scholarship. *Fascists* is at the same time sociology and history at their best. The volume covers a wide array of cases over time and space, in its attempt to isolate the distinctive features of the researched phenomenon. It analyses, compares and contrasts six cases of European inter-war fascist movements (Austria, Germany, Hungary, Italy, Romania and Spain) and concludes with a compelling explanation for the historical roots and causes of fascism, as well as with an original definition and portrait of it.

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1 See Mann, Michael: *The Dark Side of Democracy: Explaining Ethnic Cleansing.* Cambridge, New York: Cambridge University Press, 2005.
2 Matt Welch quoting interview with Michael Mann in "The Providential scholar," *UCLA Magazine*, Summer 2004.
3 Mann, Michael: *Fascists.* Cambridge, New York: Cambridge University Press, 2005. Preface, x.

Mann starts from several key statements concerning his subject matter: he sees fascism is as an "essential if undesirable part of modernity,"as its answer to the political and societal problems focuses on the nation state, through hyper nationalism and hyper statism. Thus, Mann's definition of fascism sees it as the pursuit of *transcendent and cleansing national-statism through paramilitarism*. He sees fascists as organic nationalists, with very low tolerance for ethnic diversity, worshiping an authoritarian, nation-state. Fascist ideology promises that a strong, purely national, corporatist state would be able to 'transcend' social conflict, by incorporating all the classes and pressure groups within state institutions. The way to put this ideology in practice involves the recourse to violence, cleansing the nation of its enemies, be they political foes or ethnic minorities. Last but not least, in order to be called fascist, the violence is to be perpetrated through the 'bottom-up,' 'popular' form of paramilitary troops. Thus, for Mann, the necessary ingredients for any authentic fascist recipe are: organic nationalism, authoritarian corporate statism, ethnic and political cleansing, a transcendent ideology and paramilitarism.

In order to account for the causes that brought about fascism, Mann notices that while authoritarian regimes spread all over Central and South Eastern Europe in the aftermath of World War I only a small minority of the states in the Northwest of the continent chose that path. This is not to say that political movements sharing fascist goals and values did not exist everywhere. Yet, they managed to rise to power and reach mass audiences in some states, while in others were to remain insignificant, tough vocal political minorities. The geographical puzzle outlined by Mann allows him to reject general explanations for the roots of fascism, such as the impact of the Great Depression, or the crisis of liberal democracy, as their effects were felt all over Europe, and indeed all over the world.

In line with his theoretical model[4], and as a result of his macro-comparative analysis, Mann emphasizes four major crises that can be seen as the major causes of fascism: military, political, economic and ideological. These are: the consequences of the world war, a political crisis provoked by a rapid transition toward the nation-state, severe class conflict accentuated by the Great Depression and a cultural sense of civilization contradiction and decay.

Facing these crises, Mann argues, the state ruling elites, particularly of the 'old-regimes' and property-owning classes had an irrational "hysteric

4   Mann, Michael: *The Sources of Social Power, vol. II, The Rise of Classes and Nation-States.* Cambridge, New York: Cambridge University Press, 1993.

over-reaction" favoring authoritarian, repressive, sometimes fascist regimes. The key of understanding fascism lays in finding the causes and the explanations for this irrational reaction.

The fact that the northwestern part of Europe, more stable and established democratic traditions, did not follow in the turn toward authoritarian right allows Mann to reject theories equating the rise of fascism with a crisis of democracy. As we have seen, liberal democracies survived and mastered the same tectonic historic changes that in other political context did breed a Hitler or a Mussolini. Mann suggests that, quite on the contrary, fascism was due to a specific post World War I "sudden, half-baked attempt at liberalization amid social crises." which brought about the irrational reaction of the dominant classes.

One of the crucial differences that accounts for the existence of 'two Europes" is the different political tools that were available for the conservative, propertied classes. While the northwestern states were characterized by parliamentarian democracies, characterized by free elections, most of the Central and South Eastern region were "double states" where the elected parliament had to share power with non-elect executives, who were usually able to manipulate the elections in order to obtain favorable parliamentary majorities. Consequently, these executives and the groups behind them were perfectly able to resort to repression in order to solve the crisis, and put an end to free elections and to the power of parliaments.

Yet, not event these states did turn toward this extreme form of nationalism and statism, although they all moved toward authoritarianism. Within the authoritarian family of regimes, the fascist political parties made it to the top in some specific cases, while in other were 'stolen' their rhetoric and clothes by authoritarian or militaristic regimes who managed to stay in power.

But who were the fascists? Mann rejects the theory that makes the disappointed and impoverished little bourgeoisie the core fascist constituency. His comparative analysis indicates that people from all classes were involved in fascist movements, and that, especially in the Hungarian and Romanian cases, the movement had powerful proletarian overtones. In line with his model, Mann argues that he identified three types of fascist constituencies:

a) constituencies favoring paramilitarism: chiefly young men, initially the war veterans and the subsequent generations coming of age between World War I and the late 1930's.

b) constituencies favoring transcendence: people coming from sectors that had not been in the first line of organized class struggle.

c) constituencies favoring nation-state: soldiers and veterans, civil servants, teachers, public sector manual workers are to be found in similar positions in all the cases. Of course, from country to country other groups can be added: regional groups, specific sectors, religion can act as separators indicating those who would tend to back the nation-state, and thus to be inclined towards fascism.

It is the comparative breath and the intellectual acumen of the book that marks it as a landmark in the study of fascism. Mann elegantly demolishes several well-entrenched stereotypes about fascism, such as its supposed class character, its roots in a supposed inability of liberal democracy to cope with the situation, its supposedly aberrant and unrepeatable occurrence. In fact, Mann's conclusions are not an act of pure scholarly interest. If we agree with his generalizations on what fascism consists of, we must fear his prognoses. And Michael Mann is not afraid to play Cassandra, on mode educated-guess grounds. For him fascism is far from belonging to the dustbin of history. Quite on the contrary: "there is a chance that something like it, though almost certainly under another name will play an important role in the twenty-first century."

Kovács M. Mária – Petr Lom (eds.):
Studies on Nationalism from CEU.
Budapest: Nationalism Studies Program,
Central European University, 2004.[1]

The Nationalism Studies Program at the Central European University in Budapest is a unique interdisciplinary program dedicated to the study of the phenomenon of nationalism in the region. Permanent staff and distinguished international scholars from various disciplines – political theory, sociology, anthropology, history, and law – study nationalism from a diverse array of perspectives. For this collection, we asked all our faculty to contribute a representative sample of their current work. We have also included the best submissions in an essay competition open to students of the Nationalism Program since its inception.

The Nationalism Studies Program was established to study nations and nationalism following the momentous transformations of 1989–1990. The ensuing calls for democratic legitimacy, the redrawing of many borders and the establishment of new states, and the claims for recognition and political self-determination following them, brought to the fore a whole set of scholarly and practical concerns. The first of these concerns the claims of minorities. This collection begins with three articles dedicated to this subject, authored by Will Kymlicka (perhaps the most widely known scholar in this field, currently at Queen's University in Canada), Panayote Dimitras (Greek Helsinki Monitor), and Mária Kovács (Director of the CEU Nationalism Studies Program). Kymlicka compares debates about minority nationalism in North America with their analogues in Central Europe, and notes that while debates about national minorities in North America are framed in terms of justice-based claims and are now increasingly accepted as legitimate, such claims are resisted far more strongly in Central Europe. And

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[1] Instead of a review we publish the introduction of the book, written by one of the editors: Petr Lom

rather than being posed in terms of justice, they are more often framed around security-based concerns, particularly in relation to the territorial integrity of existing nation states. Arguing for the paramount importance of shifting discussion and assessment of minority claims away from security to demands for justice, Kymlicka holds this as the only way to proceed if there is to be any progress on the resolution of such demands for recognition. Dimitras continues this theme of how minority nationalist claims are constructed, perceived, and debated, but he expresses greater caution about such demands for recognition. Writing about nationalism in the Balkans, he points to a 'minority-rights paradox': though minorities raise human and minority rights as the basis for their claims, such claims are not devoid of ulterior motives and so are subject to ensuing limitations. Indeed, minority organizations and the leaders who articulate their claims are very often driven primarily by ethno-national aspirations rather than by respect for civic rights. Nonetheless, like Kymlicka, Panayote argues that the way out of this paradox is not to refuse rights to minorities but rather to seek solutions that would overcome all coercive, restrictive, and hegemonic practices among both minorities and majorities, solutions that he claims need to be found in the liberal model of nation-building, one that seeks to reconcile nationalism with liberal pluralism and democracy. The third paper on this theme of minority claims – by Mária Kovács – explores a question that Panayote leaves aside: How might nationalist claims be reconciled, not only with liberal democratic pluralism but also with the territorial integrity of existing states? Through a comparison of the responses of the international community to contemporary transformation in the Former Yugoslavia with the similar strengthening of international norms for self-determination and minority protection that occurred under the League of Nations, Kovács indicates how the 'spiral of increasing normative commitments' has now led to increasing difficulties in the application of international norms. These first three papers thus point not only to the extraordinary complexity of the ethical assessment of national minority claims, but also to the equally difficult task of putting such normative conclusions into practice, especially when, as Mária Kovács indicates, competing normative principles point to different practical conclusions.

The next three papers, by Erica Benner (of the London School of Economics), G. M. Tamás (CEU), and Rogers Brubaker (UCLA), reflect upon nationalism from the perspectives of social and political theory. Here the focus is not upon minority nationalism, but rather assessment of nationalist

claims more broadly defined. Benner asks whether there are any general theoretical similarities underlying the protean phenomenon of nationalism, which seems to ally itself as easily with liberalism as with its illiberal opponents. She argues that the doctrine that may unite the broad spectrum of nationalisms is neither an account of the significance of pre-political cultural identities nor the democratic constitutional idea of popular sovereignty, but rather a simpler constitutive and ultimately geopolitical core doctrine: a call for continuous identity between rulers and subjects based upon the security concerns of modern sovereign states. Like Benner, Tamás sees considerations of power as fundamental to explanations of nationalism. However, unlike Benner, who links nationalism to state survival and sees the specific content of nationalism as by definition unspecified and so extraordinarily variable, Tamás holds that the power driving most contemporary nationalist claims has been entirely decoupled from ethical concerns and, at the extreme, has now become simply what he calls 'ethno-anarchism': purely a demand for power that rejects any form of accommodation or assimilation, but gives aliens the sole choice of leaving or dying. He argues that this form of nationalism is entirely different from liberal nationalism which, though itself rife with paradox in trying to combine the universal with the particular, primarily upheld a civic, political understanding of national belonging and so allowed for some kind of inclusion – at best accommodation, at worst assimilation – for minority groups. The third paper here, Rogers Brubakers' exegesis of Marcel Mauss on nationhood, serves as a further example of how theoretical reflection

– here social theory in contrast with the political philosophy to which Benner and Tamás refer – can illuminate the particular causes and processes underlying nationalism. Brubaker argues that Mauss's thought is not only a precursor of Ernest Gellner's explanation of nationalism as an objective form of social organization, but also provides a distinctively sociological account of the concept of 'nation', an objectivist, structuralist perspective that is particularly important in shifting attention from essentialist accounts of the phenomena based upon putatively shared cultural characteristics. All three papers challenge the common assumption that classical social and political theory has little to say about nations and nationalism, instead pointing to the richness and importance of the history of political and social thought for understanding the phenomenon.

Scholars of nationalism are not concerned only with questions of minority recognition and self-determination, nor only with explanations of the

causes of nationalism. Equally important is systematic reflection upon questions of identity: both how individual and group self-understanding and self-definition are related to the nation, and how such identities are now under transformation due to the tremendous political, social, and economic upheavals of the last two decades. These are the questions raised by Michael Stewart (University of London), Viktor Karady (CEU), Petr Lom (CEU), András Kovács (CEU), Tibor Frank (CEU), and Tibor Varády (CEU). Stewart, an anthropologist by training, explores how the Roma conceive of individual and collective memory, challenging the assumption that the Roma are a people without any conception of a collective past, a people who celebrate impermanence. He argues that the perceived absence of historical reflection among the Roma is due to the lack of any public space for expression of collective Roma memory, as well as the result of specific characteristics internal to Roma social life: first, particular mnemonic or narrative devices which constitute a way of living in an expansive non-durational 'present' that excludes expression of the past but does not obliterate the past itself – as much contemporary scholarly analysis maintains; and secondly, the perpetual perceived danger of the gadze, or non-Gypsies, who serve to sustain a collective memory of a past replete with fear and terror. Viktor Karady similarly examines the function of history in shaping identity, but he takes post-War Jewish–Hungarian collective identity for his subject matter. Karady points to the remarkable flexibility and malleability of collective identity, again challenging essentialist accounts of cultural identity – like both Erica Benner and Rogers Brubaker – but this time pointing to how collective self-identification is an existential strategy, a matter of choice shaped and dependent upon the vagaries of historical and socio-political exigency. The next paper is a theoretical reflection upon contemporary debate about European collective identity. Here, Petr Lom argues that discourse about such identity results from the legitimacy and stability needs of the ongoing development of the European Union, but runs into two difficulties. Thickly culturally dependant notions of European identity are by definition rejected as both dangerous and anachronistic. But purely political definitions of collective identity founded upon the principles of liberty and equality run squarely into the difficulty of trying to reconcile universal principles with the realities of particular bounded political entities, and leave a radically underdetermined account of identity because of its basis in individual liberty. András Kovács is similarly concerned with contemporary Europe and the discourse on the construction of collective identity, but he examines a more specific case: how Hungarian public opinion was per-

suaded to accept accession to NATO. He finds that such opinion was influenced by political factors as well as by elite opinion-makers who made significant links between NATO membership and more historically based beliefs; he also observes how such nationalistic appeals could equally be used to mobilize opinion for different ends, both for and against accession. Like András Kovács, Tibor Frank marshals suspicions about the use of historical appeals for different purposes, but he uses his criticism to challenge a specific Hungarian 'folk belief', that the nineteenth-century Hungarian statesman Lajos Kossuth learned English from the study of Shakespeare alone during his incarceration in 1837–1840. Instead, he demonstrates how this myth was created primarily to win the support of the English-speaking nations for Hungarian independence. The last faculty paper in this collection continues this line of critical unmasking, but focuses its attention upon challenging unquestioned assumptions in post-Communist Central Europe regarding postulated realities rather than actual facts: appeals to liberal democracy or progressivism without specifying its actual content, or perpetual discourse about transition to a market economy that impedes recognition of actual change.

Following these faculty contributions, we then include four student submissions. The first two of these papers (Kelemen and Todosijević) are quantitative sociological investigations of contemporary attitudes in Central Europe. Kelemen studies attitudes toward Roma and Jewish minorities in Hungary, showing how the representational structure of these attitudes is shaped around three main strategies: (i) assimilation, (ii) discrimination, and (iii) tolerance, as well as testing a theory that finds a systematic relation between various stages of national orientation and attitudinal strategies towards minorities. The second attitudinal study here, by Bojan Todosijević, looks at national attitudes in 1995 Yugoslavia, and finds a persistent correlation between collectivism and attachment to one's own national or ethnic group as well as an affinity between such attachment and ideological dimensions of militarism. The last two papers in our collection are theoretical reflections upon nationalism (Hajdinjak, Kafka). Hajdinjak offers a strident critique of the often made distinction between civic and ethnic nationalism and argues that ethnically self-defined nations can be formally and practically as inclusive as civically defined nations, and conversely, how civic nationalism is too often used to mask various forms of exclusion. Kafka similarly turns his attention to civically defined conceptions of nationalism, in this case to the republican model of inclusive political citizenship espoused by the Oxford scholar David

Miller. Kafka argues that such models offer inadequate mechanisms to accommodate the cultural differences of national minorities and so are unable to deliver upon their promises of inclusive justice and political stability. The sixteen papers collected here offer the reader a variety of methodological approaches, subject matters, normative diagnoses, and prescriptions. They should suffice to demonstrate not only the tremendous richness of the phenomenon of nationalism, but also how a synoptic understanding of nations and nationalism requires comprehensive interdisciplinary study.

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The Central European Political Science Association, formed by the political science associations of Austria, Croatia, the Czech Republic, Hungary, Poland. Slovakia and Slovenia, decided at its annual congress to launch a new political science quarterly in September 2000, the

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