



SAPIENTIA – HUNGARIAN UNIVERSITY OF TRANSYLVANIA

FACULTY OF SCIENCES AND ARTS · CLUJ-NAPOCA

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***NATIONS AND NATIONAL  
MINORITIES IN THE EUROPEAN UNION***

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BARNA BODÓ  
MÁRTON TONK (EDS.)

*NATIONS AND NATIONAL  
MINORITIES IN THE  
EUROPEAN UNION*



SAPIENTIA HUNGARIAN UNIVERSITY OF TRANSYLVANIA  
FACULTY OF SCIENCES AND ARTS  
DEPARTMENT OF EUROPEAN STUDIES

***NATIONS AND NATIONAL  
MINORITIES IN THE  
EUROPEAN UNION***

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Edited by  
BARNA BODÓ  
MÁRTON TONK

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## FOREWORD

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The present volume of essays and studies includes the presentations of the international scientific conference organised between 27-29 March 2008 by the European Studies and International Relations Department of the Faculty in Cluj-Napoca (Kolozsvár) of the Sapientia Hungarian University of Transylvania. The co-organisers of the session entitled „European Union, Nations and National Minorities” were the Hungarian section of the Political Science Department of the Babeş-Bolyai University, the Centre for Ethno-Regional Studies of the Institute for Political Science of the Hungarian Academy of Sciences, as well as the Romanian Institute for Research on National Minorities, while among the participants there were internationally recognised experts from several countries (Romania, Hungary, Italy).

Our institution started its BSc-programme on European Studies and International relations in the autumn of 2006, thus trying to address the expectations of a new segment appearing on the labour market in European and domestic institutions, in the civil sphere or the political parties, as a consequence of Romania’s accession to the European Union. During the three years that have passed since then, the European Studies programme has proven to be equal to our expectations and – both from the point of view of the educational process and the scientific research – it has become a successful study programme of our university.

As a study programme functioning within the Sapientia Hungarian University of Transylvania (the only independent minority university in Romania) it is quite natural that prominent research areas of the European Studies Department are minority research, minority rights, discrimination research, and respectively European level minority protection. The political scientists, jurists, philosophers, history of ideas teachers of the programme have initiated and carried out numerous research programmes in these fields, which have eventually become specific in series of publications appearing at home and abroad.

The international scientific conference organised in March 2008 formed an integral part of these research initiatives, too, just as the present volume enriches the mentioned list of publications in the area with a new item. The lecturers of the session (i.e. the authors of our volume)

investigate issues related to the status of European national minorities and their future from many angles, also examining the grave national legacies of the Central and Eastern European countries newly acceding to the European Union. Further central elements of the present conference volume are topics such as consociational democracies, multiculturalism, the issue of national/minority languages, the relationship between state power and minority, regionalism and the norm system of European level minority protection.

We firmly trust that the appearing volume of studies will contribute to international level minority research with new results, and will become a useful tool for the researchers, university lecturers and students preoccupied by these subjects.

September 2009  
The Editor(s)

I.

**EUROPE AND NATIONAL MINORITIES**





## DIE MINDERHEITENFRAGE IN DER EUROPÄISCHEN UNION

### 1. Die Bedeutung der Minderheitenfrage in der Europäischen Union

Europa zählt gegenwärtig 47 Staaten, in welchen sich 353 Volksgruppen bzw. nationale oder ethnische Minderheiten befinden, d. h. alteingesessene Bevölkerungsgruppen, deren Muttersprache in der Regel mit der jeweiligen Staatssprache nicht identisch ist. Ihre kulturell-sprachliche Besonderheit kann als Reichtum, aber auch als Problem gesehen werden. Hier liegt der Kern der Minderheitenfrage in Europa und bei der Bedeutung, welche die EU dieser Frage beimisst, ist zwischen der Bedeutung *in der EU* und *für die EU* zu unterscheiden:

1. *Die Bedeutung der Minderheitenfrage in der EU:* Mehr als die Hälfte der insgesamt 353 Minderheiten Europas, nämlich 191, sind in den 27 Mitgliedsländern der EU-27 beheimatet. Ihre rd. 40 Mio. Angehörigen stellen einen demographischen Faktor dar, welcher mit der Bevölkerungsstärke von Spanien vergleichbar ist. Nur Deutschland mit 82 Mio., das Vereinigte Königreich und Frankreich mit je 59 Mio. oder Italien mit 56 Mio. Einw. liegen deutlich darüber, Polen mit 38 Mio. knapp darunter. Empirisch spielt daher die Minderheitenfrage in der EU mit einem Bevölkerungsanteil von 8 % eine gewichtige Rolle.

2. *Die Bedeutung der Minderheitenfrage für die EU:* Aus stabilitäts- und sicherheitspolitischen Gründen stellt das Konfliktpotential, das die EU mit mehr als durchschnittlich 6 Minderheitengruppen je Mitgliedsland trifft, einen Risikofaktor dar, der von großer Bedeutung sein kann. Abgesehen von Malta, wo es keine Minderheit gibt, reicht die Spannweite von nur einer Minderheit in Irland, Luxemburg und Zypern über je 12 in Estland und Italien oder je 13 in Polen und Ungarn bis zu 18 Minderheiten in Rumänien.

Entsprechend der Bedeutung der Minderheitenfrage *in der EU* und *für die EU* wird sie von der EU im Binnenbereich und im Außenbereich in sehr verschiedener, ja sogar in ambivalenter Weise wahrgenommen.

Diese Ambivalenz wird nicht selten als doppelbödig kritisiert, weil die EU offenbar von Drittstaaten den Minderheitenschutz verlangt, den selbst zu gewähren sie nicht bereit ist. Schließlich führt dies ja auch zu einem doppelten Standard des Minderheitenschutzes innerhalb der EU, der besonders nach der EU-Osterweiterung vom Mai 2004 ins Auge sticht, weil die neuen Mitgliedsländer ein höheres Niveau an Minderheitenschutz aufzuweisen hatten, als es in einigen alten Mitgliedsländern vorhanden war.

## 2. Die Doppelstrategie der EU-Minderheitenpolitik

Tatsächlich verfolgt die EU in der Minderheitenfrage eine Doppelstrategie mit dem Ziel, das Sicherheitsrisiko, das mit dem Konfliktpotential der Minderheitenfrage verbunden ist, von der EU fernzuhalten, indem sie die Beitrittskandidaten seit 1991 dazu anhielt, durch Achtung der Minderheitenrechte das Konfliktpotential abzubauen, während sie gleichzeitig die menschenrechtlichen Aspekte der Minderheitenfrage der Kontrolle des Europarats überließ, sind doch sämtliche Mitgliedsländer der EU auch Vertragsstaaten des Europarats. Es gab und gibt somit scheinbar keinen Grund, warum die Union sich im Binnenbereich damit befassen sollte.

Als 1990 durch die Wiedervereinigung Europas die Minderheitenproblematik wieder virulent wurde, war die damalige EG und spätere EU mit Erfolg bemüht, sie möglichst von sich fernzuhalten. Denn weder mit dem Vertrag von Rom 1957 noch mit den späteren Verträgen von Maastricht 1992, Amsterdam 1997 und Nizza 2001 war der Gemeinschaft die Kompetenz übertragen worden, Minderheitenschutzrechte zu begründen und umzusetzen. Dies war nicht möglich gewesen, weil sich mit Frankreich von Anfang an unter den Gründerstaaten einer befunden hatte, der die Anerkennung von Minderheiten auf seinem Territorium ablehnte und seither nicht bereit war, diese staatsrechtliche Grundhaltung zu revidieren.<sup>1</sup> So konnte auch nachher in den Unionsverträgen diesbezüglich nichts geändert werden, weil dafür bekanntlich die Zustimmung aller Mitgliedsländer, also auch Frankreichs, erforderlich gewesen wäre.

<sup>1</sup> Besondere Rechte für Minderheiten gelten in Frankreich im Sinne von Art 1 Verfassung 1958 (... *Frankreich gewährt allen Bürgern die Gleichheit vor dem Gesetz* ...) als unzulässige Privilegierung, sie verstoßen gegen das Gleichheitsprinzip und sind daher verfassungswidrig.

Lediglich beim EU-Verfassungsvertrag 2004 konnte im Wertekanon der Grundsatz der *Wahrung der Menschenrechte einschließlich der Rechte der Angehörigen von Minderheiten* aufgenommen und dann noch in den Vertrag von Lissabon 2007 hinübergerettet werden.<sup>2</sup>

Daraus ergeben sich zwei wesentliche Folgerungen für die Minderheitenpolitik der EU:

1. *Der Minderheitenschutz als solcher kann und darf nicht Gegenstand des Gemeinschaftsrechts sein, er bleibt dem nationalen Recht der Mitgliedsländer vorbehalten und diese unterliegen in dieser Hinsicht der Kontrolle des Europarats.*

2. *Die EU muss nach außen, d. h. gegenüber Drittstaaten eine Minderheitenschutzpolitik zur Beseitigung des in der Minderheitenfrage enthaltenen Konfliktpotentials entfalten, damit dieses nicht innerhalb der Union wirksam werden und sie zwingen kann, in einem Sachgebiet aktiv zu werden, das außerhalb ihres rechtlichen Rahmens liegt.*

### 3. Die minderheitenspezifische Außenpolitik der EU

Gegenüber Drittstaaten war die EG/EU mehrfach um die Achtung der Menschen- und Minderheitenrechte bemüht. Hier einige markante Beispiele:

1. Im Hinblick auf den Zerfall der Sowjetunion und Jugoslawiens und auf die Auflösung der Tschechoslowakei beschlossen die Außenminister der EG-12 am 16. Dezember 1991, dass für die völkerrechtliche Anerkennung der Nachfolgestaaten die Achtung der Menschen- und Minderheitenrechte im Einklang mit den im Rahmen der KSZE eingegangenen Verpflichtungen, vor allem im Sinne des Dokuments des Kopenhagener Treffens der KSZE über die Menschliche Dimension vom 29. Juni 1990 erforderlich sei.<sup>3</sup>

2. Den nächsten wesentlichen Schritt setzte die EU mit den *Kopenhagener Kriterien* vom Juli 1993, deren Übernahme in das natio-

2 Art. I-2 EU-Verfassungsvertrags vom 16. Dezember 2004; Art. 2 Vertrag von Lissabon vom 13. Dezember 2007.

3 Insbesondere mit den Bestimmungen in Kapitel II über Menschenrechte und die Rechte nationaler oder ethnischer Gruppen (Europäische Gemeinschaft: Richtlinien für die Anerkennung neuer Staaten in Osteuropa und in der Sowjetunion vom 16. Dezember 1991. Ferner: Europäische Gemeinschaft: Erklärung zu Jugoslawien vom 16. Dezember 1991).

nale Rechtssystem als unabdingbare Voraussetzung für die Aufnahme von Beitrittsverhandlungen für neue Mitglieder erklärt wurde. Unter diesen Kriterien befanden sich auch die Garantie von Demokratie, Rechtsstaatlichkeit, Menschenrechten sowie die Achtung von Minderheitenrechten. Allerdings wurde die Erfüllung dieses Kriteriums bei der Aufnahme der letzten 12 Mitgliedsländer nicht streng überwacht und die Nichteinhaltung wurde nur in Ausnahmefällen sanktioniert.<sup>4</sup>

3. Auf eine 1993 vom französischen Ministerpräsidenten Edouard Balladur gestartete Initiative mussten alle mittel- und südosteuropäischen Anwarter-Staaten auf die EU-Mitgliedschaft<sup>5</sup> in bilateralen Verträgen zwischen 1994 und 1995 ihre Minderheitenfragen im nachbarschaftlichem Einvernehmen regeln, worauf 1995 in der unter der Ägide von EU und KSZE stehenden *Konferenz über die Sicherheit Europas* der *Stabilitätspakt für Europa* beschlossen und der Obhut der KSZE/OSZE anvertraut wurde.<sup>6</sup>

Auch in der Kosovofrage bemühte sich die EU seit 1999 um eine gemeinsame Außenpolitik, die schließlich zur – allerdings nicht einstimmigen – Bereitschaft führte, die kontrollierte Unabhängigkeit des Kosovo anzuerkennen. Tatsächlich hat auch die große Mehrheit der EU-Mitgliedsländer völkerrechtlich die vom Kosovo am 17. Februar 2008 einseitig erklärte Unabhängigkeit unter internationaler Aufsicht anerkannt. Nur sechs Mitgliedsländer, und zwar Bulgarien, Griechenland, Slowakei, Spanien, Rumänien und Zypern wollen den Kosovo nicht als unabhängigen Staat anerkennen mit der Begründung, die einseitige Unabhängigkeitserklärung verstoße gegen die Prinzipien der Vereinten

4 Mehr dazu bei Robin Schmied-Kowarzik: Die europäische Union und ihre ethnischen Minderheiten. Eine Studie unter besonderer Berücksichtigung von Slowenien und Lettland. Texte zu Politik und Zeitgeschehen Band 9, Berlin 2007, S. 153 ff.

5 Das sind alle Staaten, mit welchen die EG/EU zwischen Dezember 1991 und Mitte Juli 1996 Assoziierungs-Abkommen geschlossen hatte. Unter den Zielsetzungen dieser sog. Europa-Abkommen war auch nach Art 2 die Beachtung der Demokratie und Menschenrechte, wie sie in der Schlussakte von Helsinki (1975) und in der Charta von Paris für ein neues Europa (1990) verankert sind.

6 Der Stabilitätspakt für Europa ist primär eine politische Deklaration und begründet völkerrechtlich kaum neue Rechte und Pflichten, aber er fasst die bestehenden politischen Absichtserklärungen und die bi- und multilateralen Abkommen zusammen, welche die eigentliche völkerrechtliche Quelle sind. Mehr dazu bei Maximilian Opitz: Die Minderheitenpolitik der Europäischen Union. Probleme, Potentiale, Perspektiven. Studien zu Migration und Minderheiten, hrsg. von Dietrich Thränhardt, Band 16. Berlin 2007, S. 93 f.

Nationen. Dazu kommt bei diesen Staaten aber auch die Furcht, vom Kosovo könnten Sezessionsimpulse auf ihre eigenen Minderheiten ausgehen, wie z. B. auf die Basken oder Katalanen in Spanien, die Ungarn in Rumänien oder in der Slowakei, die Türken in Bulgarien oder in Zypern, die Mazedonier in Griechenland.

Der Fall Kosovo besitzt tatsächlich eine Präzedenzwirkung, doch weist diese genau in die entgegengesetzte Richtung mit der Mahnung, dass das Sezessionsrecht dann schlagend wird, wenn ein Staat sich systematischer und massiver Menschenrechtsverletzungen an einer bestimmten Bevölkerungsgruppe schuldig macht. Genau dies stellt einen völkerrechtlich anerkannten Sezessionsgrund dar, und wer einen solchen liefert, darf sich nicht wundern, dass er in Anspruch genommen wird.

#### 4. Die minderheitenrelevante Innenpolitik der EU

Es ist paradox, hat aber seine eigene Logik: Obwohl die EU sich mangels Kompetenz innenpolitisch nicht mit der Minderheitenfrage befassen darf und kann, gibt es dennoch eine minderheitenrelevante Innenpolitik der EU. Freilich verfolgt diese das Ziel, die Minderheitenfrage nicht zum Gegenstand des Gemeinschaftsrechts werden zu lassen, also genau genommen die Union davor zu schützen, dass der Minderheitenschutz zu einer ihrer Aufgaben werden könnte.

Diese – eigentlich negative, auf den Schutz vor dem Minderheitenschutz im Unionsrecht gerichtete – Innenpolitik der EU stützt sich vor allem auf das *Diskriminierungsverbot*, daneben aber auch auf weitere indirekte Instrumente, welche eine minderheitenschützende Wirkung zu entfalten und damit Konfliktpotential abzubauen vermögen wie die *Förderung von Sprachen und Kulturen*, die *Förderung von Beschäftigung und sozialer Integration* sowie die *Regionalisierung*.

1. *Das Diskriminierungsverbot*: Der Vertrag von Maastricht 1992 verpflichtet die EU zum allgemeinen Menschenrechtsschutz und zur rechtsstaatlichen Demokratie (Art 6 EUV), damit aber auch zum Diskriminierungsverbot nach Art 14 EMRK. Eingang ins Gemeinschaftsrecht fand dann das Diskriminierungsverbot erst 1997 mit dem Vertrag von Amsterdam, als auch Diskriminierungen aus Gründen „*der Rasse, der ethnischen Herkunft, der Religion oder Weltanschauung*“ (Art 13 EGV), in die *Nichtdiskriminierungspolitik* der EU miteinbezogen wurden.

Schließlich konnte mit der in Nizza proklamierten Charta der Europäischen Grundrechte auch die *Zugehörigkeit zu einer nationalen Minderheit* ausdrücklich unter den vom Diskriminierungsverbot betroffenen Gründen aufgezählt werden (Art 21 Abs 1).<sup>7</sup> Diese Charta besitzt allerdings keine rechtliche Bindewirkung, soll diese aber mit der Ratifizierung des Vertrags von Lissabon (neuer Art 6 Abs 1 EUV) erhalten, was voraussichtlich 2009 der Fall sein wird.

Zu erwähnen bleiben die *Anti-Rassismusrichtlinie*,<sup>8</sup> die bis Mitte 2003 umzusetzen war, und die *Gleichbehandlungsrichtlinie*,<sup>9</sup> die allerdings die Kriterien *Rasse* und *ethnische Herkunft* unter den Diskriminierungsgründen nicht eigens erwähnt, weil diese bereits in der Anti-Rassismusrichtlinie berücksichtigt sind. Diese beiden Richtlinien vermögen freilich eine positive Diskriminierung, wie sie für den Minderheitenschutz unerlässlich ist, gemeinschaftsrechtlich nicht zu begründen.

2. *Die Förderung von Sprachen und Kulturen*: Als die EG-12 durch den Vertrag von Maastricht 1992 in die EU umgewandelt wurde, wurde die Kultur durch die in Art 151 erfolgte Neuformulierung als Wert im Primärrecht der Union anerkannt und die Union als Ganzes, aber auch die einzelnen Mitgliedsländer aufgefordert, u. a. auch die Erhaltung und den Schutz des kulturellen europäischen Erbes zu unterstützen. Dazu kommt, dass die „*Vielfalt der Kulturen*“ in die Charta der Grundrechte der Europäischen Union als Zielvorgabe aufgenommen wurde.<sup>10</sup> Allerdings besitzt die EU nur begrenzte Kompetenzen im kulturellen Bereich und die Hauptzuständigkeit für den Schutz, und die Förderung von Regional- oder Minderheitensprachen liegt nach wie vor bei den Mitgliedsländern, weshalb sich die Union nur am Rande mit dieser Thematik befasst. Sie beschränkt sich vor allem auf die Sprachenförderung und in sehr

7 Art 20 GRC: *Alle Personen sind vor dem Gesetz gleich. Art. 21 Abs 1: Diskriminierungen, insbesondere wegen des Geschlechts, der Rasse, der Hautfarbe, der ethnischen oder sozialen Herkunft, der genetischen Merkmale, der Sprache, der Religion oder Weltanschauung, der politischen oder sonstigen Ausrichtung, der Zugehörigkeit zu einer nationalen Minderheit [Hervorhebung durch den Verf.], des Vermögens, der Geburt, einer Behinderung, des Alters oder der sexuellen Ausrichtung, sind verboten.*

8 Richtlinie 2000/43/EG zit. nach Opitz a.a.O. S. 119.

9 Richtlinie 2000/78/EG zit. nach Opitz a.a.O. S. 120.

10 Art 22 Grundrechtecharta lautet: „*Die Union achtet die Vielfalt der Kulturen, Religionen und Sprachen.*“ Nach Art 1-8 Verfassungsvertragsentwurf sollte der Leitspruch der Union lauten: „*in Vielfalt geeint.*“

bescheidenem Maß auf die Förderung des *Europäischen Büros für Sprachminderheiten*<sup>11</sup> und des *Mercator Netzwerks* für Minderheitensprachen.<sup>12</sup>

Der Sprachenförderung als solcher dient die *Lingua Aktion* im SOKRATES-Programm,<sup>13</sup> welche den Erwerb von Fremdsprachen fördert. Sie beruht auf dem Postulat, dass jeder europäische Bürger sich außer in der Muttersprache auch in zwei weiteren Sprachen gut verständigen können soll. Diesem Ziel dient auch die Empfehlung des Europäischen Parlaments zur Errichtung einer *Agentur für Sprachenvielfalt und Sprachenlernen*, zu welcher die Kommission eine Machbarkeitsstudie vorgelegt hat.

Minderheitensprachen können von solchen Fördermaßnahmen nur Nutzen ziehen, wenn sie auch Amtssprachen der Union sind wie z. B. *Irish* (Gälisch) und *Luxemburgisch* (Letzebuergesch). Der Europäische Rat hat 2005 *Maltesisch* und *Irish* zu offiziellen EU-Sprachen erklärt und *Katalanisch*, *Baskisch* und *Galizisch* einen Sonderstatus eingeräumt. Dies eröffnet prinzipiell die Aussicht, dass auch weiteren Regional- und Minderheitensprachen die Statusanhebung zu einer solchen „Amtssprache zweiten Ranges“ gelingen kann.<sup>14</sup>

3. *Die Förderung von Beschäftigung und Integration:* Zu den Schwerpunkten der sozialpolitischen Agenda zählen die Beschäftigungspolitik, die Sozialpolitik und die Armutsbekämpfung (Art 2 EGV). Diese sozioökonomischen Zielsetzungen betreffen in vielen Punkten auch die Situation nationaler Minderheiten.

Ein fester Bestandteil der „koordinierten Beschäftigungsstrategie“ (Art 125 EGV) ist die Integration benachteiligter Gruppen in das Wirtschaftsleben. In diesem Rahmen findet auch die Situation von Minderheiten ausdrückliche Berücksichtigung. So hat der Europäische Rat in den länderspezifischen Empfehlungen bei einigen neuen Mitgliedsländern (Tschechien, Estland, Ungarn, Lettland, Slowakei) eine verstärkte Eingliederung von ethnischen Minderheiten angemahnt.<sup>15</sup>

11 European Bureau for Lesser Used Languages/EBLUL.

12 Bestehend aus den drei Zentren Mercator-Legislation in Barcelona (Spanien), Mercator-Media in Wales (Großbritannien) und Mercator-Education in Leeuwarden (Niederlande).

13 Zum SOKRATES-Programm gehören auch ERASMUS für die Hochschulbildung und COMENIUS für die Schulbildung.

14 Opitz a.a.O. S. 144 ff.

15 Empfehlung (EG) Nr. 741/2004 des Rates vom 14. Oktober 2004 zur Durchführung der Beschäftigungspolitik der Mitgliedstaaten, Abl. 2004 Nr.L 326/47 (zit. nach Opitz a.a.O. S. 150 f.).

Der *Europäische Sozialfond* (ESF) fördert gezielt die Eingliederung benachteiligter Personen. Außerdem wurde vom Europäischen Parlament und vom Europäischen Rat hierzu ein Aktionsprogramm der Gemeinschaft zur Förderung der Zusammenarbeit der Mitgliedsländer bei der Bekämpfung der sozialen Ausgrenzung (2002-2006) aufgelegt. Für den Zeitraum 2007-2013 soll das Gemeinschaftsprogramm PROGRESS zur Erreichung der Ziele in den Bereichen Beschäftigung und soziale Solidarität beitragen.<sup>16</sup>

4. *Regionalpolitik*: Mit dem Maastricht Vertrag 1992, der das Subsidiaritätsprinzip einführt (Art 5 EGV) und auf den föderalen Aufbau einiger Mitgliedsländer Bedacht nimmt, indem er den Regionen einige Kompetenzen im EU-System zuspricht, wurde auch der *Ausschuss der Regionen (AdR)* als eigene Vertretung auf EU-Ebene eingerichtet. Seitdem läuft der europäische Integrationsprozess auf eine Stärkung der Regionen hinaus. Die EU trägt hierzu mit finanzieller Unterstützung und mit der Förderung der politischen Mitbestimmung maßgeblich bei.<sup>17</sup>

Minderheitenschützende Wirkung entfaltet natürlich auch die *grenzüberschreitende Zusammenarbeit der Regionen*, welche spezifisch mit den INTERREG-Programmen der EU gefördert wird. Im INTERREG III-Programm wurden besonders die soziale Eingliederung sowie die interregionale Zusammenarbeit in Bildung, Kultur, Kommunikation und Gesundheitswesen gefördert,<sup>18</sup> und INTERREG IV (2007-2013) zielt auf die regionale Wettbewerbsfähigkeit und Beschäftigung sowie auf die territoriale Zusammenarbeit.

Allerdings ging die EU bisher noch nicht soweit, in ihrer Regionalpolitik auf die Mitgliedsländer dahingehend einzuwirken, ihre regionale Einteilung nach ethnischen oder sprachlichen Grenzen vorzunehmen und die regionalen Verwaltungseinheiten mit Autonomie- bzw. Selbstverwaltungsrechten auszustatten. Das Gemeinschaftsrecht hat hier stets noch vor dem Staatsorganisationsrecht der Mitgliedsländer Halt gemacht.<sup>19</sup>

16 Beschluss Nr. 1672/2006/EG des Europäischen Parlaments und des Rats vom 24. Oktober 2006 über ein Gemeinschaftsprogramm für Beschäftigung und soziale Solidarität – Progress, Abl. 2006 Nr.L. 315/1 (zit. nach Opitz a.a.O. S. 152).

17 Außerdem gibt es beim Europarat seit über einem Jahrzehnt namhafte Bestrebungen, die erfolgreiche *Konvention der lokalen Selbstverwaltung* durch eine *Konvention der regionalen Selbstverwaltung* zu ergänzen.

18 Vgl. INTERREG III (2000-2006), Ausrichtung A: grenzüberschreitende Zusammenarbeit.

19 Mehr dazu vgl. Opitz a.a.O. S. 157.



Zusammenfassend lässt sich sagen, dass das individualrechtliche Diskriminierungsverbot, die allgemeine Förderung von Spracherwerb, von Beschäftigung und sozialer Integration sowie die Begünstigung der Regionalisierung durchaus Instrumente mit minderheitenschützender Wirkung sind und die strukturelle Benachteiligung von Minderheiten gegenüber der Mehrheitsbevölkerung zu lindern vermögen, dass sie aber einen wirksamen Minderheitenschutz als solchen nicht ersetzen können.

## 5. Die Minderheitenfrage in der EU nach Lissabon

Der Vertrag von Lissabon soll Mitte 2009 in Kraft treten. Welche neuen Perspektiven vermag er zu bieten?

Zunächst einmal wird die Grundrechtecharta eine primärrechtliche Bindewirkung erlangen.<sup>20</sup> Dazu kommt ab 2014 die Perspektive der doppelten Mehrheiten, deren uneingeschränkte Anwendung auf 2017 verschoben wurde, nämlich 55 % der Mitgliedsländer + 65 % der EU-Bevölkerung. Geht man davon aus, dass alle 21 EU-Mitgliedsländer, welche das Rahmenübereinkommen zum Schutz nationaler Minderheiten derzeit schon ratifiziert haben,<sup>21</sup> sich auf eine gemeinschaftsrechtliche Regelung des Minderheitenschutzes in der Union einigen könnten, dann würden rein rechnerisch 21 Mitgliedsländer der EU-27 mit etwa 367,3 Mio. Einwohnern dem Erfordernis der doppelten Mehrheiten mit 77,8 % der EU-Mitglieder und 76 % der EU-Bevölkerung locker Genüge tun können.<sup>22</sup>

Utopie oder nicht? Es gibt Gründe zur Skepsis, aber auch Gründe zur Zuversicht: Seit Inkrafttreten der beiden Völkerrechtsinstrumente *Rahmenübereinkommen* und *Sprachencharta* 1998 hat der Minderhei-

20 Ausgenommen für Großbritannien. Irland und Polen haben sich die Prüfung einer Ausnahme vorbehalten, Tschechien hat angekündigt, die Vereinbarkeit der Grundrechtecharta mit dem Landesrecht prüfen zu lassen.

21 Das sind alle Mitgliedstaaten außer Belgien, Bulgarien, Griechenland, Niederlande und Portugal, die das Rahmenübereinkommen zwar unterzeichnet, aber nicht ratifiziert haben, und Frankreich, das es noch nicht einmal unterzeichnet hat.

22 Etwas erschwert wird diese Möglichkeit durch den Kompromiss von Ioannina, wonach ab 2017 mögliche Mehrheitsentscheidungen im Rat mit einer Sperrminorität von 15,4 % der Mitgliedsländer und 19,25 % der repräsentierten Bevölkerung durch eine Fortsetzung der Verhandlungen „für eine angemessene Frist“ verzögert werden können. Das Ergebnis von Nachverhandlungen ist mit mindestens 68 von 87 Stimmen (78,2 %) zu billigen.

tenschutz unter der Kontrolle des Europarats quantitativ und qualitativ erheblich gewonnen, außerdem zeigt diese Entwicklung anhaltende Tendenz.<sup>23</sup> In dem Ausmaß, in dem sie voranschreitet, findet eine Entdämonisierung des Minderheitenschutzes statt und in demselben Ausmaß, in welchem sich die Widerstände gegen ihn legen, steigen die Chancen auch für eine gemeinschaftsrechtliche Regelung.

Mit der quantitativen Erweiterung und qualitativen Verbesserung des Minderheitenschutzes gehen positive Auswirkungen einher, welche das Konfliktpotential der Minderheitenfrage erheblich verringern. Damit wird aber auch der Druck auf eine endgültige gemeinschaftsrechtliche Regelung der Minderheitenschutzes in der EU zurückgehen, wenn gleich auch die Bereitschaft unter den Mitgliedsländern zu einer innerstaatlichen Regelung wachsen kann.

Wenn sich abnehmender Druck und wachsende Bereitschaft die Waage halten, kommt in der EU den mittleren und kleinen Mitglied in den EU-Ländern, besonders in Mitteleuropa, eine besondere Rolle zu. Da mit jedem Längengrad von West nach Ost die Gemengelage verschiedener Sprachgruppen wächst, besteht in der Mitte Europas eine besondere Sensibilität für diese Problematik, aber auch ein reiches Erfahrungsgut im Umgang damit. Dieses ist ein Faktor, der für einen gemeinschaftsrechtlichen Minderheitenschutz in der EU politisch genutzt werden kann.

23 Der Nachweis dafür betreffend den Zeitraum 1999-2006 findet sich bei Christoph Pan – Beate Sibylle Pfeil: *Die Minderheitenrechte in Europa*. Handbuch der europäischen Volksgruppen Band 2, Wien 2006, S. 16 ff und 636 ff.

Tabelle 1. I. *Volksgruppen und Minderheiten in der EU-27*

Staaten	Jahr	Einwohner	Titular- Nation %	Volksgr./ % Mind.	Angehör.
1. Belgien	2001	10.263.414	keine	4	9.159.109
2. Bulgarien	2001	7.928.901	81,1	12	1.368.812
3. Dänemark	2000	5.330.020	95,1	4	123.024
4. Deutschland	2004	82.500.800	90,9	4	214.000
5. Estland	2000	1.370.052	66,5	12	416.964
6. Finnland	2000	5.181.000	92,4	6	345.286
7. Frankreich	1999	58.518.395	85,8	8	5.026.000
8. Griechenland	2001	10.939.771	97,4	7	229.000
9. Irland	2002	3.917.203	99,4	1	23.681
10. Italien	2001	56.305.000	93,9	12	3.428.100
11. Lettland	2000	2.456.264	55,8	11	985.024
12. Litauen	2001	3.483.972	83,5	10	539.143
13. Luxemburg	2001	439.764	99,4	1	2.500
14. Malta	2004	401.000	96,0	0	0
15. Niederlande	2001	15.987.075	92,6	3	520.000
16. Österreich	2001	8.032.926	87,0	6	172.000
17. Polen	2002	38.230.000	96,7	13	1.246.400
18. Portugal	2001	10.355.824	98,8	3	122.000
19. Rumänien	2002	21.680.974	89,3	18	2.307.786
20. Schweden	2000	8.882.792	86,5	4	606.000
21. Slowakei	2001	5.379.455	85,8	11	704.315
22. Slowenien	2002	1.964.036	83,1	4	12.427
23. Spanien	2001	40.847.371	70,6	6	9.005.272
24. Tschechien	2001	10.292.933	89,9	11	357.237
25. Ungarn	2001	10.174.000	89,2	13	1.096.000
26. Verein. Königreich	2001	58.789.194	98,5	6	883.300
27. Zypern	2001	1.023.044	74,9	1	256.644
EU-27		480.675.180		191	39.150.024

Tabelle 1. II: Volksgruppen und Minderheiten im restlichen Europa

Staaten	Jahr	Einwohner	Titular- Nation %	Volksg./ Mind.	Angehör.
1. Albanien	2001	3.069.275	95,7	5	132.000
2. Andorra	2005	81.222		0	0
3. Bosnien- Herzegowina	2001	3.364.825	keine	6	3.322.963
4. Island	2008	313.376	96,5	0	0
5. Kosovo	2000	2.000.000	88,0	7	260.000
6. Kroatien	2001	4.437.460	89,6	13	331.383
7. Liechtenstein	2006	35.168		0	0
8. Mazedonien	2002	2.022.547	64,2	6	703.573
9. Moldawien	2004	3.388.071	78,2	9	738.594
10. Monaco	2006	32.000		0	0
11. Montenegro	2003	622.000	43,2	6	304.987
12. Norwegen	2001	4.523.861	93,9	4	86.000
13. Russland (Europ. Teil)	2002	102.642.400	77,1	45	23.566.947
14. San Marino	2007	30.726		0	0
15. Schweiz	2000	7.288.010	keine	6	6.661.471
16. Serbien	2003	7.498.001	82,8	11	888.651
17. Türkei	2000	67.844.900	89,1	14	7.383.000
18. Ukraine	2001	48.457.000	77,5	23	10.433.812
19. Vatikanstadt	2006	932		0	0
20. Weißrussland	1999	10.045.000	81,1	7	1.786.000
Restliches Europa		267.696.774		162	56.599.381
III. Volksgruppen und Minderheiten in Europa					
EU-27		480.675.180		191	39.150.024
Restliches Europa (20)		267.696.774		162	56.599.381
Europa - 48		748.371.954		353	95.749.405

Tabelle 2. Volksgruppen/Minderheiten in den Staaten Europas

Staaten	Jahr	Einwohner	Titular- nation %	Volksg/ Mind.	Angehörige
1. Albanien	2001	3.069.275	95,7	5	132.000
2. Andorra	2005	81.222		0	0
3. Belgien	2001	10.263.414	0,0	4	9.159.109
4. Bosnien- Herzegowina	2001	3.364.825	0,0	6	3.322.963
5. Bulgarien	2001	7.928.901	81,1	12	1.368.812
6. Dänemark	2000	5.330.020	95,1	4	123.024
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12. Irland	2002	3.917.203	99,4	1	23.681
13. Island	2008	313.376	96,5	0	0
14. Italien	2001	56.305.000	93,9	12	3.428.100
15. Kosovo	2000	2.000.000	88,0	7	260.000
16. Kroatien	2001	4.437.460	89,6	13	331.383
17. Lettland	2000	2.456.264	55,8	11	985.024
18. Liechtenstein	2006	35.168		0	0
19. Litauen	2001	3.483.972	83,5	10	539.143
20. Luxemburg	2001	439.764	99,4	1	2.500
21. Malta	2004	401.000	96,0	0	0
22. Mazedonien	2002	2.022.547	64,2	6	703.573
23. Moldawien	2004	3.388.071	78,2	9	738.594
24. Monaco	2006	32.000		0	0
25. Montenegro	2003	622.000	43,2	6	304.987
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27. Norwegen	2001	4.523.861	93,9	4	86.000
28. Österreich	2001	8.032.926	87,0	6	172.000
29. Polen	2002	38.230.000	96,7	13	1.246.400
30. Portugal	2001	10.355.824	98,8	3	122.000
31. Rumänien	2002	21.680.974	89,3	18	2.307.786

Staaten	Jahr	Einwohner	Titular- nation %	Volksg/ Mind.	Angehörige
32. Russland (Europ. Teil)	2002	102.642.400	77,1	45	23.566.947
33. San Marino	2007	30.726		0	0
34. Schweden	2000	8.882.792	86,5	4	606.000
35. Schweiz	2000	7.288.010	0,0	6	6.661.471
36. Serbien	2003	7.498.001	82,8	11	888.651
37. Slowakei	2001	5.379.455	85,8	11	704.315
38. Slowenien	2002	1.964.036	83,1	4	12.427
39. Spanien	2001	40.847.371	70,6	6	9.005.272
40. Tschechien	2001	10.292.933	89,9	11	357.237
41. Türkei	2000	67.844.900	89,1	14	7.383.000
42. Ukraine	2001	48.457.000	77,5	23	10.433.812
43. Ungarn	2001	10.174.000	89,2	13	1.096.000
44. Vatikanstadt	2006	932		0	0
45. Verein. Königreich	2001	58.789.194	98,5	6	883.300
46. Weißrussland	1999	10.045.000	81,1	7	1.786.000
47. Zypern	2001	1.023.044	74,9	1	256.644
Gesamt		748.371.954		353	95.749.40

## EUROPEAN ORGANIZATIONS AND THE ISSUE OF NATIONAL MINORITIES\*

It is a fact of common knowledge that the European Union has no proper system of norms or rules for minority protection. Nonetheless it is true that the Union has included the treatment of minority issues into its common foreign and security policy, and it is also a fact that minority protection has been defined as a condition of accession as early as 1993, at the Copenhagen meeting of the European Council.<sup>1</sup> At the same time however, the Treaty of Amsterdam, although incorporated all the Copenhagen criteria (democracy, rule of law etc.) into primary law (the *acquis*), passed over minority protection.<sup>2</sup>

Consequently, if we are interested in the system of norms of minority protection on a European level, it is more practical to turn our attention toward the documents of European organizations dealing with minority protection, such as the Council of Europe (CoE) and the Organization for Security and Co-operation in Europe (OSCE) rather than the institutions of the Union. Subsequently we will formulate a few

\*The present paper is built on another, more extensive study, entitled: *The Approach of National/Ethnic Minority Issues in the EU*, which summarises the results of a one-year research. Due to limitations of space here we can only confine ourselves to the conclusions of that study, more exactly on a part of its conclusions.

1 That is the reason why minority protection appears as a stressed aspect in the regular country reports produced by the European Commission on candidate countries, as it has also happened in the case of Romania. See: Gabriel Toggenburg: *Egy kényes kapcsolatrendszer: az Európai Unió és a kisebbségi jogok (A Thorny Relationship: The European Union and Minority Rights)*, in: *Pro Minoritate*, Budapest, 2002, Spring, 14-50, p. 28.

2 One must add that including the norms of minority protection in the accession criteria could even be detrimental to the minorities of the acceding countries. In this case the accession of a country will mean that the EU considers the minority issues solved in the respective country. Furthermore, if Central and Eastern European States joined the EU with a clean record regarding minority issues, than there would be no need for the EU to change its present "agnosticism" concerning minority issues. In se this would not be a problem if the expectations of the Union from the acceding countries were purposeful, strict and unequivocal, and if the Union itself enfor-

observations and conclusions based on these documents, respectively on their comprehensive interpretation as given by Will Kymlicka.<sup>3</sup>

## Introduction

Quite soon after 1989 the minorities of Eastern Europe had to realise that the attempts to establish the Western model of democracy are not enough by themselves to effectively restrict majority nationalism; hence the fall of communism was followed by a series of conflicts of an ethnic nature. We can retrospectively remark that these conflicts became concentrated mainly on the regions of the Caucasus and the Balkans, on the territories of the former Soviet Union and Yugoslavia; although at that time – in the early nineties – this was not yet clear. European observers feared that conflicts would escalate, and they talked about “Eurogeddon”.

Having to face the ethnic conflicts of the post-communist Europe, Western democracies decided to handle these as “international” problems, trying to offer models, or to formulate minimal minority protection standards that – according to their reckoning – would have durably and peacefully regularised the relationship between the states and their minorities. The declarations in 1990 of the CSCE/OSCE reflect exactly that kind of approach.

If we take a closer look, we will realise that European organizations have in fact followed three, loosely connected and sometimes contradictory strategies, each of these being considered to be their own from the very beginning of the nineties. Firstly, they attempted to popularise the most tested practices, institutions and methods existing in the West.

ced these consistently. Yet references on minority protection norms made by the institutions of the European Union in the documents prepared for Central Eastern European states are far too general. In these references the steps expected to be taken by the concerning countries are specified, but the norms and standards that serve as the basis of EU expectations are not. Thus minority protection has become a poorly formulated political requirement, which Central and Eastern European states have tried to meet somehow or other (more often poorly) just because of the allurements of the accession itself. See Bruno de Witte: *Az etnikai kisebbségek kérdésének megközelítése az EU-ban: politika a jog ellenében* (The Approach of the EU to the Issue of Ethnic Minorities: Politics versus Law), in: *Magyar Kisebbség, Kolozsvár/Cluj*, vol. 8., 2003/2-3, pp. 241-267, p. 261.

<sup>3</sup> Will Kymlicka: *Multicultural Odysseys: Navigating the New International Politics of Diversity* (manuscript), Oxford University Press, Oxford, 2007.



Secondly, they endeavoured to formulate minimal minority protection standards, and thirdly they turned to direct military or diplomatic interventions on a case by case basis.

Hereinafter we will try to demonstrate that two of the mentioned three strategies have failed, while the success of the third one proves exactly the lack of success of principle-based European minority protection.

### Autonomy as a Model to Follow

In reality there is no consensus in the Western world today, even on a theoretical level, with regard to the issue of national minorities.<sup>4</sup> This does not mean however, that Eastern European democracies could not transfer from Western democracies certain solutions meant to settle the situation of minorities. The demands of national minorities in Central and Eastern Europe are similar to those of the national minorities in the West, and it seems likely that similar principles must also be applied when evaluating them. National minorities in the East and in the West seek (among other things) political recognition, ethnically based regional autonomy, and if autonomy has brought peace and development to Spain or Italy, there is no reason to question that it would also bring peace and prosperity to Serbia, Slovakia or Romania.

Making references by the European organizations to functioning Western European regional autonomies was usually part of the first strategy: these seemed to be solutions, which – where applied in Western Europe – generally provided satisfactory answers for the problems of national minorities.<sup>5</sup>

The best-known recommendation for autonomy has been formulated by the document of the Second Conference on the Human Dimension

4 See in this respect: Attila M. Demeter: Patriotizmus avagy nacionalizmus. A nemzetiségi/kisebbségi kérdés a magyar liberális gondolati hagyományban és a mai angol-szász politikai filozófiában (Patriotism Or Nationalism. The National/Minority Issue in Traditional Hungarian Liberal Thinking and in Current Anglo-Saxon Political Philosophy), in: *Regio*, Budapest, Vol. 17, 2006/3, pp. 31-48.

5 It is important to keep in mind that the institutionalisation of autonomy points beyond the practice of simple legal protection. The rights ensured for minorities are partly means of restricting the power of the state (the prohibition of discrimination), and partly additional rights that permit a certain minority to preserve its cultural identity under the conditions of inequality (positive discrimination). Autonomy as a

of the Conference on Security and Co-operation in Europe (CSCE, the predecessor of the OSCE), held in Copenhagen on 29 June 1990, which brought a true breakthrough in the treatment of minority issues. According to experts: it is generally accepted that this document goes the farthest in the field of minority rights. Its Article 35 establishes that “the participating States note the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities”.<sup>6</sup> The Copenhagen document must be considered a step forward in the field of minority protection, even if its stipulations were only recommendations, having no binding effect on the states. Several codified bilateral minority protection documents (the agreements between Hungary and Slovakia, Hungary and Ukraine, the Hungarian-Russian declaration) have already been based on the recommendations formulated in that document.

The famous Recommendation of the Council of Europe, fully entitled *Proposal for an additional protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, concerning persons belonging to national minorities*, also included a reference to regional autonomy. The proposal for an additional protocol was debated by the Parliamentary Assembly of the CoE between 1-5 February 1993, during its session in Strasbourg. Its basic principles include that the conditions of putting an end to ethnic confrontations, and thus of helping to guarantee stability, are “the recognition of the rights of persons belonging to a national minority within a state, and the international protection of those rights”. (Preamble 3)

The reference to territorial autonomy was included in Article 11 of the Recommendation. According to that, “In the regions where they are in majority, the persons belonging to a national minority shall have the right to have at their disposal appropriate local or autonomous authori-

minority protection tool is a characteristic (and the most powerful) form of political recognition, which – as opposed to legal protection – also permits the sharing of state power. In other words, autonomy cannot be conceived without the delegation of state power and the observation of the principle of subsidiarity – a solution that, in opposition to practices of legal protection, directly affects the structure of executive power and statehood. Bruno de Witte, p. 252.

<sup>6</sup> Gyula Fábián – Patrícia Ötvös: *Kisebbségi jog (Minority rights)*, Komp-Press Könyvkiadó, Kolozsvár, 2003, vol. II, pp. 63-64.

ties, or to have a special status, matching the specific historical and territorial situation and in accordance with the domestic legislation of the state".<sup>7</sup> Yet in the end the recommendation was not adopted, and the legal norms included therein did not become binding provisions of law, but retained their recommendation character. Both the Basic Treaties between Hungary and Slovakia and between Hungary and Romania contain reference to Recommendation 1201, but the complementary declarations made it clear that the reference does not include the right to the special status of ethnically based territorial "autonomy".

As the examples above show, in the early nineties the European organizations did not only treat the system of Western European autonomies as a model to be followed, but they even made attempts to include these among minority protection norms. Still, it seems that this strategy did not live up to the expectations. There seems to be no evidence that the popularisation or the inclusion into minority protection norms of the autonomy as a model to follow would have brought any special result in the post-communist area. The whole issue of autonomy remained a taboo in post-communist states, being generally dismissed by their top political leadership as an aberration, as something that is inadmissible in a "normal" state.

Exceptions can only be found where certain minorities succeeded to achieve autonomy, or perhaps partial independence by explicitly anti-constitutional means. In such cases the respective states unwillingly accepted to negotiate about federalism or autonomy, as this represented their only way to keep the territories controlled by the minorities, i.e. to maintain their territorial integrity. Georgia, for instance, after losing control over the seceder regions of Abkhazia and Southern Ossetia, promptly started to show great interest toward federalism. The Government of

<sup>7</sup> The recommendation gain quick notoriety by the efforts of the Hungarian Government to include it as a binding norm into its bilateral agreements with Slovakia and Romania. As Article 11 gave rise to a debate on international level, the legal and human rights commission of the Parliamentary Assembly of the CoE asked the Venice Commission (the European Commission for Democracy through Law) to elaborate the interpretation of the article. The commission recorded its standpoint at its meeting held on 1-2 March 1996. The interpretation gives as examples for the special status *the special statuses found in Italy and Spain*, adding that the enforcement of similar solutions cannot exclude the application of personal autonomy. The interpretation considers it as a minimum requirement, yet the *special status* can offer much more than that. In regional matters it can vest the region, where the respective minority forms a majority, with legislative and executive power, thus creating a system that permits even the partial federalisation of the state.

the Republic of Moldova, after losing its control over Transnistria, came up with several plans and proposals for federalisation. Azerbaijan, after losing control over Armenian-inhabited Nagorno-Karabakh, offered autonomy for the lost territory.

### **European Minority Protection Norms and Standards: the International Minority Protection Documents**

The other strategy followed by the European organizations also pre-occupied with minority protection, was to formulate certain explicit legal or quasi-legal norms, placed in front of Eastern European states as tasks to be accomplished. The most important one among these was obviously the – already mentioned – decision of the European Union to include minority protection among the accession criteria. By that minority protection ceased to remain merely an internal political affair of Eastern European states, and it became an integrative part of the European unification process.

The contents of the European Union minority protection norms, however, are difficult to identify. In addition to that we will see that even the European organizations themselves are far from a consensus with respect to minority rights.

The best known European minority protection documents are the *European Charter for Regional or Minority Languages* and the *Framework Convention for the Protection of National Minorities* – the list is obviously far from being complete.

The *European Charter for Regional or Minority Languages* was adopted by the Council of Europe on 24 June 1992, and opened for signature on 2 October 1992. It was ratified by the Parliament of Romania in the fall of 2007. The Charter defines regional or minority languages, and stipulates that the geographical area of each regional or minority language must be respected to ensure “that existing or new administrative divisions do not constitute an obstacle to the promotion of the regional or minority language in question”.<sup>8</sup> (Article 7, 1. b.) It details the measures to promote the use of minority languages in education (Article 8), in the administration of justice (Article 9), in public administration (Article

<sup>8</sup> Fábíán – Ötvös, vol. II, pp. 84-85.

10), in the media (Article 11), in cultural (Article 12), as well as economic and social life (Article 13).<sup>9</sup>

The stipulations of the Charter, however, are not always unambiguous, providing possibilities of choice for the subscribing states. Still, it establishes that the choice of the measures to be taken in compliance with the situation of the language, and the control of their implementation must be done by permitting the communities that are using the respective language to express their views. (This negotiation with the representatives of minorities was going on in Romania in the spring of 2008.)

*The Framework Convention for the Protection of National Minorities of the Council of Europe* was adopted by the Committee of Ministers of the CoE on 10 November 1994, and opened for signature beginning with January 1995. In addition to the member states of the CoE, the convention can be signed by any other state that is part of the OSCE process. Its primary significance consists in the fact that it is the first comprehensive minority protection document of the CoE, which differs from former political declarations and recommendations, being *legally binding*. It does not include the definition of minorities. As it was impossible to reach a consensus with respect to the definition of national minorities, the committee of experts decided to take a pragmatic approach, which lays down legal principles of an *individual and universal* character. Therefore a definition was not necessary. The subject of protection, nonetheless, is national minority, and the convention mentions religion, language, traditions and cultural heritage as being characteristic for minority identity. Its Preamble states that "the upheavals of European history have shown that the protection of national minorities is essential to stability, democratic security and peace in this continent".<sup>10</sup> The protection of national minorities and persons belonging to minorities forms *an integral part of the international protection of human rights*, falling within the scope of international co-operation. (Article I., Section 1)

According to the explanatory report attached to it, the Convention is strictly based *on the principle of individual rights*, yet paragraph 2 stipulates that the rights and freedoms flowing from the principles enshrined in the Framework Convention *can be exercised individually, as well as in community with others*. Consequently, it recognises the possibility of

<sup>9</sup> Same, pp. 86-94.

<sup>10</sup> Same, p. 99.

exercising rights and freedoms in common, which – according to the explanatory report – is different from the notion of collective rights.<sup>11</sup>

On the other hand, the Framework Convention is the first one to set up a certain control mechanism. The implementation by the contracting parties will be monitored by the Committee of Ministers of the CoE, while the parties are obliged to transmit to the Secretary General full information on the implementation of the undertakings within a period of one year following the entry into force of the Convention, and on a periodical basis after that.

In addition, it can be said about the above OSCE documents, including the one adopted in Copenhagen, that these are recommendations. Yet, as the EU refers to them in its common foreign and security policy, they can be considered binding in the EU member states. Minority protection documents elaborated by the CoE differ from those elaborated by the CSCE/OSCE in that they are international legal treaties, which become legally binding once the member states have ratified them. They have become legally significant for the EU also because they were included in the legal system of *The Charter of Fundamental Rights*, based on which the complaints of individuals reach the European Commission of Human Rights and the European Court of Justice.<sup>12</sup>

It remains their imperfection that they fail to define the notion of national minorities and make no reference on collective rights, without which it remains difficult to effectively protect the cultural identity of national minorities.<sup>13</sup>

11 First and foremost the Convention includes programmatic stipulations and objectives that the participating states must strive to achieve. The implementation of the statutory laws or legal principles formulated in the document is only rarely *ensured* by the states, they more frequently just *undertake to promote or guarantee* them, or shall refrain from policies or practices (aimed at assimilation, for instance), which are aimed at restricting the rights of the persons belonging to national minorities. The text often includes formulations like “*as far as possible*”, “*where adequate*”, “*where necessary*”. The document, by its character (and also according to the interpretation provided by the explanatory report), provides a wide sphere of action for the states. The legal principles are to be enforced by the states, in light of the specific circumstances.

12 Sándor Vogel: *Az Európai Unió és a nemzeti kisebbségek* (The European Union and the National Minorities), in: *European Minority Protection – Transylvanian minority policies*, Pro-Print Könyvkiadó, Csikszereda, 2001, pp. 50-86, p. 76.

13 The fact that the elaboration of a notion of “national minority”, which is operational from a legal point of view, is not an easy task is also well shown by the *Report prepared on 28 July 1993 by the committee of experts on the protection of national minorities of the Council of Europe*. The committee of experts tried to define the

On the other hand, it can be observed that the mentioned international documents, although mostly designate national minorities, or more precisely the persons belonging to national minorities, as the subjects of minority rights, they are remarkably silent – with only the few exceptions discussed earlier – with regard to the right to self-determination and the status of autonomy. Albeit it is a well-known fact that national minorities usually do not only demand the unrestricted use of their mother tongues, but they also formulate requests for autonomy: they would like to govern themselves, they would like if the economic and financial conditions for self-governance existed, and they would be keen to publicly celebrate their own languages, history and culture, in the public sphere and in public institutions. Yet the Framework Convention of the CoE provides no guiding to how these claims should be formulated by minorities in terms of legal rights.

Consequently, we can say that the rights offered by the Framework Convention cover the real demands of minorities only partially, and these rights generally fail to help us with the solution of the very problems these norms and rights have been designed for. One must not forget the initial purpose for which the European system of norms for minority protection was created, i.e. for the European community to tackle ethnic conflicts in post-communist Eastern Europe with violence: in Kosovo, Bosnia, Croatia, Macedonia, Georgia, Azerbaijan, Moldova, and Chechnya. And it is quite obvious that none of these conflicts set

term of national minorities as follows: the size of the group is smaller than the rest of the population of the state; its members reside on the territory of the state and/or are citizens thereof, and maintain long-standing, firm and lasting ties with that state; display common ethnic, cultural, religious or linguistic characteristics, differing from those of the rest of the population; express their wish to be recognised as a minority. Experts disagree whether newly immigrated guest-workers and refugees should or not be considered minorities. There is no consensus about that, and the above definition herein was only put on paper for practical considerations. Most experts agreed that a precondition for a legally binding instrument should be the definition of national minorities accepted as a legal entity, in spite of the recent opinion that the elaboration of a definition is not a necessary prerequisite for legal codification. The situation is even worse in the case of the debate about the definition of collective rights. A part of the experts opine that the notion of collective rights is connected by meaning to the notion of minorities. Collective rights must be due to national minorities as a legal entity. In the absence of a definition of national minorities, collective rights cannot be defined either. Other experts even question whether collective rights can be connected to human rights at all. As a consequence, the committee decided to take the definition of the notion of collective rights off the agenda altogether.

straight because individuals wanted to have the right to freely cultivate their cultural identity together with other individuals. Since it is not having a prejudice against that right is at the root of these conflicts, the respect of these rights will not solve the conflict either.<sup>14</sup>

Moreover, if we examine the outcome of these conflicts (where that can be done at all), we discover that their dismantling is by no means due to the consequent enforcement of European norms but rather the result of a case by case international military or diplomatic intervention.

Obviously, not everywhere did bloody ethnic conflicts erupt in Eastern Europe, therefore military intervention was not necessary everywhere, yet, where there was the possibility of such a conflict, generally, the European organizations took an active, mediatory role in the completion of negotiations between the parties. Thus they had a crucial role in achieving the Ohrid Framework Agreement in Macedonia, for instance, as well as the Dayton Agreement in Bosnia. In both cases the agreements ensured significant minority rights for the minorities, exceeding by far the rights ensured by international minority protection documents, such as the *Framework Convention*.<sup>15</sup> Therefore it is no surprise that European organizations have been accused subsequently by many of arbitrariness, lack of principles and inconsistency.

## Conclusions

The fact that European organizations did not base their actions on the principles laid down in their own minority protection documents during their case by case military or diplomatic interventions does not mean that these interventions lacked proper consideration, yet these were not based on the values of federalism and territorial autonomy, but they were rather simple security policy considerations.<sup>16</sup> What we could see in fact, during the nineties, was that European organizations had always measured the situation of minorities with double standards, and this can also be observed in their monitoring activity: they followed in part whether these states met minority protection norms, but they also watched whether they endangered regional peace and security, paying

14 Will Kymlicka: *Multicultural Odysseys: Navigating the New International Politics of Diversity* (manuscript). p. 147.

15 Same, p. 159.

16 Same, p. 160.



extra attention to the countries where minority problems could represent a potential source of conflict. The most important body of this double standard monitoring has been the High Commissioner on National Minorities of the OSCE.

Therefore the shaping of the problem of national minorities as an international problem was not only influenced by the principles of right protection included in international minority protection documents, but also by security policy viewpoints, and these usually outweighed the first ones by far whenever decisions had to be taken about Western military or diplomatic interventions. And whenever Western organizations eventually intervened in the ethnic conflicts of the post-communist area, they always exceeded by far the rights stipulated by the *Framework Convention*, recognising that these rights are helpful only to a very small degree when trying to solve ethnic conflicts. Interventions always took place on considerations of realpolitik and had little to do with the principles of minority rights protection.

More than that, Western organizations approached the issue of territorial autonomy in a different way, which was rooted again in considerations of realpolitik and security policy. For instance, as we could see earlier, CSCE/OSCE expressly recommended territorial autonomy in Copenhagen in 1990, while later on it clearly denied the rights of Hungarians in Slovakia for autonomy. At the same time, the OSCE supported autonomy in other countries, such as Ukraine, for example (the autonomy of Crimea), Moldova (the autonomy of Transnistria and of the Gagauz people), Georgia (the autonomy of Abkhazia and Southern Ossetia), Azerbaijan (the autonomy of Nagorno-Karabakh) and Serbia (the autonomy of Kosovo). The OSCE justified its support for autonomy in these countries stating that these cases had been „exceptional” and „atypical”.<sup>17</sup> In reality, the only thing that made these cases exceptional was that the respective minorities had acquired power in those regions earlier, by specifically anti-constitutional means. If the concerning states had decided to deprive these minorities of their territorial autonomy, this would have inevitably led to regional instability, something the OSCE wanted to avoid. Then again, where minorities resorted to peaceful and democratic means to achieve autonomy, the OSCE resisted against their aspirations, reasoning that they seek to destabilise the situation and create tensions.

17 Same, p. 162.

Consequently, the attitude of Western organizations toward minority problems can be qualified as ambiguous, even with the greatest benevolence.<sup>18</sup> When international organizations tried to bring the problems of national minorities under international regulations and norms in the early nineties, they hoped that it would be possible to frame the relationships between the states and their respective minorities into some sort of constructive co-operation. In view of this, it is quite difficult to tell today what messages the alternative minority protection strategies convey toward states and their minorities: the political mobilisation of minorities is at the same time encouraged and held back by the efforts of European organizations; they simultaneously propagate and dispute the values of Western federalism and autonomies, and the legitimacy of special minority rights is declared and dismissed concurrently.

18 Same, p. 164.

## REGIONAL AND ETHNIC MINORITY POLITICAL MOVEMENTS IN EUROPE\*

In the past decade increasing attention has been paid in the literature to the phenomenon of ethnic or ethnoregional political movements. This particular interest is quite understandable as after 1989 the nation building endeavours of the ethnic majority and the ethnic minorities' claims for more effective interest representation in the new democratic structures arose simultaneously in the new independent states of Central and Eastern Europe. As a result of democratic transition, in most states of the region the majority nationalist parties and – at least where their demographic position was large enough – the ethnic minority parties appeared on the political map simultaneously. The strength of national identity in political mobilisation was striking in the fierce and violent political conflicts of the region, especially in former Yugoslavia. This development was often seen as a consequence of democratic transition in the region.

As Claus Offe has put it, "*the unique and unprecedented nature of the East European process of transformation springs from the fact that at the most fundamental level a 'decision' must be made as to who 'we' are, i.e. a decision on identity, citizenship, and the territorial as well as social and cultural boundaries of the nation-state*"<sup>1</sup>. Indeed, in this context the ethnic cleavages in the political life of the countries in the region emerged in the peculiar political circumstances of democratic transition.<sup>2</sup> As a conse-

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1 Claus Offe (1991) 'Capitalism by democratic design? Democratic theory facing the triple transition in East Central Europe' in: *Social Research* Vol. 58, no. 4, p. 869.

2 From the vast literature on this matter see Bugajski, Janusz (1993) *Ethnic politics in Eastern Europe: a guide to nationality policies, organizations, and parties*. New York: Sharpe Armonk; Bugajski, Janusz (2002) *Political Parties of Eastern Europe. A Guide to Politics in the Post-Communist Era*. Armonk, NY-London, England: M.E. Sharpe; Cordell, Karl (1999) (ed.) *Ethnicity and Democratisation in the New Europe*. New York: Routledge; Salat, Levente – Robotin, Monica (2003) (eds.) *A New Balance: Democracy and Minorities in Post-Communist Europe*. Budapest: Local Government and Public Reform Initiative.

quence, during the transition period and within the process of European integration of these states, international organizations also paid particular attention to the situation of ethnic and national minorities in the region.

Nevertheless, the process of democratic transition in CEE countries can be seen as terminated in most states of the region; democratic institutions are relatively well functioning and the constitutional structures are usually considered to be stable. This conclusion can be driven also from the acknowledgement of international organizations requiring democratic stability from accessing states, especially the Council of Europe, NATO and the European Union which accepted the formal accession of most of the states from the region.

Obviously, one could hardly set up objective conditions for the evaluation of democratic transition in the region, and serious criticism can be formulated in many cases regarding the functionality of constitutional democracies in these countries, but still, considering their international recognition, democratic transition can be deemed to have been successful. Based on the experiences of the ethnic-based political movements in transitional democracies, one can assume that as a result of the institutional integration of CEE states into Europe, the process may also have effects in the political structures of ethnic mobilisation. In the past ten-fifteen years the effects of European integration on ethno-political movements has been widely studied.<sup>3</sup>

In this context the experiences of Western European developments may offer a new analytical framework for studying the perspectives of ethnic minority political movements in CEE within the process of enhanced European integration.

## Minority and/or Ethnoregional Movements

The experiences of democratic transition in Central and Eastern Europe have shown that political mobilisation based on national or ethnic identity was not only determinant for minority movements but was

<sup>3</sup> For example: Farimah Daftary & Stefan Troebst (2003) (eds.). *Radical Ethnic Movements in Contemporary Europe*. New York/Oxford: Berghahn. Micheal Keating (2001): *Plurinational Democracy. Stateless Nations in a Post-Sovereignty Era*. Oxford: Oxford University Press. Micheal Keating (2000), 'The Minority Nations of Spain and European Integration. A new framework for autonomy?', in: *Spanish Cultural Studies*, 1.1, pp. 29-42.

also important in the nation-building strategies of majority parties. As Brubaker pointed out, nationalist politics and nationalism is often “produced by political fields. Its dynamics are governed by the properties of political fields and not by the properties of collectivities.”<sup>4</sup> As a matter of fact, in the democratisation of Central and Eastern European states the reformulation of the concepts of “state” and “nation” have been in the centre of identity-based politics both in ethnic minority and majority communities.

Nevertheless, ethnopolitics has become an increasing mobilisation force also in stable Western European democracies beginning with the 1980s. In a very simplistic approach the fundamental basis of ethno-political mobilisation lies in the interest of protecting the community’s ethnic identity against centralised state policies or against the effects of globalisation (which may potentially threaten the integrity of the community through increasing challenges of migration or through the effects of a globalising market).<sup>5</sup>

In Central and Eastern Europe the recent emergence of ethno-political movements can be related to the collapse of communist regimes and to the evolvement of democratic institutions: besides the opportunities of minority interest representation in the new democratic structures political mobilisation on ethnic basis was often a reaction to the ethnic majority political elites’ exclusivist national endeavours in designing the new political structure of the state. Symbolic features of democratic transition in the region were the constitutional definition of an exclusive state language, the denial of the multiethnic character of the state or the declaration of hidden/open assimilatory policies.<sup>6</sup> The declared goal of ethnic minority movements usually focuses on the preservation and development of their community identity and on providing political representation for the community. In this regard Bugajski distinguished five main groups of minority political movements according to their political goals: a) cultural revival, b) political autonomy, c) territorial self-determination, d) separatism, e) irredentism.<sup>7</sup> Besides that, Bugajski set up

4 Rogers Brubaker (1996) *Nationalism Reframed – Nationhood and the national question in the New Europe*. Cambridge: Cambridge University Press. p. 17.

5 See: Huri Türsan: (1998) Introduction – Ethnoregionalist parties as ethnic entrepreneurs in: Lieven De Winter – Huri Türsan (eds.) *Regionalist Parties in Western Europe*. London: Routledge.

6 See also Bugajski (2002) *op. cit.*

7 *Ibid.* pp. li-liii.

different categories for the description of regional and majority nationalist parties as well.

In general we can see that in the Central and Eastern European region minority politics developed around national identity, and potential regional interest or claims have been marginal and subordinated to national ones.

In contrast, in a very different social and political environment, ethno-political movements in Western Europe developed on a strong regional background, and in most cases regional interests and claims are either equally or even better represented than national minority ones. According to the definition offered by Müller-Rommel, ethnoregional parties are those which build on the claims of minorities living in geographically definable (usually peripheral), territorially concentrated areas, which fight for the recognition of their cultural identity either through changing nation-state structures or even attempting to change democratic order.<sup>8</sup>

In the 'old' EU member states successful ethnoregional movements emerged in various regions from Flanders to Catalonia, which had observable implications on the functioning of the party system, i.e., in Sartori's terms, they are significant players regarding their electoral basis, their blackmail potential or coalition-making capacities.<sup>9</sup>

The obvious and fundamental reason behind such a difference between ethno-political mobilisation in CEE and in Western European states lies in the differences in territorial administration structures. Ethnoregional movements are usually successful in those Western European countries, where the constitutional development was based on decentralisation and the devolution of powers to constitutional regions largely contributed to the reinforcement of ethnoregional interest representation in these states. On the other hand, many of these ethnoregional movements were themselves successful in pushing towards constitutional devolution (like it happened in South Tyrol, in Scotland or Wales). Their political power and national claims appear today in a favourable decentralised constitutional structure, usually designed on a viable compromise between ethnic minority and majority interests.

<sup>8</sup> Ferdinand Müller-Rommel (1998): Theoretical consideration. In: Lieven De Winter - Huri Türsan (eds.) *Regionalist Parties in Western Europe*. London: Routledge. p. 19.

<sup>9</sup> Giovanni Sartori: (1976) *Parties and Party Systems: A Framework for Analysis*. Cambridge: Cambridge University Press.

Many authors claim that decentralisation and European integration have mutually contributed to the reinforcement of ethnoregional movements. Türsan argues that the revival of ethno-political mobilisation in the 1990s emerged simultaneously with two other interlinked political developments: the slackening of territorial bonds in a globalising economy, which is often coupled with the reinforcement of the territorial ties of political movements.<sup>10</sup> One of the main reactions to the global integration of market economy is the higher political and cultural evaluation of regional territorial specificities. It has become a serious political issue how smaller regions can successfully adapt to global economic challenges.<sup>11</sup> European integration, especially EU regional policies have also supported the hopes for the success of ethnoregional parties, inasmuch as they underline the expectations of the voters that any greater autonomy, wider self-government or even independence within the European Union may preserve the economic benefits of European integration without threatening the political and economic positions of the region. Such positive effect of the integration process on ethnoregional movements can be seen e.g. in the political rise and strategy of the Scottish National Party.<sup>12</sup>

### Transforming States in European Integration

The recent developments in European integration and the history of the European Union represents the changing framework of international co-operation in Europe and the emergence of a "supranational" political entity at the same time. In the past decades, with the substantial transformation of international economic relations and within the context of European integration, the concept of state sovereignty has changed as well. As the European Union gains more and more powers – either exclusive or shared competencies – against the states, a new "post-sovereign"<sup>13</sup> order is likely to appear.

Micheal Keating describes five main characteristics in this regard: a) European integration substantially undermines state powers in various

10 Türsan, *op. cit.* p. 3.

11 See also Michael Keating: (1996) *Nations against the State: New Politics of Nationalism in Quebec, Catalonia and Scotland*. Houndsmill: St. Martin's Press.

12 On political nationalism in Scotland see Károly Grúber (2000): *Machbethtől Sean Conneryig. A skót nacionalizmus politikatörténeti vázlat*. In: *Magyar Kisebbség* 2000/1 (19)

13 Keating (1996) *op. cit.* p. 369.

areas (among others in regulating the common market, in monetary policy or in the field of common foreign and security policy interests); b) accordingly, by creating a new legal order, the unifying Europe helps the development of parallel legal orders, which clearly hurts the doctrine of exclusive and unified state sovereignty; c) the efforts to make integrating Europe democratic as well, undermines old arguments that true democracy can only be successful in nationally homogeneous territories; d) as the protection of fundamental human rights has become independent from individual citizenship (among others by the evolution of the European Convention on Human Rights), this gives the responsibility of protecting human rights – besides the states – to the international community as well; e) thus the new international and supranational structures in Europe offer new opportunities beyond the national frameworks, for minority political movements as well.<sup>14</sup>

### **New Political Arena – or “Shared Sovereignty”**

The process of European integration apparently turns down the potential risks and threats of the national claims of ethnoregionalist movements. As an example, the Scottish National Party, which has become a significant political actor in Scotland in the past decades, can be more successful in propagating the independence of Scotland within the EU than outside the EU. As a matter of fact demanding independence within the Union seems to be less threatening for the public, inasmuch as political and economic links with England and with other European countries remain unhampered.<sup>15</sup>

Nevertheless, separatist claims do not usually have a strong public support even among ethnoregionalist movements. A more obvious and more general consequence of the integration process is the new discursive arena which appears within the structure of the EU: for many regional or ethnoregionalist political parties sovereign statehood has largely lost its primacy within the process of integration; the concept of shared sovereignty emerges as a new opportunity instead. The idea of

14 Michael Keating: (2004) European Integration and the Nationalities Question in: *Politics and Society* Vol. 32, No. 3, September 2004. pp. 367-388. See also Bíró, Gáspár: (2000) 'Minorities in International Relations' in: K. Imbusch – K. Seghers (eds.), *The Globalization of Eastern Europe*. Hamburg: LIT. pp. 297-332.

15 See interview with Neil McCormick MEP in: *Pro Minoritate* 2003/Tavas



"shared sovereignty" fits well in the slogans of public discussions about the process and future of integration and it also gives a favourable pro-integrationist profile for the political actors concerned. Evidently no one can expect that state sovereignty would fade away in an increasingly integrating Europe, but it may go through a dual transformation in which not only the supranational institutions may gain competencies and influence, but constitutional regions may get more powers and responsibilities as well.

In the past decade there have been many studies on multi-level governance in Europe<sup>16</sup>, but for the time being there has not emerged a general legal structure within the Union yet in which supranational, national and regional competencies would be clearly circumscribed. Thus, the different entities, member states many times, and the regional minorities or constitutional regions sometimes use the new representative structures and opportunities offered by the European Union to reinforce their own interpretation of European governance. In this way we can see that the dividing lines between the different levels of governance are still in motion within the changing power structures of European integration.

One important feature of these phenomena is that the concept of "subsidiarity" has been regularly reinterpreted in the European public discourse.<sup>17</sup> Originally this concept was aimed at 'protecting' member state competencies from unwanted extensions of EU powers; nevertheless, in the past decade this concept has become the guiding principle of the idea of multi-level governance in Europe. In this context today subsidiarity is not only understood as the basis of competence-sharing between the EU bodies and the member states, but also a strong argument for a more effective state structure in the views of the supporters of state decentralisation and regionalism. One of the consequences of deeper integration among European states can be that political actors formulate their claims for subsidiarity towards their states, thus regional or ethnic minority movements may well demand more powers from the nation-state. Even more, in a wider perspective, the reinforcement of internal and supranational power-sharing structures may lead to the reinterpretation of the traditional concepts on "state", "nation" or "citizenship".

16 E.g. Liesbet Hooghe – Gary Marks (2001): *Multi-level Governance and European Integration*. Latham MD: Rowman & Littlefield.

17 See e.g. Ken Endo: *Subsidiarity and its Enemies: To What Extent is Sovereignty Contested in the Mixed Commonwealth of Europe?* Florence: European University Institute, RSC No. 2001/24.

The weakening powers of statally centralised structures against “Brussels” may also encourage ethnoregional movements as they could have more opportunities for the representation and realisation of their political goals.<sup>18</sup>

## New Representative Forums

From the early 1990s, unlike the European Union, the OSCE and the Council of Europe have become very active in addressing minority issues and in developing international standards of minority rights protection. Against this background, the European Union seemed to be indifferent to minority issues, and it seemed to be inadequate to deal with ethnic minority problems. Nevertheless, with the strengthening of European integration from the 1990s, minority and regionalist parties started to become interested in participating in European politics.<sup>19</sup> The direct election of the European Parliament has offered new options for ethno-regionalist movements as well, from 1979 on. As a sign of this European co-operation in 1981 led to the establishment of the European Free Alliance (EFA). The EFA provides direct contact and co-operation between these political movements and also offers a joint forum for discussing European affairs and elaborating joint proposals.<sup>20</sup> In this context European integration largely contributes to the development of co-operation and joint policies between ethno-regionalist movements.

Besides these developments in the dynamics of ethnopolitics in Europe, the European Union itself started to take actions and set up institutions which may influence directly the territorially concentrated regional ethnic communities. Regional development policies, the increasing decentralisation of Community policies, and even more the establishment of the Committee of the Regions in the Maastricht Treaty have led to the re-evaluation of the position of regions in European integration. Within the European Union there has never been a clear definition of the territorial requirements or the constitutional status of the

18 Lieven de Winter et al. (2006) (eds.), *Autonomist Parties in Europe: Identity Politics and the Revival of the Territorial Cleavage*. Barcelona: ICPS, pp. 16-17.

19 Lieven de Winter and Margarita Gomez-Reino Cachafeiro (2002): ‘European Integration and Ethnoregional Parties’ in: *Party Politics* 8, no. 4, pp. 483-503.

20 See for example the EFA plans on multilingualism: Bernat Joan i Mari (2005): *Ecolinguistic Project*. The Greens/European Free Alliance, Eivissa: Mediterranea.

regions targeted by Community policies, and as a matter of fact it would be rather hazardous to make such a general definition. In this area the constitutional arrangements of the member states determine how they define regions within the state and what competences they delegate to their regions. Thus, while the Maastricht Treaty offers the possibility to member states to delegate the representatives of constitutional regions to the Council when regional development policies are discussed, only a few states permit that in their constitutional legislation (e.g. Scotland, Flanders may enjoy this possibility, while the Spanish constitution does not entitle Spanish regions for substituting the central government in these meetings). From another perspective, there are some member states in which regional borders for EU supports are designed purposely to divide historical regions where large, dominant minority communities are settled. Indeed, European integration does not have any influence on the design of constitutional and internal public administration structures.

Even though, despite intergovernmental decision making in regional policies, the European Union offers institutional structures which can help the representation of regional interests. Regions within EU member states may have the possibility to establish direct contacts with the European Commission and other decision making bodies both within formal institutions (like the Committee of the Regions) and in informal channels (representative offices in Brussels, lobbying, interregional co-operations, etc.). Such contacts may be very fruitful in utilising the Structural Funds or other regional supports, like cross-border INTER-REG co-operations. On the other hand, such structures are only available for those regional and minority communities, which have achieved a stable constitutional status as a self-governing region within their states.

In sum we can conclude that Community policies and institutional structures give more opportunities to those regions which enjoy a constitutional status. Nevertheless, the fact that there is a regional level policy within the Union may help those political movements which claim more decentralisation in member states. Thus, besides top-down regionalism, bottom-up regionalism may also be strengthened, potentially having significant economic influences as well.<sup>21</sup> In this broader context, minority claims for the decentralisation of state competences, for a more effective representation of regional and ethnic community interests may

21 Micheal Keating and John Loughlin (1997) (eds.), *The Political Economy of Regionalism*. London: Frank Cass.

find their legitimacy in "EU-rhetoric" and may argue that existing traditional regions, in which large minority communities live, could be more efficient in enjoying the advantages of European integration than artificially designed or centralised regions. The reinforcement of regional policies increase also the significance of regional and ethnoregional parties, when there is something economically measurable at stake, their success or failure may be based on more objective criteria than identity politics in general.

As ethnoregional political movements are able to represent their interests at supranational level, this option may be open for minority parties of Central and Eastern European member states as well. On the other hand, it largely depends on the economic and even more on the stable constitutional background of the regions where these minority parties are active and dominant. As a matter of fact, minority parties in Central and Eastern Europe are usually unable to build on regional identity both because they lack constitutional powers and also due to the usually dispersed settlement of minority communities. Hence for the moment these parties usually underplay the role of regionalism in their politics. In this perspective their primary goal is much more the reinforcement of equality, minority rights and the establishment of a favourable constitutional decentralisation. Nonetheless, regional development policies, the political institutions and actors favouring regionalism in the European Union in a longer run may also influence ethnic minority movements.

## POST-NATIONAL EUROPEAN MINORITIES – CHANCE OR CONDITION?

### In place of Introduction

Even a superficial look at the current European integration processes may lead us to state with reasonable scientific ease: it has become quite precarious nowadays to think in terms of nations, national minorities or any forms of existence local identities take, other than the national frameworks. It is not because, or not merely because minority identities and forms of existence can only be formed with excessive risks amidst current identity policies, but mainly because of the Benchmark itself that the majority „framework” has become more friable than any of the constructions or structures made up of state forming forces in history so far. National identities are eroding ever more so, and ever more intensely.

Evidently, I cannot consider each and every vital reason for this in my lecture, therefore I will solely confine myself to a short listing, albeit I am sceptical about it, for all the state forming policies, nation forming fervour, identity strengthening forces, and such tendencies around us are gaining ever more space wherever, on the grounds of majority principle, overwhelming priority principles are being practiced as if micro-historical changes, or even continental transformation processes (such as the Asian or African) could still only be constructed within great regional or nation-state frameworks. No question, I must start this listing with globalization, the product of the confluence of non-national or contra-national and contra-political governance influences.

Rather than summoning the tremendous German literature, I will confine myself to merely indicating: if and when the emergence of network societies becomes an indisputable and undeniable fact (whether we like it, or not; want it, or not), it becomes impossible to still conceive of minority mode of existence in terms of the traditional ones, that is, within the framework of the state, political integrations and small scale collective movements – conditions, which even a quarter of a century ago were characteristic features of societies, their workings and interactions.

If we only consider the processes of global economy, the different pertaining factors, such as the military, federal political, international interest policy, and a few more, which are parts of games and plays unfolding not (necessarily or only) within national or continental frameworks any more, but beyond them, then we should acknowledge that the economy undoubtedly rechannels and pervades national economics, weaves through the national economical networks, transforms the (present) layout of the international and interstate relationships, priority indicators, just as the place and status of the actors – sometimes not for decades or years, but for mere months only.

If we do not acknowledge that an Asian bird disease, an African tribal conflict, a Middle Eastern extremist group, or even one well-formed computer virus (devoid of „nationality“) is able to totally redraw the political, economical, security and communication networks of more continents for long months and years – then we are confining our vision to our household only, peeping merely through the attic ventilation window. If we are unable to consider the chances for a national policy to remain free from European, African, Asian or South American occasional conflicts, then we might pursue our national planning blindly and inoperatively. If we are unable to measure and weigh the new exodus of the international migrating crowds, their effect on the national culture, which is being challenged and constrained by them, indicating crisis, demanding a change of strategies, labour market concessions as well as forcing minority rights conditions – if we ignore all this, then again we will only be able to inspect our own bathtub closely and not the actual events taking place...

### **Minority or Nation Policy Disadvantage?**

I will cut it short here; everyone is able to extend this consideration to the several domains of their respective fields of knowledge, to their given sets of devices of effects and interplays, constraints and dilemmas, challenges and solutions. I only mention all this, because in the past one and a half decades EU-(ro)phoria, with its delicate balances and collective constraints, has become successively the existential experience of the nation states now slowly marching out of the bipolar global system. Nation states, I repeat, – that is, power structures based on national poli-

cies, national past and national strategies – are facing this situation born out of constraint. Left alone, the small circles of minorities, micro-minorities, differing identities and collective representations, which, in most cases, have gained their legitimacy and sought their legitimable forms of identity *against* the state level control, management, national policy or majority rule principles were imposed upon them. Nowadays this unity of local identity seems to be diminishing – a process which has been going on for some time, but one that has intensified recently, as I see it. It is not only because this „unified” nature was defined mostly externally (or internally dreamt about, and hoped for), but also because this „society against the state”, a group-like mode of existence is eroding ever more spectacularly and rapidly, even from an insider’s perspective. If the main supporting pillars of social cohesion are melting away, if all the traits of the spatial coexistence and economical functionality of the (joint) family and kinship are ceasing, if the entire system of economical, proprietary basis and market relationships is becoming not only regional but supra-national, transcending all boundaries, then who is entitled to still keep on discussing the self-protective powers of small community identities? If the presumed or imaginary „unity” of the community and society – which was there long ago, but has vanished by now – is only leading to further erosion from now on, is it still possible to be leisurely measuring the survival abilities, the autogenic world and autonomy needs of small scale collectives within the nation policy dimensions? It is the locals themselves, who know most about this, for in its numerous forms they are all living in minority conditions. I only want to indicate, that it is neither only regarding Romania, nor exclusively the Romanian-Hungarian, or Hungarian-Hungarian dimensions, but transcending all that, the real relationship stories are nowadays to be measured with the dynamics of European and Non-European, kin and alien, our own and migrant, acquaintance and stranger. Other interests, other tales, European and not only European narratives have woven through the national boundaries, have redrawn national identities, have appropriated national historical conditions... – and international, multi- or pluricultural identities, universal expatriations, intercontinental movements have emerged together with transcontinental identifications, which have been deliberately connected not to places or roots, but to provisionality.

The question arises: if even nation states hadn’t been so fabulously unified, only a little bit “other-like” compared to the others, a bit more

colourful or single-coloured in the age of nation constructions... – then what would have become of the condition of the post-national European minorities? Does it primarily contain chances as to the “at long last formulatability” of an independent identity condition, or quite on the contrary – it is the indicator of a condition the frameworks of which allow for, but at the same time ridicule, the seemingly unified particularity of minority identities searching for a place on the palette with their own colour? If we add to all this that minority states of being have ceased to be marketable either on a European or on an Asian or African scale by now in the age of macro-policies and the drifting currents of globalization, then we have to acknowledge that the joy of the invisible extension of minority condition – despite the resistance of the (nation)state forming political majority – might be futile.

One may even attain autonomy (see Faeroe Islands, Catalans or even Kosovo's successful efforts to independency), one may even secure acceptance of the solidarity with those living under oppression, or the intolerability of being constantly threatened with the ethical sympathy of the world (see the case of Tibet, the request for political asylum of some African refugee groups, or even the case of the Hungarian Gypsies' European and Canadian migration); nevertheless, these are by no means solutions to the minority policy process of the post-national age.

Staying or becoming a minority in the process of transition, gradually becomes a more characteristic experience than that of upholding the national colours against the symbols that represent other nation states of the EU or against other regions' national representations of the world. But if everybody becomes a minority in the age of diffluent majorities, then it will rapidly turn out that there is no minority without an even minoror minority, without a nucleus, without some inherent group aspiration striving to independency even within the minority status... It will turn out – which is an open secret among minority researchers –, that the main questions, or the most important aspects of the minority problem in our age are not the minority groups discussed in terms of majority/minority, or the ones related on the basis of the „minority as a unity” principle. For they are hugely divided, even their group-like units contain decisive, dominant minority forces, and the “drifters” are just as much to be found as the opposing party and the ones on the periphery, the committed, and the helpless, as well as the faithful and the resisting ones... What kind of minority narrative will be presented and when to



the public or to the secret diplomatic vocabulary? By answering this question it might turn out that is merely a question of viewpoint or interpretation, hence it will be primarily determined by the international scientific argot, the language of the economical or interest policy discourses or the group-level narration of values attached on minority principle basis...

### Ruling Principles, Scripts, Roles

In the Europeanization process – and along the present state political strategies – the strongest influence may be manifesting in the slow and deliberate withdrawal of the state from national politics. Therefore the transformation of the ruling principles of state policy (instead of a conscious improvement in undertaking the role of the main director of a drama) leads mainly to the fact, that the state forming social groups – the majority, the minority, the parties and political organizations, the refugees and those forced to the deconstruction of a lifestyle are *no longer protagonists* but only crowd-men, stand-by actors of the events taking place on the stage. This state theatre, though, claims to adhere to Euro-compatible norms, but in the handling of the processes the participant democracy and the idea of equal opportunities concerning life chances of the social actors can no longer be seen in the sphere of the goals to be achieved, but they have rather become a structural principle, which completes its way of functioning in the solidification of chancelessness, as such. The equal opportunity normative is used almost only to regulate the movement and the conditions of appearance of the actors present on the scene.

The question of how the „theatre ruling strategy“ of the state meets the practice of the actors might be a basic one... Summing it up, I would say, the political communities are bound to follow the EU-integrative norm in social integration, having even to familiarize themselves with the sense that what they are to integrate is itself a peculiarly disintegrating social state of affairs. In this „scenic space“ the director’s conception and the problem around which the script evolves are both counting on such professional actors, who, besides having the necessary routine in acting in front of an ever darkening background, are not only undertaking the narration of some well-known story, but they do love acting it out, as well... Meanwhile, on the „audience’s side“ (let’s say, this is the minori-

ties' side) it is almost dramatically visible, that the actors' stupendous interplay and the whole scene's production capacity falls badly short of the daydreams listed on the playbill (e.g. see the wide range of EU-illusions). In fact, the *ad hoc* groups of actors, or rather representatives stand for particular behaviour routines, and they are primarily linked by the chosen/inevitable existential situation in which they have no way of calculating the possible behaviour of the other actors. Most of those who are affected by the situation are forced into continuous improvisation, as if they were on an amateur stage, where the stage production pours over the auditorium again and again, and if a bucket of water slops over in the dramatic situation, it makes everyone wet in the auditorium, too.

In this strange modernization play two basic structure forming items ask for and are given space. One is the *state script* willing to mark out the boundaries within which the actors should move, and which is modernist in the sense of taxing the patience of even the more experienced actors (the ones living with a traditional role awareness) and the trusting audience. The other is the structural, or rather morphological norm which is *the undertaking of the regulation of cultural strategies* of the participating groups and which – in the state script – divides the political culture of the society into the groups of Euro-enabled and those who are left out – or into annexed ones and excluded ones. The cast and the libretto of the latter have completed mainly the re-creation and the regulation of the participant democracies from above, and it is only suitable for drawing a *demarcation line* between the acting groups, separating Ours from Theirs – the ones who are able to Improve from those who are Lagging behind, or anything which meets the European norm with quality-assurance from everything else which does not. It is enough to refer to the public sentiment and opinion regarding the EU-aptness of the newly joint-in countries, or to the kind of narratives which are building up with respect to the newly forming relations with the forthcoming joiners... or to what kind of minority policy norms will become standard for us on the basis of the European legal patterns, or maybe even in spite of them...

*The program of building up demarcation force lines is, in my view, a kind of identity building procedure, which serves equally both the maintenance of the right to the existing state level regulations, and the introduction of new ones, for this is a kind of cultural boundary building narrative which, in the name of neighbourly ideology, might be undertaken by the mediary function between the „long awaited West” and the per-*

manently present East. The “West awaited with open arms” attitude once symbolized a behaviour which was ready to sacrifice the fake brotherly intimacy, but at the same time it was asking for help and inclusion; while today, the „East awaited with closed arms” is reflecting the changed condition of solidarity. The weighing against the West and the accentuation of the traits separating “us” from the East serves as a means of forming a particular double identity or roleawareness which theoretically ensures the presence of both plus *the confidence of the possible choice* as well. Obviously, this demarcation zone has at the same time got a boundary-forming function, too, for it enhances the expansion of a polyethnic space if needs come from the inside, or in case more is needed, then from the outside; and it is also shaping the boundaries, the form, the interactions, the choice of patterns, the conflicts and the compromises of this space formed out of the presence of various ethnic groups.

At this point I am well aware, that it is very difficult to locate the „spaces” and „worlds” I have been trying to identify so far. Practically, I am speaking of all *group definitions* (be it internal or external, ethnic or economic), which can be described as *culture dependent units* and as *boundary forming ways of organization*. In the ethnic *group-boundary-narratives* this appears as a process whereby both the *identity-organization* and the *value system(s)* gain status amongst the elements of a *poly-ethnic social system*, based on the ethnic groups’ *mutual dependency system*. In the sphere of social group boundaries, naturally, this (*culture dependent group definition*) is surrounded by *polit-ecologically* important moments and it is determined by historically affecting *demographic perspectives* or migrational trends alike. As history, the process of local events and the system of external effect impositions are subject to factors of identity change just as the internal value systems are. The structure of the complex (and even more so of the pluralist) social systems are formalizing, operating and, as such, considerably preventing the formation of a more wholesome system of the movement of the cultural boundaries towards or further away from each other – and they do all this in a historical trend.

Hence the ethnic and cultural groups are presented as components of social stratification in the scene which, as a system, is characterized by changeability, where its reasons and ways are just as complex here with us, in Transylvania, as they are in Tirol, Dobrudja, or as it is the case with the majority of the third world and those countries which have

become semi-peripheral. The duality for us stems from the fact that, though we are far from admitting that the inner stratification and political conventions of Eastern societies would have any bearing upon our state of affairs, we suffer, at the same time, from the fact that the western type of Christianity cannot be realized in its pure form. All these social and mass relations, geographical and historical dimensions in public policy and sentiment are not determined by the condition of being closed, but always by the *cultural contacts* and the *changes* of the given time. I would only recall the fact, that the core questions and the key phrases (such as stigmatization, migrational mobility, ethnic economy, integration, exclusion and annexation, dichotomization, political stability, legitimacy, social conflict and a long list of such terms) in the public political and non-political public speech have been serving for some time mainly as a means to delineate the way the institutionalized and continuously organized existence of several ethnic or ethnocultural groups become definable. However, the dim outline of the boundaries is the very reason why the interpenetrability, the interactions, and the different ways of using time and space do not only solidify cultural differences, but at the same time they make the condition of existing between cultures constant and indefinable, as well as subject to change.

In the title of my lecture I was referring to the question of chances and conditions... Concluding my thoughts, I would like to draw attention to the way ethnic group relations are being dealt with externally and internally, as an inherent way of managing them. It is well-known, at least since Barth's introductory essay to the book dealing with the problem of ethnic boundaries, that in contrast to the structuralist-functional thinking tradition, minority individuals are not merely the „carriers” of a given culture's norms and values defined in various ways. Rather individuals, their perceptions and goal-oriented decision making capability, their self-definition and their relation to „external events” (that is, to decisions taken independently by the individual, but only those which affect him/herself, too) should be regarded as active social factors. In this respect ethnicity, minority mode of being, or marginalized inequality of opportunity are not thought to be made up of a heap of cultural characteristics among which each individual might be identifiable with a certain name or function – and thus a boundary might be drawn around him/her; instead, it is exactly through the characteristic action's transgression of the invisible fields making up the social space itself, that

ethnicity as a minority and cultural mode of being is created. This transactionalist basic pattern (and at the same time a very practical approach) is based on the notion that the meaning-related (imposed, created, accepted, rejected) ethnical-cultural boundaries are constantly interpenetrable. However, every effect coming from the outside to the inside, and from above to below *leads to an interaction*, and it is exactly the deliberately claimed space of belonging or identification that makes up the boundary itself. Demarcation lines are talked through, and with this traditional procedure are thus constructed by the actors between the past and the future, although this is done in the present (for more on this see Siikala), and it is exactly because of this that the rules and effects of the lack of participation or “joining in” – in the ordinary sense – may change in character. Today, in the expanded modernity there is no such thing as citizenship and stateship, membership and faithfulness in the traditional sense – says Appadurai (1996). Instead, everything is in constant motion – flowing from one condition to another, including even the peripheries in relation to the centres and the other way round, with the rural areas in a confrontational relationship with the centres... Barth regards the thus „rewritten”, talked-through process of change, flowing between ebb and tide due to its „wave-like nature”, to be history, understood as a sequence of events in which the personality that is able to experience and accept regularity and manage its expansions is constantly enriched with a wider horizon and expansion both in the geographical and cultural sense. This is where the outsider’s (say, the politician’s, the social planner’s or the EU(ro)phoric administrator’s) view can be formed, which defines something as an „ethnic” or „cultural group” without having anything to do with, or participating in the least in the defined complexity. This is the same point where, in addition to the outsider’s view, the insider’s standpoint can be formed, too, for whom it would be indeed limiting if he/she were to consider only the internal dimensions of ethnic culture or regional expansion, thus almost rejecting all those external effects from which, after all, he/she cannot be independent.

Today the possible interpretation of this – in the Barthian sense – must be practically a transactionalist one (see more of this in A. Gergely, 2005: 226-229), for it is the *internal and external processes* that make up intercultural understanding, as well as the determinators, which may be regarded as an equality-based participation undertaken in the integration

programme. The meaning of the above is that it is through these processes that the individuals signal their belonging to a certain group, and through which they separate the ones outside the group from themselves – an action which the „outsiders” perform also for the sake of defining their identity. This is where a distinction can be made between individual and group manifestations; but self-centred ethnicity on a basic level can only be made sensible if identity representation refers to a socially constructed identity and a culturally legitimized practice. The time factor of the Europeanization process and the beginning of the self-defining process are seemingly contradictory with one another, since the search for a cultural identity might seem to be a completely internally generated one. Nevertheless, not even this can exist without some preceding basic interactions, for it presupposes, together with the external time factor and the necessity of norms some kind of surroundings, narrators and listeners – a socially reflective surrounding in which and for which the self-defining experiments are happening, and without which all the determining effects coming from the outside, or the self-interpreting initiatives would lose their meaning. It is worth looking up a number of illustrations of these questions in the recently published microhistorical reader (see 2006; Sanbar 2006; Silberman 2006).

Minority self-definitions and the chances and conditions of intercultural contacts are thus not only questions of rights and benefits or rules, but they are themselves necessities of clarification, hidden in the definition of the External and the Internal – one’s Own and the Stranger, and, most probably, we will find them to be *collective* EU, European and subnational necessities for all of us...

### **Post-National European Minorities – Chance or Condition?**

The integration mechanisms of the European nations have become an important project in many countries of the region, but deep down within these processes the disintegration of communities is taking place and, simultaneously, there is an invisible expansion of the minority condition into the (state)nation forming majority, as well. Remaining or becoming a minority in the process of transition gradually becomes a

more characteristic experience than that of upholding the national colours against the symbols that represent other nation states of the EU, or against other regions' national representations of the world. We might therefore ask whether being a minority is a condition or a possibility for integration – or a choice born of necessity or insight. If everyone became a minority in the near future, will there be a chance for the historical, cultural, linguistic or state national minorities to sustain themselves in the way they have had the opportunity to do it until now? My lecture leads to the question of crossing the borders and of the integration plays on the European „stage”, touching also on the narratives pertaining to nations and minorities. Besides theoretical questions, I consider the inclusion of the West in the East, and the acceptance of the East in the West a crucial issue, a process which will thoroughly reshape the post-modern EU-visions, following the recent changes in the political-economical systems.

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## II.

### EUROPE – LANGUAGES AND IDENTITIES



# FROM MONOLINGUALISM TO MULTILINGUALISM IN THE EU – THROUGH BILINGUAL MINORITIES (Status Report on Central Eastern Europe)

## 1. Social Roots of Mono- and Bilingualism

Europe comprises linguistically and ethnically heterogeneous countries, characterised by majority–minority inequality in terms of language use. The indigenous and immigrant minorities are mostly bilingual or multilingual, with lesser or stronger limitations imposed on their language rights *de jure* and/or *de facto*. In contrast, the majority are surpassingly monolingual – especially as far as proficiency is concerned in the minority languages. Depending on factors, such as the strength of national identity and the presence of a political power enforcing it, or the degree of international human legal commitments, it is this latter group that makes the decisions regarding the quality and extension of language rights – with a possible involvement of the minorities.

Bilingualism has been defined in a number of ways. Here Grosjean's model of a "useful" knowledge of two (or more) languages will be applied with reference to bilingualism. According to Grosjean's definition, any one speaker can be regarded bilingual who is consistently able to choose the adequate language code for the given speech situation and communicative function, resulting in successful communication. Individual bilingualism, however, can occasionally be also seen as part of a bigger set – notably when it comes to social bilingualism encompassing a whole speech community. Encoded in their past, it is not alien to the peoples of the European countries, including the Central Eastern European countries, to know two or more languages. Nevertheless, there are major differences in terms of quality and expectations – both in space and time.

## 2. The Monolingualism of the Majority, and their Willingness to Learn Other Languages

First, let us take a closer look at the linguistic competence of the *majority language community* as regards foreign language learning. Initially, it can be noted that majority language groups of the European Union first of all learn one or more widely known languages, especially with an instrumental motivation, but – in terms of interethnic relations – they are largely monolingual. (NB: As regards their mother tongues, they mostly belong to less widely known languages.)

According to a poll carried out by Eurobarometer at the end of 2005 (*Europeans and their languages*), the rate of speakers proficient in at least one foreign language has shown an overall improvement across the EU (2001: 47%; 2005: 56%). Furthermore, it was reported that, as opposed to the earlier 72%, in 2005 83% of EU citizens found useful to know foreign languages. The dominant role of English is strikingly clear: 38% of the people speak it at least at a conversational level, but there are countries where this rate is higher than 80% (like in Sweden or Malta). In the survey, the French and the German language came second – each with 14-14%. There is a puzzling figure in the statistics: 100% of the Hungarians as well as of the Portuguese, and 99% of the Greek identified their national language as their mother tongue. There was no one belonging to a minority asked? Or can it be that assimilation is so great that people with a non-Hungarian mother tongue, living in Hungary, are as scarce as hen's teeth to take on their linguistic identity? It is even more puzzling a result – no comment – that 10% of Slovakian citizens identified Hungarian as their mother tongue. Similarly, 26% of Latvian and 17% of Estonian citizens designated Russian as their first language. These numbers are almost fully identical with the minority population proportions, but the text itself somehow fails to notice this important fact. The Eurobarometer poll (2005) did not tap into the learning of regional and minority languages – this will probably constitute one part of a later sampling to be obtained around 2009.

Nonetheless, the rate of good foreign language proficiency is still undoubtedly very low in Hungary. The Eurobarometer poll reports that only 42% of Hungarian citizens claim that they are able to communicate at a conversational level – mostly in German or in English. This is way below the expected standard for socially-economically useful language proficiency. Language schools report a tendency for more candidates sub-

scribing to false beginner classes than to complete beginner ones, and several people have a go at e-learning courses. Hence, the problem is not the willingness – it is something else. Foreign language specialists have been searching for the reason – and, naturally, the solution – for decades. For a long period of time 'lack of motivation' was the buzzword, accompanied by the reference to the absence of attractive, up-to-date and interest-rousing communicative course books and other teaching materials. These ideas are now outdated. First the appearance of multinational companies offering salaries well above the average, later the access to employment abroad became a strong motif, without question, for all the different layers of society. As regards course books, a wide selection of excellent and appealing teaching materials are now available for learners. It is all very well and true that the mood for language learning has grown. Secondary education is also trying to meet the growing demands: by introducing the so-called 'zero year', secondary schools aim to build a solid foundation for foreign language proficiency at the most adequate age. This, nevertheless, still only serves the spread of individual, so to speak, 'elite' bilingualism. It is a commonplace that almost 50% of language learners choose English and a further 40% opt for German as a primarily targeted language to learn. French, Italian, Russian, Portuguese, Swedish, Spanish and other European languages, however, lag behind as second or third options. In most cases some kind of instrumental motivation is in the background – such as access to employment, post-secondary courses or scholarships. Integrative motivation related to long-term migration only attracts very few people, even as EU citizens. As regards learning the languages of neighbouring countries, the situation is even grimmer. Very few people apply for the language courses offered by cultural centres. To make things worse, a lot of applicants choose to learn their language of origin, but language schools seldom offer courses in Slovakian, Romanian, Croatian or Slovene etc. This, of course, should not make us jump into conclusions, but if we accept that small enterprises are the fastest to react to market demands, interest could be measured immediately in language schools, which are small undertakings.

Another area to investigate could be the spontaneous, community-based bilingualism or multilingualism of mixed-ethnicity Hungarian municipalities, which has a long verifiable tradition. The problem is that the social proceedings and movements in the 20<sup>th</sup> century – urbanisation, the break-up of traditional village communities, migration, commuting, the

prioritising of class perspectives, the stigmatising of national identity, amongst others – sped up ethnical and linguistic assimilation, and what 21<sup>st</sup> century integration laws could not achieve was achieved by social movements acting against closed communities. Minority languages also gradually dropped in internal prestige. Finally, not only did minorities learn the state language, but their bilingualism also turned into a subtractive (replacing) type of bilingualism, which is known to push the mother tongue into the background, and which slowly questions its own usefulness and the importance of passing it on to next generations. Today in mixed ethnicity municipalities Hungarian is the primary language – even though the LXXVII. ethnic law of the year 1993 supports the use of minority languages. Perhaps the situation along the borders and the setting up of joint ventures will enhance the prestige of ethnical languages, and they will be more widely learnt either as a language of origin or as a foreign language. At present, however, it seems that the latest intermediary language or *lingua franca*, English, has pushed all other alternatives into the background.

### 3. Long-Term Benefits of Forced Bilingualism

I have mentioned the willingness to learn languages as concerns one of the parties, the majority group, in the linguistic inequality. Let me now speak about the other party that comprises *national and ethnic minorities*. Minorities – after acquiring their mother tongue – first learn the minority language, and consecutively, one or more widely known languages. (The latter one takes place in the frame of primary and secondary education; in this respect there is no difference between minority and majority groups.) The learning of the majority language is primarily driven by integrative motivation (except when this is the language of instruction, in which case – obviously – instrumental motivation comes into the foreground), while the learning of a mutually foreign language or languages is induced by instrumental motivation.

Today no one questions that minorities should be familiar with the majority language. What is more, international documents protective of minority languages – such as the Hague Recommendations – particularly specify the standards for each educational level. Basically, the idea is that additive minority bilingualism must be built gradually, grounding it in the mother tongue through awareness-raising in the first language.



Dual linguistic competence must be extended to vocational/professional language use, since it indirectly contributes to equal opportunities for the ethnical minorities.

This sounds all very well, but we know that the teaching of the majority language has serious didactic problems to solve. A couple of years ago, in an article published in the journal *A Hét* (2005), Sándor Szilágyi N. was searching for an answer to the question why Hungarian children fail their tests in Romanian – and education specialists are concerned with similar questions in Subcarpathia as regards minority children's low-level proficiency in Ukrainian and the disadvantages resulting from it (Beregszászi, Csernicsekó, Orosz 2001). As it can be seen from the school curricula, the teaching of the state language as a second language is still underdeveloped: there is a shortage of qualified teachers who should be able to teach in two languages – as specified in the international documents mentioned above. Also, the appropriate course books and teaching aids are missing that could adequately support the mastering of the majority language for minority speakers.

One solution could be a language pedagogy which would be based on an environmental language approach. One example for this – although from the other direction – was when, up to the end of the 1980s, in certain municipalities of Yugoslavia, Serbs living in a relative minority were taught Hungarian as an environmental language. Even today it would be worth studying those books and teacher-training programmes that were in use there. In discussions about the language of instruction, often emerges the question what is in the interest of the majority and the minority speakers. The former – as it seems to be based on the experiences drawn from language policies ranging from cushioned solutions to crude, prohibiting ones – are first and foremost interested in subtractive bilingualism, while for the latter the additive type of bilingualism would be the ideal solution – if only it could be provided by public education.

Nevertheless, even despite the difficulties in teaching, it can not be said that the minorities do not speak the official language of the state; more or less everyone is able to communicate their ideas. Language proficiency, however, can be defined along a long continuum. Taking the Common European Framework of Reference (CEF) into account, a minority speaker should reach the highest proficiency level (C2). Moreover, if they wish to work in their region of origin or homeland, they should be able to pursue their work in two languages – this, however, does not mean

'balanced' bilingualism, or a full equivalence of the two languages. It would be useful to research how the different language proficiency levels relate to language competence for special purposes – both in the mother tongue and in the secondly learnt language. As far as I can judge, the profile of such a relation would be a lot more complex than for those who study a language as a foreign language. Proceeding with this idea, we get to the benefits mentioned in the title of the present section. The bilingual learning of the mother tongue and a forced second language create a unique cognitive base in speakers at an early age, verifiably further intensified by the benefits of early-age-language-learning. This cognitive base, built on two – often even typologically – different language systems, on transfers and interferences, makes it much easier for minority speakers to learn a third or a fourth language than for monolingual majority speakers.

The principal sphere for the growth and sophistication of ethnical language use is secondary education, while a possible field for higher level bilingualism and multilingualism is post-secondary education. Two conflicting views collide in this respect, as it can be seen from the comments made at the 2004 'Debrecen Discussions on *Language Policies – the Language of Instruction at the University*': the one that favours monolingual training and the other in favour of multilingual training (Kontra 2006). The different majority language universities in Hungary are now offering a wide range of seminars, lectures, modules and even complete training programmes in foreign languages. The idea is that thus students graduating from Hungarian universities will have a better chance to compete with the economists, doctors, engineers and lawyers of other countries. Education in the mother tongue in a minority environment could be supplemented by subjects taught in the majority language and in the learnt foreign language. This form of education would leave a door open for self-assertion both in the homeland (the region of origin), and in the mainland; and at the same time it would contribute to gaining experience abroad.

#### 4. When the Majority Learns a Minority Language

A phenomenon unacceptable in certain European countries due to predominant language ideologies (as in France), but well functioning in other countries for decades (like in Finland), and a recent trend in Central Eastern Europe: people belonging to the majority language group

learn a minority language thought to be useful for business purposes, with an instrumental motivation (unfortunately not yet in Hungary). This form of language learning could purely be looked at as elitist foreign language learning, but – because of the tight and hierarchical interethnic relations that are often burdened with severe conflicts – it must be viewed as a separate category in its own right.

At places where this form of learning has a long past in public education to look back upon, the shift seems continuous and smooth from the outside. We must not forget, however, that only a language considered practical and beneficial is learnt willingly and whole-heartedly. The Finns, for instance, are divided on the compulsory nature of learning Swedish in schools and on the benefits of the Swedish school-leaving exam. In my view, motivation is greater if the individual is free to choose to learn or not to learn a minority language, and it would be helpful to raise this question earlier than in adulthood. In the schools of mixed ethnicity small towns along the borders, for example, it is quite likely that there would be an interest shown toward the learning of a minority language as a second language, in the form of facultative (optional) classes.

## 5. Closing Remarks

For centuries, Central Eastern Europe has had an international intermediary language, a so-called *lingua franca*, to use in international and interethnic communication – such was Latin, German, Russian (to a limited degree), and today: English.

It is a fundamental principle in the language policy of the European Union to preserve multilingualism and to encourage EU citizens to learn at least two languages apart from the mother tongue. Minorities in Central Eastern Europe – even if not voluntarily – have started walking this path. Their bilingualism is grounded in their proficiency in two less widely known languages, to which the knowledge of a widely known language is added. This is mostly English but also French and German – although with a decreasing tendency in degree and extension. The majority, although they still focus on the learning of a widely known language, are slowly coming to realise the economic and cultural impact and importance of interethnic relations, and they tend to incorporate a minority language indigenous to their region in their group of targeted languages to learn.

Finally, allow me a personal remark: since I have learnt to speak Slovakian (and there is always place for improvement), I have a different eye for Slovak-Hungarian relations, and for the debates resulting from the linguistic-ethnic inequality – let it be the Slovaks living in Hungary, or the Hungarians living in the newly autonomous and since then EU-member Slovakia. I am not saying that I accept the discrimination re-appearing again and again, but I can give an explanation for it and I can form my own opinion.

Once a person belonging to a majority group learns a minority language, he or she is bound to become a part of the ethnic traditions related to the given language and to gain insight into the nation forming processes of the ethnic group. From that moment on, this person can not fall into the trap of extreme ideologies. Basically, this is the goal of the EU when they encourage the learning of less widely known languages and minority languages: once we overcome our prejudices and presuppositions with the help of our (multiple) language proficiency, we indirectly contribute to the preservation of the linguistic and cultural diversity in Europe.

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# **ETHNISCHE IDENTITÄT UND GESCHICHTLICHE ERKLÄRUNG ÜBER DIE KONSTRUKTION UNTERSCHIEDLICHER BILDER DER STADT TEMESWAR**

## **1. Kontextuelle Einbettung der lokalen Geschichtsschreibung**

Die Untersuchung<sup>1</sup> der historiographischen Komponente von Identitätsdiskursen setzt die Erforschung derjenigen Arbeiten voraus, die auf die partielle oder vollständige Rekonstruktion der Vergangenheit der Stadt Temeswar ausgerichtet sind. Es handelt sich dabei um Texte, die sich ausdrücklich historiographisch definieren und damit entsprechend einer wissenschaftlichen Methodik von spezifischen Erklärungsstrategien Gebrauch machen. Historische Werke sind zwar als fiktionale Gebilde mit literarischen oder künstlerischen Werken teilverwandt, sie unterscheiden sich jedoch von den letzteren durch den Rekonstruktionsanspruch einer vergangenen und ereigneten „Wirklichkeit“. Dieselbe Zielsetzung wird auch von Erinnerungstexten (die ebenfalls identitäre Ausdrucksformen darstellen) geteilt. Die Geschichtsschreibung differenziert sich aber von diesen einerseits durch ihren Anspruch auf ein strengeres Rekonstruktionsverfahren, gegründet auf einem vermeintlich verifizierten methodischen Instrumentarium, und andererseits durch ein tieferes Eindringen, Eintauchen in für das individuelle Erinnern unzugängliche Vergangenheitsbereiche.

Was das historische Werk zu einer besonderen Komponente des Identitätsdiskurses macht ist sein Legitimierungscharakter. Durch dieses gestaltet und modelliert der Gemeinschaft ihre eigene Vergangenheit, die als Grundlage ihrer Selbstprojektionen dienen kann. Der Rückgriff auf

<sup>1</sup> Der bevorstehende Artikel wurde als Ergebnis unserer Untersuchungen im Rahmen des von der Volkswagen Stiftung Hannover unterstütztes Forschungsprogrammes „Die Rückkehr der Städte? Funktionen der Erinnerungskultur in Mittel- und Südosteuropa im 20. Jahrhundert: Temeswar und Dresden im Vergleich“ abgefasst.

die Vergangenheit wird somit zum Legitimierungsinstrument gegenwärtiger Zielsetzungen. Die der Stadt Temeswar gewidmeten monographischen Arbeiten bieten eben aus diesem Grund eine multiperspektivische Vielfalt, in welcher verschiedene kulturelle und politische Konstellationen von spezifischen historischen Diskursmodi begleitet wurden. Kontextänderungen haben also Mutationen der Geschichtsschreibung mit sich gezogen.

Der dem Temeswar-zentrierten historiographischen Diskurs am nächsten stehende Kulturkontext ist derjenige aus dem deutsch-österreichischen und ungarischen Raum bis 1918 und der aus Rumänien nach diesem Entscheidungsjahr. Die Monographien über Temeswar müssen in dieser Einbettung analysiert und gewertet werden, die bereits den Untersuchungsgegenstand zahlreicher Experten sowohl für den österreichisch-deutschen,<sup>2</sup> als auch für den ungarischen<sup>3</sup> und rumänischen<sup>4</sup> Teil gebildet hat.

Der politische Kontext hat seinerseits drei radikale Umgestaltungen im Laufe des XX. Jahrhunderts erfahren:

- 1918, als Temeswar und damit ein Großteil der Region in Rumänien eingegliedert wurde,
- in den Jahren 1945-1947, zum Zeitpunkt der Einführung totalitär-autoritärer Herrschaftsverhältnisse in Rumänien,

2 Siehe zum europäischen historischen Diskurs des XIX. Jh-s als „fiktionalen Gebilde“ Hayden White, *Metahistory. Die historische Einbildungskraft im 19. Jahrhundert in Europa*, aus dem Amerikanischen von Peter Kohlhaas, Frankfurt am Main, Fischer Taschenbuchverlag, 1994. Eine zusammenfassende Darstellung der deutscher Geschichtsschreibung im Beziehungsgeflecht zu den anderen Wissenschaften und mit der allgemeinen sozialen Entwicklungslinien bis 1918 bietet Thomas Nipperdey, *Deutsche Geschichte 1866-1918*, I. Band, *Arbeitswelt und Bürgergeist*, München, Verlag C.H.Beck, 1994, S. 602-691. Siehe ebenfalls da eine kurze bibliographische Darstellung der Problematik deutscher Geschichtsschreibung.

3 Siehe z. B. Ábrahám Barna, *Ungaria ca simbioza a mai multor culturi naționale în manuale*, in Lucian Năstasă (Hrsg.), *Studii istorice româno-maghiare*, Iași, Fundația academică „A.D. Xenopol“, 1999, S. 283-288.

4 Siehe zur allgemeinen Entwicklung der rumänischen Geschichtsschreibung die Arbeit von Frederick Kellogg, *A History of Romanian Historical Writing*, Baskerville, California, Charles Schlack Jr. Pub., 1990. Die rumänische Geschichtsschreibung um die Jahrhundertwende wurde aus unterschiedlichen Perspektiven untersucht; siehe dazu einerseits Al. Zub, *De la istoria critică la criticism (Istoriografia românească la finele secolului XIX și începutul secolului XX)*, București, Editura Academiei, 1985, sowie, andererseits, Lucian Năstasă, *Generație și schimbare în istoriografia română (sfârșitul secolului XIX și începutul secolului XX)*, Cluj, Presa Universitară Clujeană, 1999. Die Zwischenkriegszeit wird in den Arbeiten von Al. Zub, *Istorie și istorici în*

– und 1989 durch den Sturz des kommunistischen Regimes.

Die drei Etappen trennen zugleich deutlich vier sonderbare politische Phasen ab:

– die Zeitspanne vor 1918, in welcher Temeswar des ungarischen Staatsgebildes war, welches seinerseits seit 1867 zur Österreich-ungarischen Monarchie gehörte,

– 1918-1947, als in Rumänien (mit Ausnahme der Kriegsjahre) die Erfahrung relativ demokratischer politischer Verhältnisse gemacht hat,

– 1947-1989, die Periode der kommunistischen Herrschaft,

– die postkommunistische Periode nach 1989.

Aus dieser Gliederung leiten wir die Fragestellung unserer Forschung ab:

– In welcher Weise trägt der historische Diskurs zu den Identitätsbildungsprozessen der unterschiedlichen ethno-kulturellen Gruppen in Temeswar bei?

– Welche Rolle spielt die Geschichtsschreibung im Rahmen des Dialogs oder der Konfliktsituationen zwischen diesen Identitäten?

– Gibt es innerhalb des historischen Diskurses Anhaltspunkte zur Herausfilterung einer über die einzelnen ethno-kulturellen Teilidentitäten hinausweisende lokalen Identität – im Sinne einer Temeswarer Identität?

Darüber hinaus schlagen wir bei der Untersuchung der internen Strukturierung des jeweilig spezifischen historischen Diskurses der einzelnen Ethnien die Heranziehung der Diskurse der anderen Ethnien als kontextuelle Faktoren des ersten vor.

*România interbelică*, Iași, Editura Junimea, 1989. Die Entwicklung der Geschichtsschreibung unter dem kommunistischen Regime wurde z. B. von Vlad Georgescu, *Politică și istorie. Cazul comuniștilor români 1944-1977*, București, Humanitas, 1991, Al. Zub, *Orizont închis. Istoriografia română sub dictatură*, Iași, Institutul European, 2000, oder Lucian Boia, *Mitologia științifică a comunismului*, București, Humanitas, 1999 untersucht. Die Geschichtsschreibung nach der '89er Wende wird von Al. Zub in *Discurs istoric și tranziție. În căutarea unei paradigme*, Iași, Institutul European, 1998 und Smaranda Vultur, *New Topics New Tendencies and New Generations of Historians in Romanian Historiography*, in Ulf Brunnbauer (Hrsgs), *(Re)Writing History – Historiography in Southeast Europe after Socialism*, Münster, LIT Verlag, 2004. S. 236-276, thematisiert. Die Wiederkehr nationaler Fragestellungen in der rumänischen Geschichtsschreibung wurde von Lucian Boia in zwei seiner Arbeiten behandelt: *Istorie și mit în conștiința românească*, București, Humanitas, 2000, und *Două secole de mitologie națională*, București, Humanitas, 2002.

## 2. Bibliographische Dokumentationsmöglichkeiten

### Bibliographien

Die Erforschung der Temeswar gewidmeten monographischen Arbeiten wird in gewissem Umfang vom Vorhandensein einiger bibliographischen Quellen erleichtert. Trotzdem ist bis heute keine selbständige Bibliographie der historischen Beiträge zur Geschichte von Temeswar vorhanden. Es gibt aber vereinzelt bei einigen Verfassern von Monographien über Temeswar relativ umfangreiche bibliographische Listen, die ihren Arbeiten angehängt wurden.<sup>5</sup> Die Quellen bieten keine vollständige bibliographische Auflistung, sondern sie reflektieren den jeweiligen Stand der individuellen Dokumentationsstufe und zugleich die Ausrichtung ihrer individuellen Forschungsprojekte.

Es gibt also bis heute keinen systematischen Versuch zur Ausarbeitung einer historischen Bibliographie der Stadt Temeswar. Eine grundlegend andere Sachlage ist aber etwa im Falle der historischen Erforschung des Banats als regionales Gebilde vorzufinden, in welchem Temeswar als Zentrum fungiert. Zu diesem thematischen Schwerpunkt gibt es mehrere partielle bibliographische Listen, die sich auf bestimmte temporale Abschnitte oder spezifische Fragestellungen beschränken. Ein erster derartiger Versuch stammt aus dem Jahre 1943 mit einer *Bibliographie des Banats*, verfasst von Aurel Bugariu, welche die Zeitspanne 1918-1943 berücksichtigt.<sup>6</sup> Diese Liste beschränkt sich nicht auf die Darstellung historischer Arbeiten, sondern umfasst auch literarische, geographische und naturwissenschaftliche Schriften. Dieser Ansatz wurde durch Bibliographien fortgeführt, die aber ausschließlich historisch ausgerichtet waren. Zu erwähnen sind in diesem Zusammenhang die Arbeiten von Alexandru Rusu und Stelian Mândruț. Erster liefert gesonderte Bibliographien bis zum Jahr 1943 und dann für die Zeitspanne 1944-1970,<sup>7</sup> und veröffentlicht dann in deutscher

5 Erwähnenswert sind z. B. die Arbeiten von N. Ilieșu, *Timișoara. Monografie istorică*, 1943, oder Ion Munteanu-Rodica Munteanu, *Timișoara. Monografie*, Timișoara, Editura Mirton, 2002.

6 Aurel Bugariu, *Bibliografia Banatului 1918-1943*, in *Revista Institutului Social Banat-Crișana*, Timișoara, 1943.

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Sprache eine umfassende Bibliographie ab dem XIX. Jahrhundert bis 1970.<sup>8</sup> Stelian Mândruț bietet schließlich seinerseits eine Bibliographie zur Geschichte des Banats für die Jahre 1970-1985.<sup>9</sup>

Die systematische Erforschung des Banater historischen Schrifttums hat somit zur Aufarbeitung des bibliographischen Materials bis zum Jahre 1985 geführt. Diese Listen können aber keinen Vollständigkeitsanspruch erheben. Zwar berücksichtigen diese auch die im Ausland veröffentlichte Beiträge oder anderssprachige Arbeiten, die Vorliebe der Verfasser für die rumänische Fachliteratur ist jedoch offensichtlich. Eine Erklärung dafür liefern die mangelhaften Dokumentationsbedingungen zur Zeit der Ausarbeitung dieser Werke: Bugariu arbeitet während dem Weltkrieg und die anderen innerhalb eines kommunistisch geprägten, isolierten und isolationistischen Forschungsmilieus.

Außer der erwähnten bibliographischen Werken, die keine thematische Selektion innerhalb der Banater Geschichte ausführen, wurden auch weitere, diesmal thematisch organisierte Listen veröffentlicht. Es handelt sich dabei um die Bibliographie der mittelalterlichen Denkmäler aus dem Banat von Nicolae Stoicescu,<sup>10</sup> und um einen Rekonstruktionsversuch des Banater historischen Schrifttums Mitte des XIX. Jahrhunderts, den wir Luminița Wallner-Barbulescu zu verdanken haben.<sup>11</sup> Erwähnenswert sind auch die Analyse der monographischen Forschung des Banats von Carmen Albert,<sup>12</sup> und die Liste der Monographien der Banater Ortschaften von Ioan Hațegan.<sup>13</sup>

Alexandru Rusu, *Realizări ale istoriografiei românești. Titluri de articole și studii extrase din Reviste de specialitate apărute în țară între anii 1944-1970, relative la istoria Banatului*. Veröffentlicht auch in *Studii de istorie a Banatului*, Timișoara, Neue Folge, 1.(15) Bd., 1989, S. 187-213 (Erscheinungsjahr: 1991).

8 Alexandru Rusu – Anca Goțiu, *Bibliographie des Banater historischen Schrifttums*, in *Forschungen zur Volks- und Landeskunde*, Sibiu, Bd.16, 1973, S. 140-156.

9 Stelian Mândruț, *Bibliografia istorică a Banatului 1970-1985*, in *Studii de istorie a Banatului*, Timișoara, Neue Folge, Bd. I (15), 1989, S. 1-50 (Erscheinungsjahr: 1991).

10 Nicolae Stoicescu, *Bibliografia localităților și monumentelor medievale din Banat*, Timișoara, Editura Mitropoliei Banatului, 1973.

11 Luminița Wallner-Bărbulescu, *Contribuții privind istoriografia românească din Banat la mijlocul secolului al XIX-lea*, in *Studii și comunicări de etnografie*, Caransebeș, Bd. 4, 1982. S. 227-237.

12 Carmen Albert, *Cercetarea monografică în Banat (1859-1948)*, Editura Modus P. H., f. l., 2002.

13 Ioan Hațegan, *Ghid monografic. Bibliografia monografiilor bănățene*, Timișoara, Editura Banatul, 2006.

Angaben über die Historiographie der Stadt Temeswar können auch ausgehend von ausländischen Quellen herangezogen werden. Auch in diesem Fall fungiert Temeswar nicht als Hauptschwerpunkt, sondern als Element eines weiteren thematischen Horizonts. Es handelt sich um die Bibliographien zur Geschichte der Donauschwaben, von Anton Scherer<sup>14</sup> und Joseph Schmidt.<sup>15</sup> Aus der Vielzahl der in diesen Bibliographien erfassten Titel (Monographien einzelner – vor allem von Deutschen bevölkerten – Ortschaften, Biographien herausragender Persönlichkeiten, regional konzipierte historische Darstellungen, usw.) berühren aber nur relativ wenige das Thema „Temeswar“. Zugleich lässt die Beschäftigung mit solchen Bibliographien die Tatsache erblicken, dass sie kompensatorisch für die Lücken der oben erwähnten rumänischen Bibliographen eingesetzt werden können. Damit wird aber auch eine gegenseitige Ursichtigkeit erkennbar, denn der Vernachlässigung ausländischer Quellen auf der rumänischen Seite entspricht eine Vermeidung der in Rumänien veröffentlichten thematisch konvergenten Beiträge auf der anderen Seite.

### Die Bibliotheksbestände

Die Verzeichnisse der Temeswarer öffentlichen Bibliotheken bieten eine brauchbare Ausgangsposition für unsere Dokumentationsversuche, und ihre systematische Heranziehung ist mit Sicherheit als obligatorisch zu betrachten. In diesem Sinne sind einige Einrichtungen zu erwähnen, die auch die zentralen Projektthemen (Banat und Temeswar) gesondert in ihrem thematischen Verzeichnis führen:

- die Kreisbibliothek Temeswar,
- die Universitätsbibliothek „Eugen Todoran“,
- die Bibliothek der Temeswarer Niederlassung der rumänischen Akademie,
- die Bibliothek des Kulturzentrums „Adam Müller Guttenbrunn“,
- die Bibliothek der serbisch-orthodoxen Bischofsamtes in Temeswar.

14 Anton Scherer: *Donauschwäbische Bibliographie. Das Schrifttum über die Donauschwaben in Ungarn, Rumänien, Jugoslawien und Bulgarien sowie – nach 1945 – in Deutschland, Österreich, Frankreich, USA, Canada, Argentinien, Brasilien, Australien, Venezuela, Südafrika*. Band I. 1935-1955. München: Südostdeutsches Kulturwerk, 1966; Band II. 1955-1965.

15 Josef Schmidt, *Bibliographie zur donauschwäbischen Geschichte und zur deutschen Auswanderung nach dem Südosten. Mit einem Verzeichnis von Veröffentlichungen von Felix Milleker. Anhang: Genealogische Vereine, AKdFF*, 1996.

### 3. Kurze quantitative Auswertung der lokalen historiographischen Produktion

#### 3.1. Die durchschnittliche jährliche Veröffentlichungsfrequenz

Im Rahmen der folgenden Auswertung wurden insgesamt 197 Titel berücksichtigt,<sup>16</sup> und entsprechend dem in jeder historischen Etappe feststellbaren jährlichen durchschnittlichen Veröffentlichungs-Rhythmus dargestellt. Festgestellt wurde ein eher spärlicher Veröffentlichungs-Rhythmus bis 1918, mit einer leichten Intensivierung in der Zeitspanne 1900-1918. In der Zeitspanne 1919-1947 sind 37 Titel zu verzeichnen, was einen Durchschnitt von 1,27 Veröffentlichungen/Jahr führt. Zwischen 1948-1989 wurden 66 Titel herausgebracht, was einen Veröffentlichungs-Rhythmus von 1,57 ergibt. Schließlich konnten für die Zeit nach der Wende 68 ausfindig gemacht werden, was zu einem Resultat von 4,85 Veröffentlichungen/Jahr führt.

Tabelle 1. Durchschnittliche jährliche Veröffentlichungsfrequenz

Zeitspanne	Anzahl de Jahre	Anzahl der berück- sichtigten Titel	Jährlicher Durchschnitt
1849-1860	12	2	0,16
1861-1918	59	24	0,40
1919-1947	29	37	1,27
1948-1989	42	66	1,57
1990-2003	14	68	4,85

Die Tabelle weist einen tendenziellen Anstieg der durchschnittlichen Anzahl der Veröffentlichungen. Ausgehend von der Zugehörigkeit des historischen Schrifttums zum allgemeinen Identitätsdiskurs ergibt sich uns als mögliche Fragestellung, ob die etappenweise erfolgte Steigerung des Volumens der historiographischen Produktion nicht etwa den Ausdruck einer immer akuter werdenden Identitätskrise darstellt.

16 Die Liste der 197 Werke über die Geschichte der Stadt Temeswar befindet sich bei Vasile Docea, *Străinii de-alături. Explorări în istoria minorităților și a comunicării interculturale*, Timișoara, Editura Universității de Vest, 2006, S. 194-209.

### 3.2. Die Sprachen der Geschichtsschreibung

Die Verteilung des historischen Schrifttums über Temeswar ausgehend von den Redaktionssprachen solcher Texte lässt sich wie folgt darstellen:

**Tabelle 2. Die Sprachen der Geschichtsschreibung**

	Bis 1918		1919-1947		1948-1989		1990-2003		Gesamtergebnis	
	Anzahl der Arbeiten	%	Anzahl der Arbeiten	%	Anzahl der Arbeiten	%	Anzahl der Arbeiten	%	Anzahl der Arbeiten	%
<b>Deutsch</b>	8	30,8%	10	27,0%	14	21,2%	12	17,6%	44	22,3%
<b>Rumänisch</b>	1	3,8%	22	59,5%	52	78,8%	43	63,2%	118	59,9%
<b>Serbisch</b>	-	0%	2	5,4%	-	0%	10	14,7%	12	6,1%
<b>Ungarisch</b>	17	65,4%	3	8,1%	-	0%	3	4,4%	23	11,7%
<b>Gesamtergebnis</b>	26	100%	37	100%	66	100%	68	100%	197	100%

Es wird aus der Tabelle ersichtlich, dass das deutschsprachige historische Schrifttum einen leichten Rückgang erlebt, aber im Vergleich keineswegs von erheblichen Schwankungen betroffen wird (welche das rumänische, ungarische und serbische historische Schrifttum zu verzeichnen hatten). Der jedoch feststellbare leichte aber kontinuierliche Rückgang beginnt bei einem Anteil von 30,8 % aus der Gesamtzahl der Veröffentlichungen in der Zeit vor 1918 und befindet sich heutzutage bei 17,6 %. Vor 1918 wurden fast alle Arbeiten in Temeswar gedruckt und herausgegeben, da die deutschsprachige Bevölkerung damals eine relative Mehrheit innerhalb der gesamten Bevölkerungszahl (43,9 %) dargestellt hat.<sup>17</sup> Eine ähnliche Situation ist auch in der Zwischenkriegszeit feststellbar, als die Deutschen weiterhin einen wichtigen Anteil der Stadtbevölkerung repräsentierten. Eine Änderung ist in der Zeitspanne 1948-1989 feststellbar, als fast die Hälfte der aufgelisteten Arbeiten in Deutschland veröffentlicht wurden. Die radikalste Änderung findet aber

<sup>17</sup> Eine Statistik aus dem Jahre 1910 bietet folgende Angaben: Einwohnerzahl der Stadt Temeswar: 72.555. Populationsanteile nach Bevölkerungsgruppen: 30.064 Deutsche (43,9 %), 27.740 Ungarn (40,5 %), 6.657 Rumänen (9,7 %), 2.827 Serben (4,1 %), 4.449 Juden (6,1 %); siehe dazu I. Conciatu, *Timișoara. O scurtă monografie cu deosebită considerare asupra comerțului și industriei*, Timișoara, Tipografia Huniadi, 1919, S. 12.

nach 1990 statt. Ab diesem Zeitpunkt wird die überwiegende Mehrheit der historischen Studien zur Geschichte von Temeswar in Deutschland veröffentlicht. In Temeswar (aber auch landesweit) wird zugleich ein starker Rückgang der deutschsprachigen und -kundigen Leserschaft bemerkbar, was zu einer auswanderungsartigen Verlagerung der Herausgeberebene von Rumänien nach Deutschland führt, die als „historiographische Emigration“ bezeichnet werden kann.

In diesem Zusammenhang sollte eine weitere Bemerkung zum deutschsprachigen historischen Schrifttum über die Stadt Temeswar angeführt werden. Die Anzahl der Publikationen zu diesem Thema ist besonders gering innerhalb des hunderte von Titeln zählenden Schrifttums zur Geschichte der Banater Schwaben. Die Behandlung der zwei Themenkreise weist dabei keine Homogenität auf. Das den Banater Schwaben gewidmete historische Schrifttum privilegiert vor allem Themen wie: Monographien ruraler Ortschaften, Kolonisierungsprozesse, die sozialen und kulturellen Fragestellungen der schwäbischen Gemeinden, das Problem der Heimatfindung in Deutschland. Es entsteht damit das Bild einer radikal andersorientierten ruralen Historiographie, die wenige Berührungspunkte mit den Temeswar-zentrischen historischen Forschungsleistungen aufweist.

Das ungarische historische Schrifttum dominiert mit 65,4 % eindeutig die Fachliteraturproduktion vor 1918, auch Dank dem Status des Ungarischen als Amtssprache im Banat. Nach der Eingliederung des Banats ins rumänische Staatsgebilde im Jahre 1918, begleitet vom Wechsel der Amtssprache, erfolgt ein dramatischer Rückgang der ungarischen historiographischen Produktion, der auch gegenwärtig anhält.

Die rumänische Historiographie bietet dafür eine entgegengesetzte Entwicklungstendenz: vor 1918 ist ein einziges Werk zu verzeichnen, um dann in den darauffolgenden Etappen eine deutliche Dominanz aufzuweisen mit bis zu 78,8 % der einschlägigen Publikationen zur Zeit des kommunistischen Regimes. Der prozentuelle Verlust nach 1990 ist als relativ einzustufen bei Berücksichtigung des allgemeinen Anstiegs der jährlichen Publikationszahlen (auch durch die Intensivierung der serbischen historiographischen Produktion).

Die These, der entsprechend die Publikationen in einer bestimmten Sprache die Interessen der betreffenden ethnischen Gruppe widerspiegeln, trifft nur in einigen Fällen zu.

### 3.3. Interlinguale Migration

Neben dem oben erwähnten territorialen Migration-Typus des historischen Schrifttums ist eine ähnliche Beweglichkeit auch auf thematischem Gebiet festzustellen. Es handelt sich dabei um einen gewissen Sprachwechsel des historisch geprägten Identitätsdiskurses. Als Beispiel sollten hier die der Geschichte der jüdischen Gemeinschaft gewidmeten Arbeiten erwähnt werden. Vor 1918 kann als Thematisierungssprache dieses Diskurses das Deutsche betrachtet werden – trotz einer einzigen bibliographischen Erwähnung.<sup>18</sup> Nach 1918 fungiert das Ungarische als Diskurssprache,<sup>19</sup> um dann nach 1990 diese Funktion auf das Rumänische zu übertragen.<sup>20</sup>

Ein weiterer erwähnenswerter Fall ist derjenige der Migration von historischen Arbeiten, die eigentlich zum deutschen Identitätsdiskurs gehören oder die Temeswarer deutsche Gemeinde thematisieren, in die Richtung des Rumänischen.<sup>21</sup>

## 4. Ethnische Prägung des historischen Schrifttums

### Temeswar vor 1918: eine ungarische oder deutsche Stadt?

Das Veröffentlichen einer Arbeit in der Sprache einer ethnischen Gruppe ist kein ausreichendes Indiz für die Zugehörigkeit derselben zum Identitätsdiskurs der betreffenden Gruppe.

Man kann z. B. behaupten, dass die Temeswarer Historiographie in ungarischer Sprache vor 1918 Teil des ungarischen Identitätsdiskurses

18 Moricz Löwy, *Geschichte der Juden in Temeswar bis zum Jahre 1865*, Szegedin, 1890.

19 Jakab Singer, *Temesvári rabbik a XVIII és XIX-ik században*, Seini, 1928; derselbe, *Timisoarai zsinagógák, in Almanahul evreiesc. Jüdisches Jahrbuch und Kalender. Zsidó évkönyv és naptár*, Oradea/Timișoara, 1936-1937.

20 Victor Neumann, *Istoria evreilor din Banat. O mărturie a multi- și interculturalității Europei central-orientale*, București, Atlas, 1999; derselbe, *Istorie individuală vs. istorie colectivă. Prim-rabinul dr. Ernst Neumann și evreii din Timișoara*, Timișoara, Marineasa, 2002; Smaranda Vultur (Hrsg.), *Memoria salvată. Evreii din Banat ieri și azi*, Iași, Polirom, 2002.

21 Siehe z. B. die Übersetzung ins Rumänische und die zweisprachige Publikation (1995) der klassischen Monographie von J. N. Preyer; aber auch die zweisprachige Veröffentlichung der Arbeit von Alexandru Cutara, *Timișoara. Monografie artistică – Temeswar. Bild-Kunst-Monographie*, Timișoara, Editura Amarcord, 1998.

ist, ausgehend von ihrer thematisch-inhaltlicher Gestaltung. Eine analoge Schlussfolgerung im Falle der zeitgleichen deutschsprachigen historischen Forschung ist aber nicht plausibel. Hier gibt es deutlich erkennbare Differenzierung zwischen zwei Identitätszuweisungstypen.

Johann Nepomuk Preyer, der erste Monograph der Stadt, dessen klassisch gewordenes Werk 1853 veröffentlicht wurde, bemüht sich zwar um eine neutrale geschichtliche Darstellung, kann aber zugleich einige progermanische Beschreibungszüge nicht verdrängen. Für ihn ist die zivilisatorische Funktion des Deutschtums durchaus präsent und wirksam. Dies wird zwar indirekt in Form von Vergleichen zur osmanischen Herrschaftsphase ausgedrückt, demgegenüber die christliche Regierung der deutschsprachig verwalteten Stadt eine Renaissancephase darstellt.<sup>22</sup>

„So wie die türkische Stadt und Festung bestimmt war, zu verschwinden, um einer neuen zu weichen, eben so pflanzte neuerdings die christliche Religion das Kreuz des Erlösers hier auf, und ihr folgte Gesittung und neues Leben. Unter diesem Schutze sammelten sich hier rasch, und zwar grösstenteils deutsche Ansiedler, und schon am 4. Jänner 1718 konstituierte sich für dieselben der deutsche Magistrat.“<sup>23</sup>

Der preyersche Diskurs, der zwischen 1844-1858 Bürgermeister der Stadt war, gehört zu einer neoabsolutistischen Zeit, in welcher das Wiener Machtzentrum ab 1849 die Herauslösung des Banats unter der ungarischen Verwaltungshoheit und die Zuweisung eines Autonomiestatus (zusammen mit der serbischen Vojvodina-Region) beschlossen haben; als Amtssprache gilt bis zur Neueingliederung in Ungarn (1860) das Deutsche.

Andere deutschsprachige Autoren weisen der Stadt eine ungarische Identität zu. So bei Barát, der in seiner 1902 veröffentlichten Monographie auf das Instrumentarium und das Repertoire des ungarischen Identitätsdiskurses der Zeit zurückgreift; so z. B. wird das Verteidigungs-Topos der romantischen ungarischen Geschichtsschreibung – dementsprechend Ungarn kontinuierlich eine Beschützer-Rolle europäischer Zivilisationswerte vor den Bedrohungen des Morgenlandes gespielt und übernommen hat – auf Temeswar transferiert: „...ist und

22 „Nur die Trägheit und die indolente nationale Lebensweise der Türken konnte die Stadt in jenen Zustand versetzen, in welchem sie im Jahre 1716 vorgefunden wurde“, Johann Nepomuk Preyer, *Monographie der königlichen Freistadt Temeswar – Monografia oraşului liber crăiesc Timișoara*, übersetzt von Adam Mager und Eleonora Pascu, Timișoara, Editura Amarcord, 1995, S. 67.

23 Ebenda, S. 67.

bleibt Temesvár nach wie vor der unbesiegbare Burgwall westlicher Kultur am Tore des Orients.“<sup>24</sup>

Laut demselben Autor wird zwar die Stadt von mehreren Nationalitäten bewohnt – Ungarn, Deutsche, Rumänen und Serben, in der impliziten Hierarchisierung des Verfassers – doch es ist deutlich zu bemerken: „wie sich hier der Kultus moderner Sprachen und Sitten mit flamender Vaterlandsliebe paart, wie hier der ungarische Staatsgedanke hochgehalten wird...“<sup>25</sup>

Barát geht hier von einer vollständigen Überlappung der ethnischen mit der staatlichen Identität aus. Innerhalb des weiteren Zusammenhang des historiographischen Diskurses in zweiten Hälfte des XIX. Jahrhunderts und Anfang des XX. Jahrhunderts, ist diese Operation als gängig zu beurteilen. Sie ist sogar in den Lehrwerken der Zeit wiederzufinden, wobei Ungarn kein vereinzelt Beispiel darstellt.<sup>26</sup> Die Überzeugung von der Überlegenheit der eigenen Nation und ihrem zivilisatorischen Auftrag gehört zum paradigmatischen Glaubensrepertoire der Epoche. Barát behauptet sogar, dass der Auftrag einer jeden monographischen Leistung die Wiedergabe des ungarischen Charakters der Stadt darstellt:

„Alle Studien und Arbeiten atmen glühende Liebe für die Errungenschaften und Institutionen Temesvárs, peinliche Fürsorge für die Stärkung aller Elemente des fortschrittlichen Gedeihens und eifersüchtigen Stolz auf das Ansehen Temesvárs, als ungarisches Kulturzentrum, dessen Wahrung in Allem und Jedem als Leistern gilt.“<sup>27</sup>

### **Eine Fallstudie: die Darstellung der Stadtbelagerung im Jahre 1849**

Die Darstellungsmodi, in welchen die vor 1918 erschienen Monographien die Belagerung von Temeswar im Jahre 1849 behandelt wird, sind symptomatisch für den jeweils ungarischen bzw. deutschen identitären Inhalt des historischen Diskurses.

Diese belegt eine privilegierte Stellung innerhalb der Identitätsmythologie der Stadt. Neben einigen Gründungsmythen – der Entwurf

<sup>24</sup> Armin Barát, *Die königliche Freistadt Temesvar. Eine monographische Skizze*, Temesvar, im Selbstverlag des Verfassers, 1902, S. 13.

<sup>25</sup> Ebenda, S. 12.

<sup>26</sup> Für das ungarische Beispiel liefert das oben erwähnte Werk von Ábrahám Barna eine überzeugende Darstellung.

<sup>27</sup> Ebenda, S. 4-5.



und die Errichtung der Festung unter Karl Robert von Anjou, der Schlossbau durch Iancu Huniade, die Befreiung von der türkischen Herrschaft durch Prinz Eugen von Savoya und die Verleihung des Status einer „königlichen Freistadt“ durch Iosef II. – wird die Episode die Belagerungsepisode aus dem Jahre 1849 als eine „läuternde Prüfung“ der Stadt, als ein von der Stadt absolviertes Initiationsritus dargestellt.

Wir greifen in diesem Fall erneut auf die zwei oben erwähnten Monographien von Preyer und Barát um Thematisierungsdifferenzen hervorzuheben. Preyer liefert in seiner Beschreibung der Ereignisse eine umfassende Darstellung der eigentlichen Belagerungsgeschichte durch die ungarischen Truppen des Generals Bem, indem er 12,8 % (16 Seiten)<sup>28</sup> aus seinem Werk der Episode widmet; 4 der 16 Seiten werden der revolutionsgebundenen Vorgeschichte der Belagerung gewidmet, die restlichen 12 der Belagerung selbst und ihrer Nachgeschichte/Auswirkungen. Barát behandelt demgegenüber seinerseits diesen Ereigniskomplex auf lediglich 8 Seiten (3 % des Gesamtumfangs seiner Monographie).<sup>29</sup> 5 der 8 Seiten thematisieren das der Belagerung vorangehende Revolutionsgeschehen in engem Zusammenhang mit dem Verlauf der ungarischen Revolution; die Belagerung selbst wird auf 3 Seiten dokumentiert. Damit findet bei Barát eine Umkehrung der Thematisierungsprioritäten statt, die in der folgenden Tabelle (neben einem rumänischen Thematisierungsbeispiel) quantitativ dargestellt wird:

28 Die Angaben wurden einer späteren Ausgabe aus dem Jahre 1995 der oben erwähnten Monographie von Preyer entnommen.

29 Armin Barát, *Die königliche Freistadt Temeswar*, S. 37-44.

Tabelle 3. Die Darstellung der Stadtbelagerung im Jahre 1849

	Johann Nepomuk Preyer		Armin Barát		I. Munteanu/ R. Munteanu	
	Seiten- anzahl	% im Verhältnis zum Gesamtum- fang der Monogra- phie	Seiten- anzahl	% im Verhältnis zum Gesamtum- fang der Monogra- phie	Seiten- anzahl	% im Verhältnis zum Gesamtum- fang der Monogra- phie
Mono- graphie	125	100%	268	100%	572	100%
Ereignis- komplex 1848-1849	16	12,8%	8	3%	5	0,87%
Vorfeld der Bela- gerung	4	3,2%	5	1,9%	4	0,70%
Die Bela- gerung selbst und deren Auswir- kungen	12	9,6%	3	1,1%	1	0,17%

Im Fall von Barát war die historische Darstellung mit einem Thematisierungsdilemma konfrontiert, das für den gesamten lokalen historischen Diskurs (ungeachtet der sprachlichen-kulturellen Ausrichtung) akut war. Als lokaler Vertreter des nationalen ungarischen historischen Diskurses war die positiv markierte Repräsentation der Handlungen der ungarischen revolutionären Armee des Generals Bem eine ideologische Vorgabe. Dessen Aktionen – wie übrigens die ganze Geschichte der ungarischen Revolution aus den Jahren 1848-1849 – stellten wichtige Grundsteine des ungarischen Nationaldiskurses und bedeutende zugleich Legitimierungselemente des ungarischen Staatskonstruktion. In seiner Eigenschaft als Historiker der Stadt Temeswar und zugleich als dessen Bürger, andererseits, war er mit einem anderen Erwartungshorizont konfrontiert, der von einer minimalen Loyalität gegenüber einer belagerten

Stadt ausging. Die von dem Historiker Barát gewählte Lösung war eine knappe Darstellung des Belagerungsgeschehens als ein Ereignis ohne Aktanten, herausgelöst aus dem historischen Kausalitätsgefüge und somit zu einer Naturkatastrophe anonymisiert. Die Belagerer werden als „Freiheitskämpfer“ dargestellt, während die Belagerten als einer „allgemeinen tiefgehenden Entmutigung“ (da „die Lage der Stadt verzweiflungsvoll“ war) verfallen porträtiert werden. Nach dieser antithetischen Darstellung besinnt sich der Verfasser seiner Temeswarer Zugehörigkeit und fügt einen versöhnlichen Schlussteil hinzu:

„Die Chronik jener ersten Epoche erbringt aber unter allen Umständen den historischen Beweis, dass beide Theile, die Belagerer wie die Belagerten, ihre Aufgabe tapfer und ritterlich erfüllten.“<sup>30</sup>

Für Johann Nepomuk Preyer bereitet diese doppelte Einordnung – innerhalb des neoabsolutistischen politischen Kontextes zum Zeitpunkt der Ausarbeitung der Monographie und gegenüber der Stadt – keine Schwierigkeiten. Er weist von Anfang an eine zurückhaltende Einstellung gegenüber der revolutionären Bewegung in Temeswar, welche in seinen Augen ein Echo der ungarischen Revolution darstellt. Sie erzeugt „elektrische Wirkungen“, die die Bewohner verunsichern, unter denen „nur Wenige zur Besinnung und Erwägung ihrer Tragweite gelangen mochten“<sup>31</sup>. Er verachtet die Massenunruhen und beruft sich auf historische Größen der Vergangenheit um seiner Einstellung Nachdruck zu verleihen: „der Geist des grossen Erbauers und Bewohners dieses Schlosses mochte aber traurig aus seinen Sälen hernieder geblickt haben auf das berauschte Volk, das nicht ahnte, wie bald das vaterland, wofür der Held in hundert Schlachten kämpfte und siegte, an den Rand des Verderbens gebracht werden sollte.“<sup>32</sup>

Die Belagerer werden als „Insurgenten“ dargestellt, die eine sich heroisch verteidigenden und opferbereiten Stadt bedrohen. Die Stadt selbst erfährt personifizierende Erwähnungen: „unsere gute Stadt“, „die arg heimgesuchte Stadt“ oder „unsere arme Stadt“.

Es wird somit deutlich, dass, obwohl beide Monographien in deutscher Sprache verfasst wurden, hier grundsätzliche Differenzen vorliegen. Der eine Text gehört zum ungarischen Identitätsdiskurs und der zweite zu seinem deutschen Pendant.

30 Barát, ebenda, S. 44.

31 J. N. Preyer, *Monographie der königlichen Freistadt Temesvar*, S. 97-98.

32 Ebenda, S. 98.



# **“THREE-FOLD IDENTITY?” THE ETHNICAL AND NATIONAL IDENTITY OF THE HUNGARIAN BOYASH GYPSIES**

## **1. Introduction**

The Roma are possibly the largest minority group in the European Union. Yet this group is composed of communities with varying languages, cultures and identities. The obvious cause of this variety is that the Gypsies<sup>1</sup> compose a large diaspora stretching across five continents, and accordingly, among every community living in a minority, different processes of adaptation led to the formation of distinct identities.

In my opinion, three factors – all generated by living in a diaspora – influence the ethnical and national dimensions of the Romani identity: social categorization, national socialization and ethnical identity. Society’s perception, the socialization processes in the nation state institution systems, and the Gypsy community’s own ethnical culture are all factors, which supposedly have or have been an influence on most Romani identities.

### **1. 1. Social Categorization**

Identity is a complex concept shaped by individual characteristics, family mechanisms, historical factors, as well as the social and political environment. Who am I? The answer largely depends on what the surrounding world thinks of me. As social scientist Charles Cooley points out: others serve as a mirror in which we see ourselves (Tatum 1997: 18). It is important how my image, mirrored back by others, is constructed. Gypsies are depicted in a majority society, according to Zsolt Csalog, as a historically established, predominantly “false reflection” (in: Prónai 2000: 12). The core of this reflection is that the dominant majority sees the Gypsies as a homogeneous ethnic group, in which all members have similar characteristics.

<sup>1</sup> The terms „Roma” and „Gypsy” are accepted in Hungary in both scientific and official circles. I will also employ them as synonyms.

The contents and quality of social categorization is vital because it is a basic prerequisite in the construction of identity, formed on the verge of “us” and “them” (Bindorffer 2001: 19, Jenkins 2005: 132). It is mostly “false reflection” in the case of the Roma, in essence a “stereotype collection.”

I will illustrate, with specific examples, how social categorization affects Romani identity, but first, let us speak shortly about the roles of ethnical identity and national socialization.

### **1. 2. National Socialization**

Nation states secure the structure for everyday life in the Romani culture. National socialization occurs through social channels, such as the educational system, and the mass media (Csepeli 1992: 111). This phenomenon may induce a “multi-faceted,” “plural” identity in ethnic minorities (see: Bindorffer 2001). Of course, many factors influence the formation of a plural identity, such as the survival of the “original” mother tongue, the nature of economic relationships, and the duration they have lived among the majority.

The majority influences Gypsy identity through social (stereotypical) categorization and national socialization. The consequence of this two-fold effect is that the Gypsy identity largely depends on cultural elements taken from the settled population, despite the fact that the Gypsies univocally and harshly distance themselves from these groups (Formoso 2000: 35). Aside from this, certain Roma ethnic groups distance themselves from other Gypsy groups.

### **1. 3. Ethnical Identity**

The fact that Gypsies live in communities harbouring varied occupations, languages and religions, was evident for end-of-19<sup>th</sup> century social scientists (cf. Szuhay 1999: 18-21). The national character of Hungarian Gypsies was deemed “colourful” in many aspects by ethnographer Antal Herrmann in 1895 (Herrmann 1895: 54). Later, in a cultural anthropologic research embarking in the 1950’s and 60’s concerning Gypsies, a large quantity of empirical evidence was brought to show that the name “Gypsy” referred to a multi-ethnic, non-homogeneous category (Prónai 2004: 253).

According to well-known anthropologist Fredrik Barth, "ethnicity is the social organization of cultural differences," (Barth 1996: 5) hence, "ethnic identity stems from intergroup relationships, which contain the value judgments and preconceptions of their own nation and of others" (Sárkány 2000: 97).

In other words, the positive self-image and cohesion of the group are strengthened by auto-stereotypes, while the borders separating them from others are continuously reproduced by so-called "hetero-stereotypes<sup>2</sup>." Barth recommends the study of cultural elements with a border creating function; in this light will I discuss different stereotypes later on.

## 2. The "Romani Nation" as an Identity-Forming Factor

Aside from the above mentioned three factors, there is another one, which may have a strong influence on Romani identity. At the end of the 20<sup>th</sup> century, the Gypsies realized that they can assert their basic human rights more effectively by "employing" their ethnicity (Mayall 2004: 189) and improve on vindicating their rights through working out their "own national concept" (Fosztó 2003: 102). During the construction of the Romani nation<sup>3</sup>, new elements<sup>4</sup> are born, which compose a new dimension in the Gypsy identity for those prone to it.

I would like to clarify two things before I elaborate on the findings of my anthropological fieldwork. Firstly, I will attempt to define those who are prone to the thought of a Romani nation, and secondly, I will make a strong distinction between the terms "ethnic group" and "nation."

In my experience, those who come into contact with elements of Romani nationalistic ideas are those who are involved in Romani ethnic mobilization. Susan Olzak defines ethnic mobilization as follows: "*Ethnic mobilization* is collective action in pursuit of collective ends by groups organized around some ethnic or racial marker that distinguishes members from non-members." (Olzak 2006: 36). In my opinion, political and cultural organizations, periodicals, events, etc. are also to be

2 Auto-stereotype: characteristics of one's own group. Hetero-stereotype: employed to characterize and categorize the outgroup and its members (Bindorffer 2006: 15).

3 To read more on the topics of the Romani national concept, national integration, nation construction see: Fosztó 2002, 2003, Szuhay 1995, Hancock 1991, Binder 2008.

4 Elements such as a shared national history, the Romani language, literature, and fine arts are all cultural tools of Romani national integration

included in this category; yet, most importantly, their legitimization derives from an existing or alleged ethnical peculiarity. (From here on this will define the concept of “ethnic mobilization” for our purposes.)

If we are discussing national and ethnical identity, we must define the difference between nation and ethnic group. Due to the large mass of specialized literature on the topic, we will only deal with the notions necessary for us here, to separate the two given concepts. Concerning the formation of nations, most theorists concur that the concept of “nation” is a *modern construction*, which necessitates the typically modern prerequisites of state bureaucracy, capitalism, secularization and democracy (Smith 2004: 40). In contrast to this, the ethnic group is a *primordial (archaic) configuration*, which “is created by historical processes, not the human will” (Bromley 1976:30)<sup>5</sup>.

### 3. The Identity of the Boyash – Based on Romani National Themes

Now, following the introduction, I will proceed to the main elements of my cultural anthropologic research<sup>6</sup>, which will illustrate the three-fold nature of the Boyash Gypsy identity through the aid of empirical facts. Due to the fact that “national themes represent the temporal, spatial and human dimensions of a nation *for the nation*” (Csepeli 1992: 60), the most important elements of cultural nation-construction constituted the frame of our conversations during my field work.

In the following I will proceed to thoughts and attitudes, which I encountered during the interviews, conversations I had and observations I made, and I will do it so based on the themes of national and ethnic identity (historical consciousness, language, symbols, kindred).

5 Of course, ethnic group and nation are in a close relationship, which appears in the different types of nationalism. Nationalism (nation-construction, the national principle) likes to be identified with ethnic identity, since ethnic identity has the kind of ancient historical past, which nationalism – in most cases – obviously lacks. (Hobsbawm 1993:21)

6 I began my field research during the winter of 2005-2006, and conducted it, staying for shorter or longer periods of time, until the autumn of 2006. My interviewees were all Boyash Gypsies. It was my intention from the start to speak with people having different social status, because according to my hypothesis, those who have different positions in social mobilization relate differently to their own Gypsy identity, and to the Romani nation. As they requested, I used aliases for my conversation partners.



### 3. 1. Historical Consciousness and Mentality

National history is one of the most important cultural elements of nation formation, which highlights the common destiny, the collective experiences – frequently wrapping the mythical past in romantic disguise.

The conversations revealed two types of Romani history: firstly, the "collective" or "shared" Romani history (India as homeland, migration, persecution, etc.) and secondly, the Boyash Gypsy's "own" ethnic history. A strong division arose within the community concerning the collective Romani history, because it was only relevant to those participating in ethnic mobilization, others ignored the topic. As my host, Julika told me: "During these past years that I've been involved with this 'Gypsy stuff' [meaning: Roma politics], I've heard, learned, came to know that, yes, we're from India – so I think we're from, India too." It needs to be said that Julika asked me about the Indian roots of the Roma 4-5 years ago – she did not want to believe it back then. Yet, as a consequence of ethnic mobilization, it became evident for her that the Gypsies have common, Indian roots.

The disclosure of the most tragic event of Romani history, the Romani Holocaust, along with its implantation into the collective memory, is a very important phase in the construction of the Romani identity (cf. Kapralski 1997). Many of my acquaintances, who are leaders or representatives of the local Gypsy Minority Self-Government, had a chance to visit Auschwitz in an organized tour. During this visit many of them realized what had happened to the Roma at the time of the Second World War. Perhaps these two examples are sufficient in illustrating what new elements ethnic mobilization brings to identity.

In opposition to national history, their "own" ethnic history is valued equally by everyone. Ethnic history is a constitutive element of ethnic identity, which is the base for the typical "Boyash mentality" (auto-stereotypes) – according to my informants. The Boyash mentality – characterized as "not so warm-blooded," "calm," "hardworking" – is always contrasted with the "warm-blooded," "aggressive," "stealing and cheating" hetero-stereotypes characterizing the Kolompár<sup>7</sup> Gypsies. They transfer the negative stereotype produced by the majority society to the Kolompár Gypsies living in their vicinity, hence the auto-stereotypes of the Boyash help to establish and maintain the positive self-image. (To read more on this self-defining mechanism see: Pálos 2006: 111-115.)

<sup>7</sup> The term „Kolompár“ is often used to describe Vlach Gypsies living in the vicinity.

### 3. 2. Functions of the Boyash Language

Both the Boyash and the Vlach Gypsies use „Romani” language in the majority's point of view, but – in correlation between these groups – language is one of the most important „border creating” element. The Boyash language was a determinant part of the identity of my acquaintances. Several of them told me, *„We, the Boyash, speak an archaic Romanian language.”*

They use the language in two different fields: in ethnic mobilization and the family. In the family it is used for communication with the elderly. In ethnic mobilization the Boyash language usage appears as a certain „revival.” The Gypsy Minority Self-Governments usually organize Romani programmes and balls, where there are possibilities for the Boyash language to appear.

The mother tongue is a fundamental element of maintaining the Boyash ethnical identity. The popularity of the Boyash language is growing for those people who take part in ethnic mobilization.

### 3. 3. National Symbols – The Flag

Every nation has attributes such as the national anthem, the national flag and the national emblem. Perhaps the most famous symbol of the Roma is the flag,<sup>8</sup> which was accepted in the first World Romani Congress in London, in 1971. In my view, it could function as the national emblem.

Almost all of my informants were familiar with the flag, and they considered the red wheel placed in the middle of it as the symbol of their former wanderings. The opinions differed concerning the importance of the flag. For example, Ibolyka, a 45 years old cleaning woman, had a pragmatic approach: *„Speak sincerely? I have seen it, but I can't value it. We don't live in such a community, where we can make use of it. What could I do with it? It doesn't help me in anything. It has no importance. (...) Perhaps if we compete in a race, I'll take the flag with me, because I am not ashamed of being a Gypsy. That's all.”*

Unquestionably, the flag has an additional meaning for those people who take part in ethnic mobilization; after all, they often come across the

<sup>8</sup> One of my informants remarked about the flag: *„When the green and blue flag with a wheel appeared, every Gypsy community accepted it, because it contains an easily translatable essence. The sky is blue and the earth is green.”*

flag in everyday life (at the workplace, at social events). „*I'd like to have a flag, too, when our Association develops further!*” – Julika once told me.

Most of the Roma accept the flag as a common symbol due to its clear, symbolic essence. Generally, the main task of national symbols is to condense and easily interpret all relations of national life. In this point of view, the Romani flag may be able to function as a common, national symbol. On the other hand, we can understand Ibolyka's skepticism, because the recognition of the majority is necessary for the flag to become an important and legitimate symbol.

### 3. 4. National Symbols – The Anthem

The Roma national anthem is a more difficult question than the situation of the flag. Namely, there are two „Gypsy anthems” in Hungary. *“The song ‘Zöld az erdő, zöld a hegy is’<sup>9</sup> was the Gypsy anthem till now. It was changed last year, after the integration to the EU, as I remember, and then the ‘Gelem, gelem’<sup>10</sup> became accepted.”* – Julika told me.

The Boyash have their „own” anthem. „Gelem, gelem” is little-known among the Boyash, and those who know it, accept it as a nice song, but not as the anthem. Julika told me that both the Boyash and the Hungarian national anthem were delivered during celebrations. Recently, the „Gelem, gelem” also functions as another Romani anthem. Nevertheless, it is important to mention that all of the Boyash respect the Hungarian national anthem, as does the majority.

To be concise, despite the fact that the Boyash accept „Zöld az erdő” as the Gypsy anthem, it functions as „a nice song” in everyday life. On the other hand, „Zöld az erdő” has a „border creating” role when it functions as an official anthem: it represents the Boyash contrast with the majority (Hungarian national anthem) and also the contrast with the „other” Gypsies („Gelem, gelem,” the Romani national anthem). In this context, the Boyash anthem is a constitutive part of the Boyash ethnical identity.

### 3. 5. Family and Endogamy

„Roma inter group relations are well perceptible through the endogamic rules in marital customs. Marital relations between different

9 This was usually called the „Boyash anthem” by my informants.

10 The „Gelem, gelem” was accepted as the Romani national anthem in 1971, during the first Romani World Congress in London (cf. Fosztó 2003, Marushiakova – Popov 2004).

Roma ethnic groups are rarer than marriages between Roma and non-Roma" (Szuhay 1995: 333). The borderlines between individual Roma ethnic groups were well noticeable along the marital customs during my entire cultural anthropologic field work.

The endogamic rules were still strict among the Boyash only a generation before. "*Apã k'ulij nu szã kiviridestyé!*" („Water doesn't mix with oil!") – exclaimed Julika's mother in connection to keeping the endogamic rules some twenty years ago.

The tearing down of endogamic walls is about to start nowadays; furthermore, mixed marriages with Hungarians are becoming more and more popular. But the traditional endogamic borders still survive in contrast with the „other" Gypsies, mainly the Kolompár Gypsies.

#### 4. Three-Fold Identity – Summary

In accordance with the contrastive character of the collective identities (cf. Albert-Zempléni 2002: 168, Löfgren 1989: 17), the construction of the Boyash ethnical identity is based upon the opposition to the Kolompár Gypsies.

The majority's categorization, stereotypes and discrimination without distinction, forces the Boyash to construct the self-image of a “good Gypsy,” contrasting the “bad Gypsy” image of the Kolompárs. *“Unfortunately, they [the majority] don't distinguish, between Gypsies and honest Gypsies!”* – Ibolyka told me.

Generally, the “Gypsy part” of the identity is visible in the Hungarian-Gypsy relation (majority – minority), because the majority and the state make no distinction among separate Romani ethnic groups. Every Romani ethnic group should participate in Romani ethnic mobilization, which functions within the frames determined by the state. Several of my informants emphasized that different Romani groups need to unite with each other, because thus they can assert their rights more effectively. The “Gypsy part” of the identity bears a negative association for the Roma who do not take part in ethnic mobilization.

The following interview segment shows the influence of Hungarian national socialization: “I'm a Hungarian...We consider ourselves Hungarian Gypsies, because we have Hungarian ties and identity...The Gypsies have a Hungarian identity – for example, on different occasions,

like football matches or celebrations, we feel that the Hungarian national anthem belongs to us, too." Thus, the Hungarian majority has another effect on the Boyash identity in addition to social categorization, namely, national socialization.

In essence, the Boyash identity is composed of three elements: Boyash (ethnic identity), Gypsy (minority identity) and Hungarian (national identity). For those who participate in ethnic mobilization, the Roma (national identity) could appear as a new, alternative part of the identity. It is important to see these elements as conjoint, not in opposition to one another.

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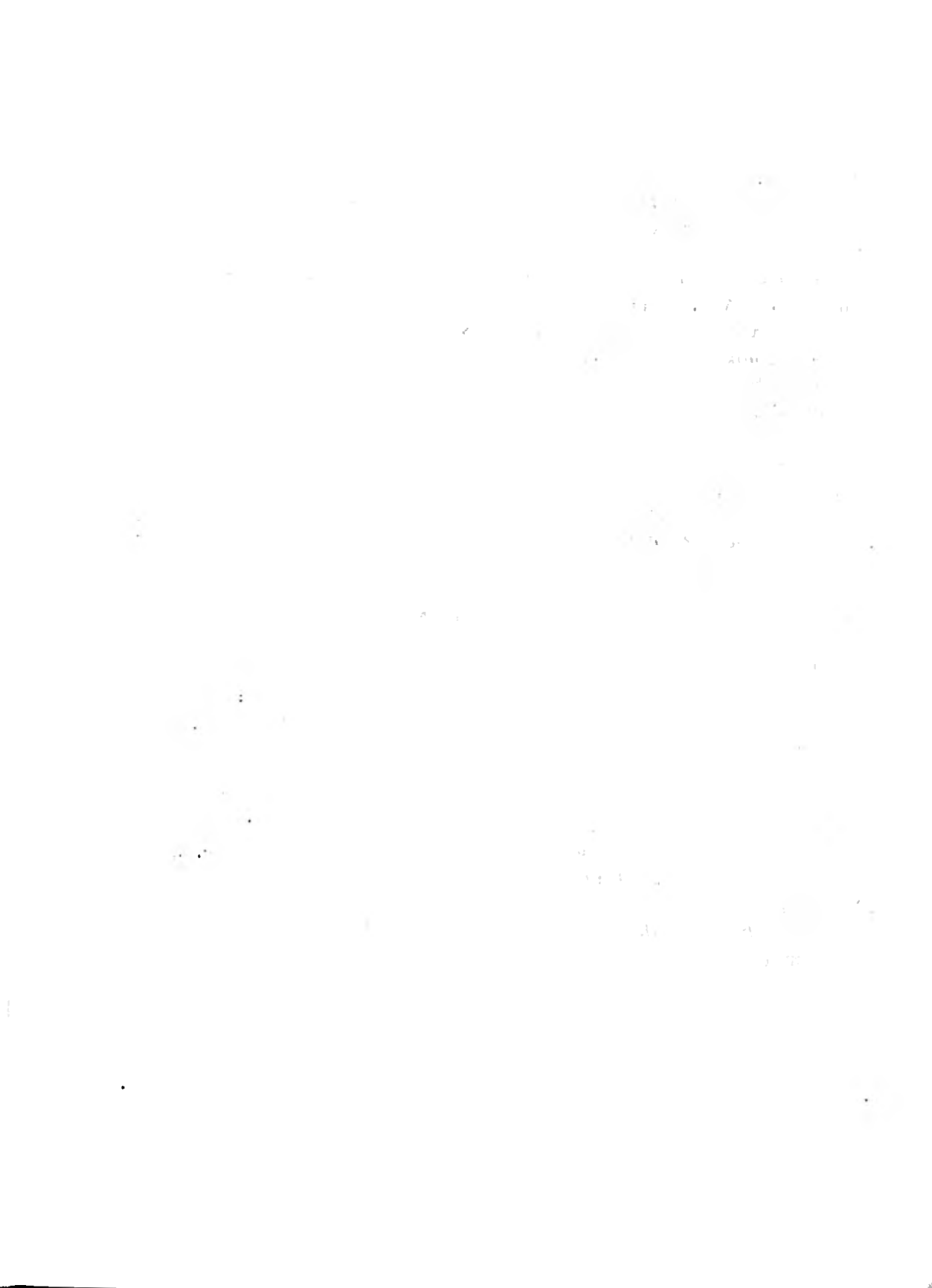
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# THE PROBLEMS OF TRANSLATING OFFICIAL DOCUMENTS (IN THE CONTEXT OF ROMANIAN AND HUNGARIAN OFFICIAL TRANSLATIONS)

## 1. Introduction

This study deals with the relationship between language and law, translation and official translation. It will present the difficulties of legal translations and finally it will discuss in detail one segment of the legal translations, that is the translation of official documents. It will mainly underline the practical aspects of this kind of translations.

## 2. Language and Law. Legal Language

Until the present moment the analysis dealing with legal language was concerned only with the study of legal terminology showing the importance of understandability and making limitations regarding the interpreting procedures and techniques. They considered that it is only a matter of discipline, attention and technique that one could pass the labyrinth of words and reach perfect understanding. This can be true only if we consider legal language as an hermetic system open for deductive analysis and concrete definitions and not a simple manifestation of natural language use (Szabó 2001: 1).

The legal system just as the language always undergoes a process of change, as it is a living entity; that is why the state of both the language and the legal system is instantaneous. This is the reason because of which none of them can be described with descriptive methods. Legal language cannot be regarded as a compact technical language, though it presents some features of the terminology. Legal expressions do not have values of their own; they can be defined only in relation with their context. In his work entitled *Definition and Theory in Legal Sciences* Herbert Lyonel Adolphus Hart emphasises the following: "...the efforts for the definition of such expressions as limited liability company, obligations

or rights show us that these words do not have real bonds to the conceptual world, as common words do... There is nothing out there in the real world that would conceptually suit these legal expressions; there is no equivalent term or word in the everyday language.”

Legal words cannot be analyzed only on their own, in their analysis one must take the whole sentence into consideration. If we want to analyze them we must do it in their context, we must arrange them in phrases: obligations – fulfil an obligation, state – the state officials, contract – enter into a contract, rules – break the rules. The primary function of these words is not to describe something but to set up a relationship; this fact causes the difference of these words from the rest of the lexicon (Hart 2000: 104).

From a pragmatic point of view we may declare that the jurist breaks the normal language use of common people and forces it into a specific language domain. The legal relevance makes itself visible in the specific language use, which destroys the everyday use of human language. Legal language and common language do not differ as foreign languages do. One may ask why legal language differs from common language. The first reason of this kind of difference is that the semantic value of the legal words is richer than that of normal words. For instance, men are sentenced to death in the name of the law, properties change owners based on the words of a contract (Simpson 2000: 144). In the case of performative legal expressions the most important thing is the effect of the sentences on people. These effects take birth through the manifestation of the language. Legal effects are those resulting of legal acts settling the interhuman and property relations. Legal effects are considered concrete effects (Olivecrona 2000: 174).

### **3. Legal Language and Translation**

#### **3.1. Between Interpretation and Textualization**

Legal language forces us to reconstruct – through interpretation – the thoughts which are settled in the legal text. This reconstruction is a mental process through which we rebuild the text according to our knowledge for a better understanding.

A feature of the juridical system is that it is composed of strongly related texts, so while creating new texts (i.e. translations) we must take

care of its coherence with the rest of the legal texts. This coherence is ensured by legal terminology (party of a contract, death penalty etc.) and by some non-terminological elements, such as: *regarding, breaking a contract, furthermore etc.* The tradition of the legal text also contributes to this coherence, because of which non-jurists may find legal texts impossible to understand. This is due to the fact that the juridical system is a logical one, the texts of which tries to avoid descriptions and thus becomes so complex and heavy that a common person will not be able to reach understanding only by reading, but one will need further study and analysis. The specific scope of these texts may explain the use of long phrases which will become a hard task for the translator to deal with. To understand and translate these texts one must interpret them.

One may face a situation in which the source language text (act or contract, deed of foundation or statute) is too complicated and it is not clear enough. Though this utterance is in contradiction with the one referring to the logical character of legal texts, we may declare that translators will often face such situations in practice, resulting of the incompetence or lack of knowledge of those who have written the texts. The translator will become an interpreter only in problems related to the act of translation and in no case to the content of the paper. It is even a more considerable problem if the lack of clearness is due to the differences of the two language systems. During the process of translation the translator must reject creativity and must accept the traditional specialized language. Specialized language in this study means the terminology of a domain which mirrors that slice of reality, which is the research territory of a certain circle of specialists (Kurtan 2003: 50). It is not a simple task for the translator to use special terminology, because he or she may have other linguistic preferences or might be revolted against the existing calculi forms of expression. A further cause of the translator's difficulty might be the fact that documentation sources are not available for him or her (Varnai 2006: 48). In the case of legal translations it is important that the translator uses the existing source language terminology, because in fact they become the codes of legal communication and the tools of coherent texts. If the translator faces new concepts during the translation, he or she must take into consideration several legal, linguistic and cultural aspects to reach the perfect, or the most adequate equivalent.

### 3.2. Legal Translation and Comparative Study

In the process of legal translations one may find comparative study a useful method. It will first be used to make the comparative study of the two language systems. This is an intellectual process which will enrich the referential system of the translator through the study of a different referential system. Another purpose of this kind of study is to make a comparison between the two juridical systems and to settle common features and different characteristics as well. Let us analyze how comparative study can help the comparison of linguistic and thematic knowledge, and let us see how this method can build a bridge between two different cultures and worlds. The interpretation and re-textualisation of a discourse in the form of an equivalent discourse written in another language will be possible only if the translator analyzes the linguistic signs according to the extralinguistic aspects. To carry out a translation, the translator will need a minimal knowledge of both legal systems. Using the methods of comparative legal study, it is important not only to understand the procedures of the respective legal system, but also to place the text correctly in the receptor culture. The comparison is a theoretical method which helps to understand the power and the limits of the legal actions in the two different juridical systems, and it will also point out the convergent and divergent aspects of the two legal systems. During the process of comparative study, the translator gains thematic knowledge, which will become active and useful only in the very moment of the translation. Regarding legal translations, the most difficult issue is the translation of legal realia.

In the case of making a translation from language A, which is Romanian, to language B, which is Hungarian, the problem is that the two juridical systems differ, so the names of different institutions differ a lot as well. There are some juridical and official institutions in case of which in Hungary there is an accepted name and in Romania, amongst Hungarian-speaking people, there is another accepted name. The problem is that the translator must choose the scope-oriented version in order to achieve dynamic and functional equivalence. The following table shows some issues of this dilemma:

Table 1.

Romania	Hungary	Hungarian translation accepted in Romania
Judecătoria	városi alapfokú bíróság	bíróság
Tribunal	megyei bíróság	törvényszék
Curtea de Apel	fellebbviteli bíróság	táblabíróság
Înalta Curte de Casație și Justiție	Legfelsőbb Bíróság	Legfelsőbb Bíróság, Semmítőszék
Parchetul de pe lângă tribunalul X	ügyészség	ügyészség
Procuratură	-	ügyészség
Magistratură	-	Bírókat és Ügyészeket képző Intézet (Bukarest)
Curtea Constituțională	Alkotmánybíróság	Alkotmánybíróság
Curtea de Conturi	Számvevőszék	Számvevőszék
Oficiul Național al Registrului Comerțului	cégbíróság	Kereskedelmi Nyilvántartó Hivatal

This is why it is important to make the comparison of the two juridical systems. The comparison will reveal the systemic similarities. The comparison must be made between the terminology and the legal segments. The bigger the difference of the two juridical systems, the harder the translator's job. In such cases the translator must fight for functional equivalence (Klaudy 1997: 81). The point of such equivalence is that the text would have the same role in the target culture amongst the target language readers as the original text had in the source culture amongst the source language readers. The translator must deliver the sense of the source text; otherwise the translation would not reach its aim. The translator must take into consideration the knowledge, the experience and the competence of the target language readers. The translator must reach identical impact through the text on the target language audience as the author of the original had on the source language audience. So, we may declare that the translator must respect the principle of dynamic equivalence, too. The scope will be the similar effect of both the source and the target text (Nida 1964: 168). To respect this prin-

ciple, the translator gives up the idea of total translation and tries to rebuild the information system of the text in a way that it will contribute to a better understanding of the audience. This will mean the use of explicitation in the elaboration of the translated text; explicitation meaning the introduction of the necessary explanatory elements. Thus the semantics of the text will become richer and, in some cases, the text itself will become longer (Klaudy 1997: 380).

## **4. The Problems of the Official Translations**

One segment of legal translations is the translation of official documents.

### **4.1. Official Translation – Definition**

We consider official translations those documents which, after translation, are accepted by the target language audience and institutions as official papers. There are no theoretical studies regarding the issues of official translations. They cannot even be properly defined. They are somehow related to legal translation and court and community interpretation. The studies dealing with this kind of translation show that official translation must be done in accordance with many norms that are bound. These norms and bonds (limitations) depend on laws, legal procedures and practice (Mayoral-Asensio 2003: 1).

### **4.2. Practice**

Official documents are translated for many kinds of audience: administrative boards, courtrooms and common people being involved in trials. Furthermore, they must be translated in order that the norms and laws of a certain country can become valid for foreign citizens and immigrants. As these translations have a certification clause, too, the translator will become the certifier of the content of the translation. According to Romanian legislation, the work of the translator must be certified by a notary public, who thus certifies the identity of the translator and the authenticity of the text. The quality and the correctness of the translation will have nothing to gain by this act as the majority of the

notary publics in Romania do not speak Hungarian, thus they cannot verify the exactness of the translation.

According to Roberto Mayoral-Asensio (Mayoral-Asensio 2003: 3), legal translations must have the following elements: data and events (birth data, wills, law-breaking etc.), administrative aspects (certifying formulas) and elements ensuring authentic text (stamps, seals, registry number, apostil).

The scope of the official translations is much more evident: they must become the communicative equivalents of a certain text in the target culture (Klaudy 1997: 82). The translator will respect the rules of the target language culture, preparing an easily understandable text for the courts, police and other state institutions. The most important for such a document is to fulfil its task in the moment of its use. It is better to refer to the texts taking part in the process of the translation (both the source and the target text) as to documents. Documents can offer data about some persons (birth and death certificates, diplomas etc.) and they can show the relationship between different subjects of law (contracts, agreements, conventions, etc.).

According to Christiane Nord, official translations belong to the document-type of translations, as the source text is a document on its own, so the translation of it must become another document (Nord 1997: 47). Both the client and the user of the translation will need loyalty to the source text. Loyalty is very hard to be described because the hermeneutics of the legal texts remain a permanent mystery for the common language user. According to István Bart, when making a translation one must take as a starting point the whole of the source text. He considers that equivalence must be reached both at the level of the text and at the lower levels, too. After the situation and the scope of the communication act delivered in the source text have become clear, the translator must make a detailed analysis of each paragraph and sentence. The translator must differentiate the hard and soft parts of the text. Hard parts are those which cannot be modified according to the wish and competence of the translator, such as the name of institutions, authorities and laws. Soft parts are those which depend on the choice of the translator. In the case of hard parts we cannot speak of translation proper, we speak of transposition. In the case of soft parts the translator is free to choose the grammatical structures. In this latter case the translator does not only have the freedom but also the responsibility of the choices.

### 4.3. The Issue of Loyalty in the Case of Official Documents

Official translations are to be correct not from the perspective of academic principles but from the perspective of their users. Thus the translator must face many dilemmas: loyalty, transparency, acceptability, equivalence, style and terminology (Mayoral-Asensio 2003: 12–13).

In spite of these problems official translators must become bridges among cultures and must explain and interpret the text just as literary translators do in their works.

A few basic principles are listed here, which must be respected when elaborating an official translation: the translation cannot be longer or shorter than the original (the content cannot be prolonged or shortened), the translator must use only usual formulae, the translator must respect the target language culture, the style and the form of the original must also be kept. In this kind of translations the accent falls on the formal and semantic equivalence.

According to these principles, we may declare that the scope of the official translation is to elaborate a document through which the author of the original paper, in a peculiar act of communication, transmits a message to the target language reader in such a way that the newly elaborated text respects the conditions of the target language textual norms. This definition makes the work of the translator even more difficult, because the translator cannot respect the principle of the shortest and more efficient translation, thus even endangering the principle of relevance and that of understandability (Nord 2003: 40–43).

Besides these problems, we may talk about the legal conditions as well, which must be respected in the case of official translations. These conditions regulate both the activity of the official translators and the way in which the translation may be used.

The conditions of form and content are settled by laws both in Hungary and in Romania (see Act 24/1986. /VI.26./ in Hungary and Act 178/1997 modified by Act 281/2004 in Romania).

The above mentioned Act prescribes that official translations and copies of such translation may be issued only by OFFI ZRT. This company seals and stamps the official acts as a sign of its authenticity.

The role of the official translations and the certification, as such, of this kind of texts are to prove that the respective text is identical with the original source text, both from the point of view of sense and content.



Official translations may be elaborated for domestic and foreign state authorities. In Romania the mentioned laws coordinate the activity of translators and interpreters, they present the conditions of obtaining license and they settle the fees for community translation and interpreting. They also settle the conditions of certification and present those institutions for which these official translators may work (court of justice, attorneys and prosecutors, police, local and central state administration).

In Romania there is no central company or organ for this kind of work, private and free-lance translators do this kind of job and notary publics certify their identity and legal competence. Thus we may say that in both countries the translator is free to make his or her choices, but must respect both the laws and the conditions of adequacy and efficiency.

The rules of this kind of activity come from the practice of translation. The practice, which is transformed in custom, depends on clients and text users. Thus the principles of this activity result in a conservative translating practice, which places loyalty in front of understandability.

Regarding the freedom of translators, we may declare that in spite of the fact that legal translations are very bound, the translator has some freedom of choice. He or she can translate the soft parts of the text in various manners according to his or her taste. During the translation of official documents the translator does not compare language systems, but tries to make parallel analysis of the two different legal systems.

The translator may differentiate the macro text and the micro text. The very moment he or she makes a choice on the macro level, all the micro level choices are limited. This forces him or her to build his text proceeding from the upper to the lower levels, and he or she can change this strategy only in the extreme case in which he or she is not able to make decisions on upper levels. In this latter case the translator will elaborate the terminology first, and will build up the text afterwards. The micro translation (e.g. the translation of the lexical units) is decisive, as till the translator has not decided which term to use, all macro level possibilities are open and can be used (Mayoral-Asensio 2003: 49).

If we decide at macro level to keep the unclear character of the original text, we must not use *explicitation* techniques on lower levels (words, phrases and so on). If we decide to make an explained translation, we must *explicitize* the lower level expressions as well (such as the juridical form of a company).

This is a proper method for informative texts. If the up – down text construction is not possible, the translator must first deal with the lower level problems. This is valid in the course of translation of laws and contracts, where any kind of explanation or *explicitation* is banned.

This is also true for land registers, as in this case the translator must elaborate even the smallest detail (name, title of property, proportions) and must also be attentive to the name of the issuing authority, as in our case (Hungarian – Romanian relation) it depends on the year of issue (due to historical and political changes). While the up – down text construction makes a freer and more original-like text possible, the down – up text construction results in a more complex and difficult text (having even archaic expressions and proper nouns).

We may conclude that on macro level the translations follow the original and, if necessary, they are explained and interpreted. At micro level the translator must not use calques and transpositions, must avoid adaptation and omissions, and must take care of false friends. In official translation the translator must pay attention to linguistic formulae, proper names and data, and must avoid generalizations (Mayoral-Asensio 2003: 55–61).

#### 4.4. Cultural Aspects

The translation of proper names and the names of institutions in the case of official translations is a cultural problem. If the translator must translate the name of a company for better identification, he or she must transpose it in the target text from the source text without any changes (eventually he or she may explain it in parenthesis). That is so because the respective company is registered in the country of origin with that very name, therefore the translation of the name would cause a misunderstanding. This is valid for the juridical forms of companies, too, as in the different commercial laws of different countries there might be differences related to the juridical forms.

For instance, it is banned to translate the Hungarian Kft (Ltd.) for the Romanian SRL (Ltd.). In the case of proper names we may say that the most difficult task is to translate Hungarian married women's names to other languages: *Kovács Jánosné* cannot be translated into Romanian as *Doamna Kovács*, therefore the translator must copy the name in the translated document and must explain the identity of the person in parenthesis.

The translator must not change the addresses and the names of local institutions. If the institutions have international names, the translator may use these official names (e.g. the names of EU-institutions). The same is valid also for the names of localities. The names of the capitals may be translated, but the rest of the city and town names remain unchanged.

## 5. Conclusions

An official translation can be efficient if it is acceptable from the point of view of quality. The conditions of efficiency are: 1. the explanations of the translator must be separated from the rest of the text, 2. visual signs must be transposed (stamps, seals other signs), 3. every modification of the source language must be presented (if there are corrections or additions), 4. every falsifiable element must be presented.

To fulfil the qualitative conditions the translator must improve the style of the translation and must increase the degree of understandability and adequacy. The translator must avoid lexical and semantic gaps and must clarify the content and the sense of the text. In some cases the translator may even use his or her creativity (Mayoral-Asensio 2003: 50–53).

Even if there is no perfect correspondence between the two juridical systems and the two languages (due to the different institutions, concepts, procedures, legal precedents), the literature of translation theory and that of terminology considers that the equivalence is the basic condition of the acceptability of an official translation. In spite of the fact that some researchers accepted that there is no perfect equivalence, translators work on the elaboration of some strategies in order to achieve a certain kind of equivalence.

Such a strategy is the *local translation usage* (Kierzkowska 2000: 23), which is often used by translators and which is in the use of local standards in the process of translation. This is sometimes in contradiction with terminological norms, but it is a very popular method both in European and Romanian practice. This means that the translators respect the formal criteria but do not try to standardize terminology; therefore they often use ad hoc translations.

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## WILL HUNGARIAN BECOME A *LINGUA FRANCA* IN THE CARPATHIAN BASIN?

### *Summary*

Due to the Treaty of Trianon (1920), The Hungarian language is being spoken in eight different countries in the Carpathian Basin, i.e. Hungary, Ukraine, Romania, the former Yugoslav states of Serbia, Croatia and Slovenia, Slovakia and Austria. These countries are neighbouring to Hungary and the territories of these countries belonging to the Carpathian Basin are the following: Slovakia proper, Sub-Carpathia (Ukraine), Transylvania (Romania), Vojvodina (Serbia), Pannonian Croatia (Croatia), Mura region (Slovenia) and Burgenland (Austria).<sup>1</sup> The Carpathian Basin covered the territory of the Old Kingdom of Hungary. The areas mentioned above are inhabited by a mixed population of ethnic and non-ethnic Hungarians. The Hungarians in the territories neighbouring Hungary are qualified as a "minority" in the states they belong to.<sup>2</sup> However, in most cases they still form a majority in the areas they live in.

Whatever the territorial partitioning of the Carpathian Basin has been or is, all geographers that have studied the Carpathian Basin acknowledge that this area of Central Europe is a geographical, social, cultural and linguistic entity. I refer to excellent studies that are in support of this claim.<sup>3</sup> In fact, the Carpathian Basin is a 'culture area' in the sense of Smith (1991, 172). Hence, it is motivated to study this area as a unity neglecting the fact that in some cases ethnicity crosses the borders of the Carpathian Basin, as for example, in the case of the Romanians or the Serbs. In this paper it will be argued that Hungarian is still a majority language in the Carpathian Basin. The reason for this is that Hungarians are still in the majority from an ethnic point of view.

1 Király et al. (eds.) (1982).

2 Compare Chaszar (1982); Galántai (1992).

3 Compare Kollányi (2005) and the references cited therein; Kocsis (2005); Kocsis and Kocsis-Hodosi (1995) and Rónai (1945). The system of the (Eastern) Carpathians is so tight that the defence system of the Hungarian Royal Army in the Second World War was based on this mountain range (cf. János József Szabó (2006)).

According to Smith (1991, 11-13), the Eastern European model of national identity is 'ethnic' in contrast to the 'civic' model of Western Europe. This has the following two important consequences. First of all, a nation is first and foremost a community of common descent and a member is organically connected to it (cf. Smith (1991, 11)). Second, the place of law in the Western civic model is taken by vernacular culture, usually languages and customs in the ethnic model. That is why lexicographers, philologists and folklorists have played a central role in the early nationalisms of Eastern Europe and Asia (cf. Smith (1991, 12)). Following Smith (1991, 11-13, 20), we will adopt the generalization that in Central and Eastern Europe vernacular language and culture determine ethnic identity and that these features are strongly correlating with national identity. Hence, there is a correlation between being an ethnic Hungarian and speaking the Hungarian language. All ethnic Hungarians speak and use the Hungarian language in the Carpathian Basin. Knowledge and use of the Hungarian language is one of the markers of the Hungarian identity in this area.<sup>4</sup> However, not all speakers of Hungarian are ethnic Hungarians and not all ethnic speakers of Hungarian are speaking the Hungarian language. For example, the Roma sometimes only speak Hungarian, but they are not ethnic Hungarians. Bilingual speakers of Hungarian, ethnic Romanians, for example, in Transylvania might speak Hungarian, but they are not ethnic Hungarians. Some ethnic Hungarian communities, like some of the Csángó communities in Moldavia do not speak any longer Hungarian but Romanian. These communities consider themselves as ethnic Hungarian descendents. Although these cases exist, I will consider them as an exception to Smith's generalization for Central and Eastern Europe. Observe that *Smith's generalization* is only true for the following left-to-right correlation between ethnicity and language. If you are of X ethnicity then you speak X language, but vice versa is not true.

Although, the Hungarian language is subject to legal conditions and a restrictive language policy in the neighbouring countries of Hungary, it has received more recognition in a European framework.<sup>5</sup> After the collapse of communism the internal and cross-border public space have become free. For reasons of communication, speakers are free to use the

4 Compare Marác (1999) for this claim.

5 Compare Brubaker et al. (2006); Csergő (2007); Kontra and Hattyár (2002).



language of their choice. Furthermore, minority languages are being protected by conventions adopted by the Council of Europe, namely the European Charter for Regional or Minority Languages (ECRML, 1992) and the Framework Convention for National Minorities (FCNM, 1995).<sup>6</sup> Both conventions are not integrated into the European Union's legal framework yet, but it is clear that they will play an important role in the further liberalization of Europe and the Europeanization of Central and Eastern Europe. It is precisely for this reason that Hungarian communities in Central Europe are in favor of a further Europeanization of their region.<sup>7</sup> This point of view conflicts with local nationalist jurisdiction, especially in Romania and Slovakia. However, the nationalist policy towards the Hungarian language can only hinder and delay a free and spontaneous use of the Hungarian language. Because of Europeanization the Hungarian language will strengthen its position in Central Europe, more precisely in the Carpathian Basin where Hungarians have a clear ethnic majority. If this is the course of future development, then Hungarian might develop into a regional communication language, a so-called *lingua franca* in the Carpathian Basin.<sup>8</sup> This *lingua franca* will be used mainly in the communication among

6 Compare Trifunovska (2001) and Reestman (2004) for discussion.

7 See a number of documents and statements made in this spirit by Hungarian communities throughout the Carpathian Basin in Bárdi and Éger (2000) and the work of Ankerl (2004).

8 The status of the Hungarian language in the Carpathian Basin can be studied from a geolinguistic point of view (cf. Balázs and Marácz (1996)). The Hungarian language is very different from the languages neighbouring it. It is different in structure, meaning and origin. Hungarian lacks, for example, the phenomenon of gender, which appears in all the surrounding languages. Hungarian is not related to the Slavic, Germanic and Romance languages. These languages all belong to the family of Indo-Germanic languages. It can be stated that Hungarian is marked in its geolinguistic context. As a consequence, Hungarian is not able to assimilate the other languages in the Carpathian Basin but it is neither possible to assimilate the Hungarian language. It is simply too different in structure and meaning. Speakers of Hungarian are very well aware of this. Interestingly, the Hungarian language shares everywhere the same standards in the Carpathian Basin. There is only one standard Hungarian language and there are no dialectical variations of the Hungarian language in the sense the Western European languages, like German, have for example. Speakers of Hungarian language living in the most northwestern point of the Carpathian Basin, i.e. Sopron, have no problems communicating with speakers of Hungarian living in the most southeastern point of the Carpathian Basin, i.e. Csíkszereda (in Romanian Miercurea Ciuc) in the Eastern Carpathians. In sum, Hungarian is a marked language in its geolinguistic context, and as a consequence it will maintain a fix and stable position in the core of the Carpathian Basin.

Hungarian mother tongue speakers in all domains of life as it will be demonstrated in section 3 below.<sup>9</sup>

### 1. Hungarians in the Carpathian Basin

The following table shows that ethnic Hungarians live in the Carpathian Basin in eight different countries:<sup>10</sup>

Table 1. *Ethnic Hungarians in the Carpathian Basin*

	Carpathian Basin	In total
Hungary	10.360.000	
Slovakia	710.000	
Ukraine	200.000	220.000
Romania	1.930.000	2.100.000
Former Yugoslavia (Serbia, Croatia, Slovenia)	455.000	465.000
Austria	5.000	70.000
Total	13.660.000	16.515.000

As we may notice from the above table the total sum of ethnic Hungarians in the Carpathian Basin counts 13.660.000 persons. However, the total number of ethnic Hungarians in Central and Eastern Europe is larger than the number of ethnic Hungarians in the Carpathian Basin, i.e. 16.515.000. Apart from Hungary and Slovakia, six of the eight countries with Hungarians do not completely match territorially the Carpathian Basin. For example, large groups of Hungarian speakers live in cities outside the Carpathian Basin, i.e. Vienna, Bukarest and Belgrade.

According to statistical data collected in 2001 based on the official census figures of the countries involved, the following table represents the ethnic distribution in the Carpathian Basin of the most important ethnic groups:<sup>11</sup>

9 Very little research has been done concerning the question which language speakers of Hungarian, like Carpathian Serbs, Slovaks, Ukrainians, Romanians, etc. speak when they communicate. There are several options, including Hungarian, but also English, German or Russian. We will leave this question as an interesting issue for further research.

10 Compare Glatz (1993), Kocsis and Kocsis-Hodosi (1995) and Kocsis, ed., (2005).

11 Compare Kocsis, Bottlik and Tátrai (2006, 28)

**Table 2. Ethnic Distribution in the Carpathian Basin**

Ethnic group	Number	Percentage
Hungarians	11.706.000	39,7
Romanians	5.464.000	18,5
Slovaks	4.716.000	16,0
Croats	2.828.000	9,6
Serbs	1.497.000	5,1
Russins/Ukrainians	1.125.000	3,8
Roma	579.000	2,0
Germans	372.000	1,3
Slovenes	82.000	0,3
Czechs	60.000	0,2
Montenegrians	38.000	0,1
Russians	33.000	0,1
Bosnyaks	27.000	0,1
Others	105.000	0,4
Unknown	828.000	2,8

As for this table, it can be observed that ethnic Hungarians still form a majority in the Carpathian Basin, although Kocsis, Bottlik and Tátrai (2006, 28) note that the number of Hungarians in the Carpathian Basin has declined in the second half of the twentieth century:

**Table 3. Decline of Ethnic Hungarians in the Carpathian Basin**

Hungarians	Number	Percentage
1941	12.221.000	50
1991	12.843.000	42,5
2001	11.706.000	39,7

According to these authors, this has to do with the decline of natural growth of ethnic Hungarians in the Carpathian Basin. Note however, that the emigrations of ethnic Hungarians from Transylvania and Vojvodina to Hungary proper, for example, during the Ceaușescu and Milošević years in the eighties and nineties of the former century, did not affect the total of ethnic Hungarians in the Carpathian Basin, for these emigrations were internal Carpathian Basin migrations.

The distribution of the ethnic groups in the Carpathian Basin over the individual countries gives the following results based on the census data of 2001:<sup>12</sup>

**Table 4. Ethnic Distribution in the States of the Carpathian Basin**

Territory	Percentage of state nationality	Percentage of national minorities	Percentage of Roma
Hungary	91,2	1,3	1,2
Slovakia	85,5	11,5	1,7
Subcarpathia (Ukraine)	80,5	18,3	1,1
Transylvania (Romania)	74,6	23,8	3,4
Vojvodina (Serbia)	65,0	26,7	1,4
Pannonian Croatia	90,1	7,7	0,3
Mura region (Slovenia)	85,0	9,5	1,2
Burgenland (Austria)	87,4	12,5	0,1
Carpathian Basin	83,7	11,5	2,0

From these tables it follows that ethnic Hungarians with 39,7 percent form an absolute majority in the Carpathian Basin. This implies that Hungarian is being spoken by a majority of speakers inhabiting the Carpathian Basin. As pointed out above, there is a clear correlation between ethnicity and the mother tongue that is spoken in this area of Europe, the so-called Smith's generalization for Central and Eastern Europe. Henceforth all people who identify themselves as ethnic Hungarians speak the Hungarian language. As we have argued above, Smith's generalization is not true from right-to-left. Not all speakers of Hungarian are of ethnic Hungarian origin. In conclusion, the number of Hungarian speakers might be much higher than the number of ethnic Hungarians.

The number of people speaking Hungarian in the Carpathian Basin is indeed much higher. First, there are a number of bi- and multilingual speakers in the Carpathian Basin. All Hungarians speak the official state

<sup>12</sup> Kocsis, Bottlik and Tátrai (2006, 29).

language in the countries where they form a minority. But vice versa it might be true as well. A number of Romanians, Slovaks, Russians/Ukrainians, etc. also speak Hungarian, especially in the areas that belong to the Carpathian Basin. Interestingly, it has been observed that even anti-Hungarian politicians in areas inhabited by Hungarians perfectly speak Hungarian.<sup>13</sup> Secondly, there is a number of mixed marriages between ethnic and non-ethnic Hungarians, especially in the areas of the Carpathian Basin that are inhabited by the Hungarian minorities, like Vojvodina, Transylvania, and so on. This affects the number of bi- and multilingual speakers positively, who can also speak Hungarian. Thirdly, most of the Roma in the minority areas speak Hungarian. According to the official census in 2001, there are only 579.000 Roma in the Carpathian Basin (compare table 2). This number seems much too low. It is estimated that this figure would cover the gypsy population of Hungary only.<sup>14</sup> Especially the number of the Roma in Transylvania is much higher, it might be around two million. However, it is well-known that the Roma do not easily commit themselves to the Roma identity in official census, because they are afraid this might have negative repercussions on them. In sum, it is safe to conclude that ethnic Hungarians are in majority in the Carpathian Basin. Henceforth Hungarian is a majority language in this area. At least 39,7 percent of the total population of the Carpathian Basin speaks Hungarian, but because of the bi- and multilingual areas involved where Hungarian is being spoken, the percentage is very likely to be much higher.

## 2. The Legal Status of Hungarian in the Carpathian Basin

Generally, with respect to the legal status of languages, there are four options. First, the constitution defines the official language, i.e. the state language. In this case, the state language is the language of the majority. As a consequence, if there are other languages spoken, there is a hierarchy in which the majority language is at the top. The ordering of languages in this way cannot be called democratic. Secondly, the constitu-

13 Compare Brubaker et al. (2006), who note that nationalist, anti-Hungarian politicians, like the former mayor of the Transylvanian city of Cluj-Napoca, Gheorghe Funar, speak fluently Hungarian.

14 Compare Tóth (2005).

tion defines the official language, i.e. the state language, together with the minority languages. In this case, there is a situation of equality and inclusion, and democratic standards are applied to the language situation. Thirdly, the official language, i.e. the state language, is not defined by the constitution, but elsewhere in the law system. Fourthly, the official language or state language is neither defined by the constitution nor specified in the law system.

If we take into account the Hungarian language in the Carpathian Basin, then the third option is not represented.<sup>15</sup> In the first category we find the Hungarian language in Romania, Slovakia and Milošević's Yugoslavia in the 1980-1990s. In essence, this means that the status of Hungarian in these cases is legally lower than the state language, i.e. Romanian, Slovak and Serbo-Croatian. The language of the Hungarian minority has no official status in the constitution and is restricted in its use by language laws, even in territories where Hungarians are in majority, such as the Szekler region in Transylvania.<sup>16</sup> Below we will discuss in more detail some restrictive measures in Romania with respect to the Hungarian language.<sup>17</sup>

In category two the Hungarian language is classified in Slovenia and Croatia, and for Austria, Ukraine and Serbia after 2002. In these cases the Hungarian language is referred to in the constitution, and enjoys therefore equal rights. Often the equal rights are applied only in the territory where the speakers of Hungarian live. The situation of the Hungarian language in this group is, however, much better than in the first group. In group four we find the language situation in Hungary. The lack of constitutional specification has no effect however, because in Hungary only one language is being used formally and informally, i.e. Hungarian.

The Hungarian language in Romania is mostly spoken in Transylvania, but not only. On the territory of the Old Romanian Kingdom Hungarian is the mother tongue of 100.000 ethnic Hungarians in Moldavia, the so-called Csángo Hungarians. Hungarian is also spoken by Hungarians living in the city of Bukarest. In Transylvania Hungarian is spoken by a majority of ethnic Hungarians in the so-called Szekler provinces, Harghita and Covasna. Furthermore, it is used in the whole

15 See the articles on <http://adattar.adattar.transindex.ro>.

16 Compare Brubaker et al. (2006), Csergő (2007), Kontra and Hattyár (2002).

17 Compare Péntek (2006); Péntek and Benő (2003, 2005); and Benő and Szilágyi (2006).

area of Transylvania, where sometimes it is a majority and sometimes a minority language.

The use of languages in Romania is regulated by article 13 of the Romanian Constitution. The Romanian Constitution declares the Romanian language to be the official language. This means that all minority languages, including Hungarian, have in fact no real official legal status in Romania. The Romanian Constitution does not consider collective language rights for non-Romanian speakers (compare article 32.3.) Ethnic and national minorities in Romania have only the individual right of language learning. This is, of course, a strange provision concerning language use, since it is a social, interactional process. This has been recognized by a number of international organizations, like the UN, the OCSE and the Council of Europe that have recently accepted the concept of collectivity in their provisions concerning the language and other rights of minorities. Even the Hungarian-Romanian State Treaty, signed in 1996, has adopted the notion of 'collective rights' for minorities. Hence, the Romanian law system is contradicting internationally signed agreements by the country.

A consequence of article 13 of the Romanian Constitution is that the official language is the language of public use. Hence, it is not allowed to use any other language than Romanian in the Romanian parliament or the senate, although a number of representatives speak a so-called 'minority language'. But article 13 rules out the use of any other language than Romanian in a number of less strict formal situations as well. The meetings of trade unions can only take place in Romanian; the material supporting election campaigns, like posters, can be only in Romanian. Furthermore, because of article 13, persons who argue for a formal, equal status of a minority language in Romania are suspected of being disloyal to the Romanian state. Due to article 13 other languages that are used on the territory of Romania are treated as foreign languages in fact.

The language of education is specified by law. It is stated in the Law on Education that the language of education in Romania is the Romanian language (see article 32.127). The use of other languages for educational purposes, i.e. minority languages is restricted by law. History and geography has to be taught in Romanian. This means that Hungarian pupils do not learn the place names of Transylvania in Hungarian language. History must be taught in Romanian, which means that all the conflicting issues in Romanian and Hungarian history, like the disputed theory

of the Daco-Roman ancestry of the Romanians cannot be counterbalanced from a Hungarian point of view. Furthermore, Romanian law specifies that no foreign textbooks may be used. Hence no history books from Hungary may be used in Hungarian minority classes. Because the Romanian language is the official language, educational documents are only accepted in the Romanian language and in all communities Romanian language classes must be guaranteed, even if no ethnic Romanians or speakers of Romanian live in the community involved. As a consequence of the Romanian educational policy an asymmetry can be observed concerning the language knowledge of individual speakers. Speakers of Hungarian know both languages, whereas Romanians often speak only the official language, i.e. their own language.

The discriminative practice with respect to minority languages can also be observed in the case of the Law on Public Administration. This law also specifies that the official language of public administration is Romanian (see article 32.127). This means that the documents of public administration must be in Romanian. As a consequence, the Hungarians in Transylvania are not allowed to correspond with the (local) authorities in Hungarian, even if they form the majority in a specific community. Because of the language provision in the Law on Public Administration the use of minority languages is very restricted in scope. The law specifies that minority languages may be used if and only if the minority population makes out at least twenty percent of the total population of the community involved. Even in those cases only the place and street names may be used in the minority language, but no official correspondences with the (local) authorities or formal acts, like wedding ceremonies (and Hungarian speaking couples saying yes to each other) may take place in the minority languages. However, even in a city like Cluj-Napoca (in Hungarian Kolozsvár, in German Klausenburg), where at least 70.000 speakers of Hungarian live, according to the last census, place names in the city are monolingual (in Romanian) because the number of ethnic Hungarians does not reach the twenty percent, i.e. 19,9 percent. Even if the latter figure is right, and I have my doubts, it is of course completely undemocratic to exclude so many people from using their own mother tongue in their home town.

The discriminative practice towards the Hungarian language is not only supported by constructing the law system in such a way that it marginalizes Hungarian and other 'minority' languages, since the process of



ethnic engineering is still in progress.<sup>18</sup> The official and semi-official institutions of the state, such as the police and military forces and the orthodox church, are expanding to territories where Romanian is not or hardly spoken – in order to change ethnic distributions.

### 3. The Europeanization of Central Europe

The question arises whether a Hungarian nation in the classical sense still exists in the Carpathian Basin or whether we have to do with a cross-border language community or a culture area containing a family of related cultures in the sense of Smith (1991, 172). One of the test cases to answer this question has been the Referendum on Dual Citizenship for Hungarians Living Abroad. The referendum was held in Hungary on December 5, 2004. The outcome of the referendum did not support the claim that the Hungarian political nation is still alive, although there was a slight majority of 51,5 percent granting citizenship for Hungarians living in the neighbouring countries and 48,4 percent opposing this. The referendum, however, was not valid because of a low turn-out of 37,4 percent. One may conclude that most of the Hungarians from Hungary are rather indifferent with respect to the concept of a political nation crossing the borders of present day Hungary, or one might even say that they are opposing the idea of one Carpathian Hungarian nation. So, it is better not to speak of a political nation in a classical sense when talking about Hungarians in the Carpathian Basin.

Instead we will assume that we have to do with a cross-border Hungarian cultural community where culture is defined as a system of shared meanings, attitudes and values, and the symbolic forms (performances, artifacts) in which they are expressed or embodied.<sup>19</sup> It is clear that the Hungarian language is central to this concept. The Hungarian language is not only homogeneous from a structural point of view, but it also has a coherent meaning and content, otherwise speakers of Hungarian would face communicational difficulties in the Carpathian Basin. This is however not the case. Hence, Hungarian nationality is not linked to the exclusive existence of a Hungarian state in the Carpathian Basin but to a cross-border community sharing the same language and

18 Compare Marác (1996).

19 The difference between the concepts of political nation and cultural community, which is introduced at this place, resembles the difference between the concepts of nation and ethnic in Smith (1991, 40).

culture. Hence the proverb of the 19th century cultural nationalism is still valid today: 'the nation lives in its language.'<sup>20</sup>

So, not the content of nationhood has changed after the collapse of communism in Central Europe, but the regeneration of a public space in the sense of Habermas (1991). In this public space both individuals and non-governmental organizations forming civil society can act freely. After the expansion of the EU to Central and Eastern Europe, this Central European public space has become a part of the European public space. In this public space civil society can choose freely and spontaneously a language for communication. There is an enormous activity going on in the public space of the Carpathian Basin crossing existing borders and uniting speakers of Hungarian. Here I present just a few cases:

– *More than a half million speakers of Hungarian participate in the Pilgrimage of Csíksomlyó in the Carpathian Mountains in Transylvania on Whitsaturday. The enormous crowd attends the mass in Hungarian language.*

– *There is even a Hungarian NGO dedicated to the protection of the Hungarian diaspora and the cultural nation-above-borders idea, i.e. the World Federation of Hungarians seated in Budapest.*

– *There is a lively cross border co-operation between mother tongue protecting societies both in Hungary and in the territories inhabited by ethnic Hungarians in the Carpathian Basin.*

– *There are several cross-border euro regions in the Carpathian area, like the Carpathians Euro Region.*

– *The political party system of the Hungarians living beyond the borders reflects the bipolar system of Hungary, although there are local nuances.*

– *Although, according to official census, Hungarians in Cluj-Napoca are under twenty percent, Hungarians form a rather fixed, independent network in the city.<sup>21</sup>*

– *Duna Television, a satellite television in Hungarian language has been broadcasting from 1990. The goal of the station is to inform and connect speakers of Hungarian from all over the world, but in the first place the ones in the Carpathian Basin.*

– *Free acting in the public space challenges the state monopoly on education. Foundations have established private schools, like the Hungarian language university, Sapientia Hungarian University of Transylvania.*

20 Compare Marác (1999).

21 Compare Brubaker et al. (2006).

– At the Hungarian Book Week, which is annually held in Budapest at Vörösmarty Square in the first week of June most Hungarian language publication companies operating in the Carpathian Basin are present to introduce their new books.

– In the news fora, newspapers, weeklies, etc. appearing in Hungary a lot of issues are published affecting Hungarian speaking communities living outside Hungary and vice versa.

– Internet fora have a number of Hungarian speaking participants. These fora are a priori fora that cross borders. The Hungarian language forum [www.iwiw.hu](http://www.iwiw.hu) has at least several hundred thousand participants. The goal of [www.iwiw.hu](http://www.iwiw.hu) is to build up a network of people one knows.

– The Hungarian Academy of Sciences has auxiliary branches in Romania (Transylvania) and in Slovakia, in which local Hungarian scientists are represented.

– The rectors of Sapientia Hungarian University of Transylvania seated in Cluj-Napoca (in Hungarian: Kolozsvár) and of Partium Christian University seated in Oradea (in Hungarian: Nagyvárad) – both in Romania – and the Hungarian János Selye University seated in Komarno (in Hungarian: Komárom), Slovakia are members of the Hungarian Rectors' Conference, an independent public corporation comprising the rectors of Hungarian higher education to represent higher education institutions.

– The Budapest protestant parish "The Island of Hope", comprising mainly Transylvanian Hungarians living in Hungary, belongs to the Transylvanian Protestant Church District "Along King's Path".

– The forum of Hungarian scout associations coordinates the contacts and meetings of Hungarian scout associations in Croatia, Vojvodina, Romania, Hungary, Subcarpathia and outside the Carpathian Basin.

Note that all the above activities are not a matter of official language policy or institutionalized planning, but these are the results of free and spontaneous activities in the public space. This supports Smith's (1991, 172) claim that a 'culture area containing a family of related cultures is usually a product of long-term processes, and is mostly unanticipated, unintended and undirected'.

The above activities unambiguously demonstrate that the use of Hungarian is crossing existing national borders and that a Hungarian language speaking community of strong cultural kinship exists. In this case

the Hungarian language has reemerged as a *lingua franca* in a culture area like the Carpathian Basin (cf. Smith 1991, 172-173). The question arises what the status of minority languages in the European Union is.<sup>22</sup>

#### 4. Minority Languages in the European Union

The European Union itself has no special conventions yet for protecting minority languages, although the right to use one's own mother tongue is being recognized by the European Union as a fundamental right. Compare for example article 22 of the Charter of Fundamental Rights of the European Union concluded in Nice on December 7, 2000, which states that the Union shall respect cultural, religious and linguistic diversity. The EP has adopted several times resolutions, i.e. in 1981, 1983, 1987 and 1994 to protect minority rights, including language rights, and adopted a resolution on the Use of the Official Languages in the Institutions of the European Union on January 19, 1995 stating that all official languages of the EU are working languages.<sup>23</sup>

At present the Council of Europe specifies two legal treaties that are relevant for the protection of minority languages, namely the Framework Convention for the Protection of National Minorities (FCPNM), concluded on February 1, 1995 in Strassbourg and the European Charter for Regional or Minority Languages (ECRML) signed on November 5, 1992 in Strassbourg. The general application of these conventions contributes significantly to the stability, democratization and peace in Europe.

The FCPNM supports the positive discrimination of the identity of minorities on the basis of human rights and general freedom rights, it recognizes the fact that minority rights are collective rights and cross-border co-operation is not only restricted to states, but also local and regional authorities can take part in this. This is highly relevant for the Hungarian communities in the Carpathian Basin. The following demonstrates that all states concerned in the Carpathian Basin, where Hungarian is spoken, have ratified and applied the FCPNM:

22 It is argued that cultural and language autonomy is inherent to a democratic society (cf. Halperin et al. 1992; Balogh (1999)). Hungarian communities in the Carpathian Basin are striving for autonomy since the collapse of communism. Here I will concentrate on general provisions, skipping the particular Hungarian issues.

23 See the papers in Trifunovska (2001).

**Table 5. Entry into Force of FCPNM**

<b>States</b>	<b>Signature</b>	<b>Ratification</b>	<b>Entry into Force</b>
Austria	29/06/95	31/03/98	01/07/98
Croatia	06/11/96	11/10/97	01/02/98
Hungary	01/02/95	25/09/95	01/02/98
Romania	01/02/95	11/05/95	01/02/98
Serbia	11/05/01	11/05/01	01/09/01
Slovakia	01/02/95	14/09/95	01/02/98
Slovenia	01/02/95	25/03/98	01/07/98
Ukraine	15/09/95	26/01/98	01/05/98

The ECRML has been motivated by the fact that languages are part of a common cultural heritage and the protection of languages is necessary because of assimilatory state policy and uniformization by modern civilization. All states involved, where Hungarian is being used, have ratified this charter. Consider the following:

**Table 6. Entry into Force of ECRML**

<b>States</b>	<b>Signature</b>	<b>Ratification</b>	<b>Entry into Force</b>
Austria	05/11/92	28/06/01	01/10/01
Croatia	05/11/97	05/11/97	01/03/98
Hungary	05/11/92	26/04/95	01/03/98
Romania	17/07/95	29/01/08	01/05/08
Serbia	22/03/05	15/02/06	01/06/06
Slovakia	20/02/01	05/09/01	01/01/02
Slovenia	03/07/97	04/10/00	01/01/01
Ukraine	02/05/96	19/09/05	01/01/06

Basically, the Hungarian language communities all over the Carpathian Basin are legally protected by these two conventions of the Council of Europe. The EU has not yet adopted these conventions, but the members of the Council of Europe that signed these conventions are members of the EU as well, apart from Ukraine. Hence it is reasonable to expect that this type of bench-marking of the Council of Europe will be adopted in the future by the European Union as well.

The European Union has recognized the need for protecting and cultivating languages by appointing recently a Commissioner for

Multilingualism. The first Commissioner for Multilingualism is the Romanian Leonard Orban, who ought to be familiar with the issue of multilingualism from his native country. In his introductory statement held in Brussels on November 11, 2006 Orban claimed: "Europe's linguistic and cultural diversity is a source of richness which also needs to be nurtured and promoted...; ...respect for diversity, including linguistic diversity and the fight against all forms of discrimination are essential cornerstones of our efforts to build a social Europe." It is hard not to disagree with words like these. But in the interview with the members of EP – after his introductory statements – the then designated commissioner demonstrated that he was not really familiar with the situation of the Hungarian language in his native country: "I repeat the point of view of the Commission with which I agree. Romania has made remarkable progress with regard to the rights of minorities [...] My opinion and the opinion of the commission is that minority rights in Romania are respected." Contrary to this claim, shortly after his installation on November 21, 2006, two Hungarian university teachers in physics, Péter Hantz and Lehel Kovács were dismissed from the Babeş-Bolyai University of Cluj-Napoca, because they had hanged out trilingual, i.e. Romanian, Hungarian and German language signs in the university buildings. With this act they wanted to protest against that the monolingual signs in the university buildings had not been replaced with trilingual signs since the senate of the university decided to assign the Babeş-Bolyai University a multilingual, trilingual status in 2005.

## 5. Concluding Remarks

It seems English has a strong position in the race for becoming the world's global *lingua franca*. This has to do with the position English has acquired worldwide, being central in globalization. English already functions as a *lingua franca*<sup>24</sup> in the domain of the international business communities and in the global science community. Although German has more native speakers within the EU, i.e. 90 million, 18 percent of the total inhabitants of the EU, the largest language in terms of first and second language speakers is English, which has less native speakers than

24 Phillipson, Robert, *English-Only Europe? Challenging Language Policy*, Routledge, London, 2003, 64, 166.

German, i.e. 60 million, 13 percent of the total inhabitants of the EU.<sup>25</sup> So, if we take into account, beside mother tongue speakers, the speakers of foreign languages as well, then English is spoken by more than half of the respondents, i.e. 51 percent of which 38 percent foreign language speakers and 13 percent mother tongue speakers. German is used only by 32 percent of the respondents, that is 14 percent foreign language speakers and 18 percent mother tongue speakers.<sup>26</sup> It is safe to conclude that English is developing into a European *lingua franca*. We have argued in this paper that Hungarian has a chance of becoming a regional *lingua franca* in the Carpathian Basin.

Firstly, almost 100 percent of the inhabitants of Hungary speak Hungarian as their mother tongue. This percentage is higher than the percentage of ethnic Hungarians, which, according to the 2001 census, is 91,2 percent (see table 4). National minorities, such as Roma and others groups in Hungary speak Hungarian, the state language as well. Secondly, 58 percent of the Hungarians in Hungary do not speak any other language than their own mother tongue. Only 25 percent of the Hungarians in Hungary speak German, beside their mother tongue. The English scores even lower with 23 percent, although multinational companies and international institutions are dominated by English in Hungary as well.<sup>27</sup> This means that the central position of the Hungarian core in the Carpathian Basin does not only favor the Hungarian language as the *lingua franca* of the region, but the exclusive knowledge and use of Hungarian among Hungarian speakers in Hungary block any other language functioning as a *lingua franca* in the Carpathian Basin. Therefore, English or German do not have a real chance to become the *lingua franca* in the Carpathian Basin. Thirdly, Hungarian is spoken by a vast majority of nearly 40 percent, i.e. the total percentage of ethnic Hungarians in the Carpathian Basin of the total population of the Carpathian Basin. Speakers of Hungarian constitute a much larger percentage, however. The Hungarian language spreads over to other ethnic groups living in the Carpathian Basin as well (see table 2). Fourthly, the Hungarian language is marked from a geolinguistic point of view. Hence it has a fix and stable position in the Carpathian Basin. Fifthly, the position of the Hungarian language will be strengthened in the Carpathian

25 Eurobarometer 237, wave 63.4, 2005: [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_237.en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_237.en.pdf).

26 Eurobarometer 243: [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_243\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_243_en.pdf)

27 Eurobarometer 243: [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_243\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_243_en.pdf)

Basin because of the power and force of Europeanization of Central Europe. The Hungarian language is legally recognized in eight countries in the Carpathian Basin and it is protected by the ECRML and FCPNM of the Council of Europe. Sixthly, the Europeanization of the area also means that cross-border laissez-faire powers will affect the use of language, although mainly Slovak and Romanian nationalist policies will try to hamper the spontaneous use of the Hungarian language. In conclusion, the Hungarian language has a good chance of becoming a *lingua franca* in the Carpathian Basin.

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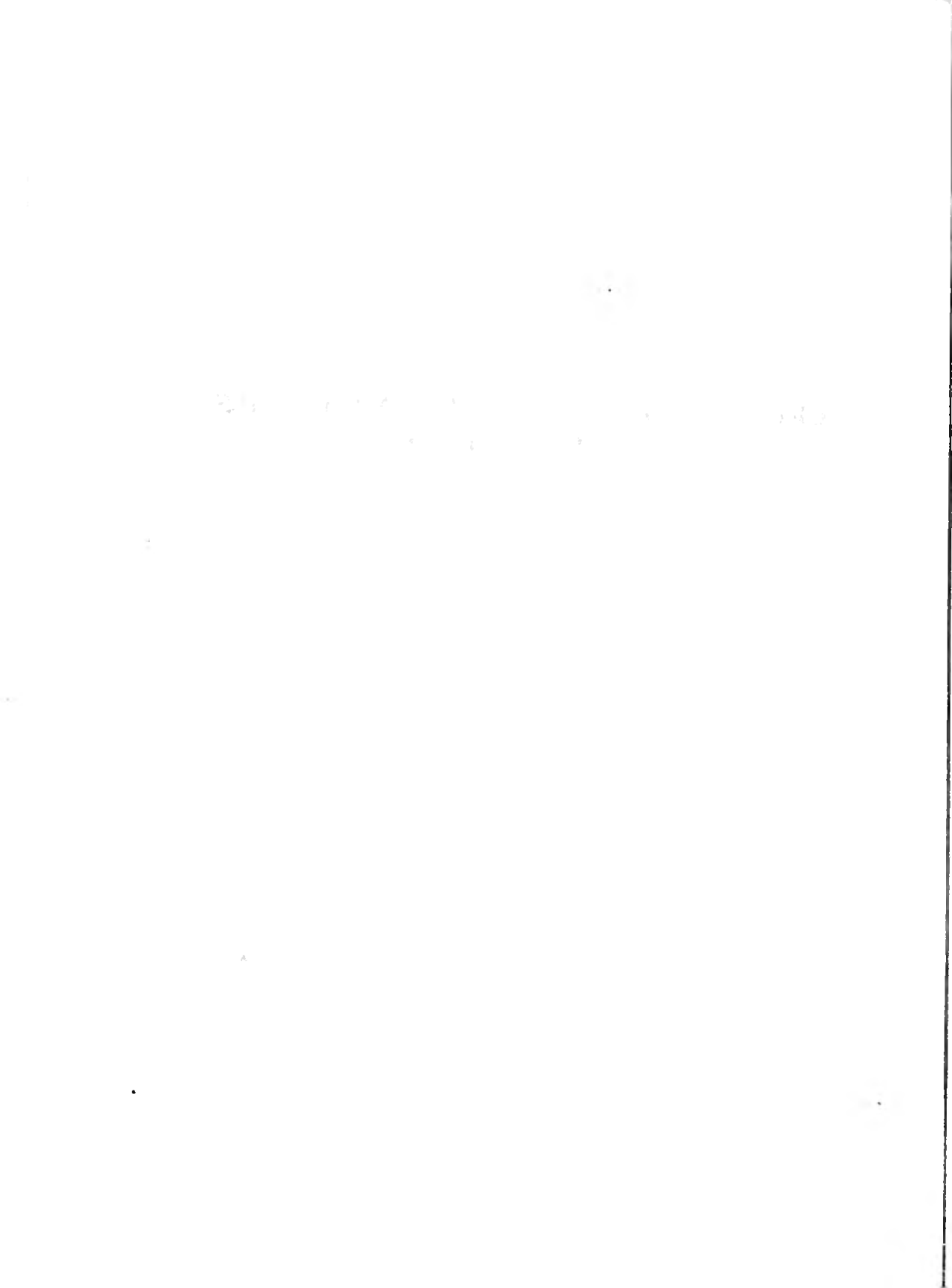
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## **EUROPE – NATIONS, NATIONAL MINORITIES AND DEMOCRACY**



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## LIBERAL LEGAL APPROACH, LIBERALISATION IN EUROPEAN MINORITY POLITICS

In the last decade a new tendency has emerged in European legislation and in legal and philosophical thinking, by virtue whereof one must get back to a more general meaning of liberty, from the perspective of which the community rights required by communal life, which cannot be covered by the individual rights of man,<sup>1</sup> could be organised into a *non-exclusive*, but rather *complementary* relationship with each other, on which grounds it would be simply *possible*. In this case the dogmatic legal philosophical way of looking must give place to solutions in which the two aforementioned means of regulation can exist side by side (individual *and* collective rights, based on the fact that an optimal level of real freedom could be attained by the joint application of the two). There is already some advancement toward the direction of this construction, and in what follows we will try to direct our attention to the documents that are relevant from this perspective, as well as the principles laid down therein.

However, before starting the analysis, let us cast a glance on what collective rights of minorities include in positive terms. These are the following: the right of minorities to existence; the right of minorities for recognition; the right of minorities to their own identity; the recognition of minority languages; the right for minority language inscriptions; the right to establish educational institutions; the right to participate in public mass communication; the right to have their own means of mass communication; the right of political representation in national and local public administration authorities. (The list of the Committee of Experts on Issues Relating to the Protection of National Minorities of the Council

<sup>1</sup> I consider all the activities legal and de facto solutions conceived in a liberal spirit, which – in the traditional sense of Liberalism – aim at marginal groups. Such is the European effort to solve the Roma issue, an endeavour that has already got its own history. I do not consider liberal movements the ones that require group right regulations with the strategy of the infinite extension of rights. just like I do not consider that the issue of constitutional legal fight for the recognition of ECOSOC-rights would pertaining to my narrow subject.

of Europe – DH–MIN).<sup>2</sup> A relatively coherent, historically dynamic system of connections emerges here, with a certain structure that starts with the simple right for existence and reaches up to the regulation of the right to participate in political structures of society. It has to be noted that the most complete draft to codify minority/community rights is the one elaborated by the experts of the Federal Union of National Minorities (FUEN) in 1994, entitled: *The Protection of Ethnic Groups in Europe, A Draft Supplementary Protocol to the European Human Rights Convention*. The collective rights of minorities are most comprehensively listed from both a political and legal perspective in a document brought together by liberal experts<sup>3</sup>, finalised in 2000. The experts that compiled it are the following: Will Kymlicka, the excellent theoretician of ethno-politics, professor at Queen's University in Canada; Jeff Spinner, professor at the Department of Political Science of the University of North Carolina in the USA; Lord Russell Johnston, President of the Parliamentary Assembly of the Council of Europe; Benjamin Rhodd, a native American representative of the Sioux indigenous people of South Dakota; Abraham Viljoen, representative of the South African Afrikaner ethno-cultural minority; Gerhart Raichle, the Director of the Liberal Institute of the Friedrich Naumann Foundation; Errol Mendes, professor at the University of Ottawa; Henrik Lax, representative of the Swedish People's Party in the Parliament of Finland, and Eleonóra Sándor, the minority rights expert of the Parliament of Slovakia. The mills of political time do also grind: *Liberals* were the ones to draw up the most illustrious *charter* with regard to *collective rights*, rooted in the uneasy feelings of liberal minds in connection with the fact that – up to the present day – no adequate collective legal regulations could be elaborated with respect to minorities, based on the individual rights standing at the foundation of

2 Legal Science distinguishes between objective and subjective minority rights: objective rights refer to all the norms that regulate the relationship between minority and majority, while subjective rights include all the rights minorities are entitled to, and which can be enforced when necessary. See Fábrián–Ötvös: *Kisebbségi jog (Minority Law)*. Vol. I. Komp-Press, Korunk Baráti Társaság, 2003. p. 28.

3 *A kisebbségek jogai. Nyilatkozat az etnikulturális és nemzeti kisebbségekre, valamint az őshonos lakosságokra vonatkozó liberális demokrata elvekről. (The Rights of Minorities. A Declaration of Liberal Democratic Principles Concerning Ethnocultural and National Minorities and Indigenous Peoples.)* In *Magyar Kisebbség*, vol. VI, 2000.3. (21). <http://www.jakabffy.ro/magyarkisebbsseg/index.php?action=cimek&lapid=168&cikk=....> Subsequently, I will continuously refer to this document without any special quotation.



European law and order.<sup>4</sup> The editors of the Declaration also examined possible ways of political enforcement for the document, but nothing came out of it, as far as I know, similarly to the FUEN-proposal about the protection of ethnic groups. My treatise does not therefore follow the political, but rather the theoretical dimension of the matter, with the conviction that these conceptions do have practical strength and an influence on shaping attitudes.

The legal philosophical considerations outlined in the preamble are extremely remarkable. These are not verbose but much more practical and naturally set out from the notion of liberty. "Freedom means diversity." "The rights of minorities are of paramount importance to all who cherish human freedom." The reality as we find it in the third millennium must be taken into consideration, as it presents the issue of minorities in the framework of nation states, yet which represents a far-reaching abstraction compared to the reality of minorities. This has to be changed. Belonging to a community means linguistic and cultural identities, hence it denotes the legal principle of the freedom of diversity, which must be represented and substantialised based on *subsidiarity*. The international legal arrangement of minority issues requires *co-operation*. Thus, the whole subject needs to be embedded in a stringent legal framework, based on the principles of human rights.

The Declaration emphasizes that the source and starting point of all declared rights are basic human rights and liberties, underlining that these concern human dignity and individual liberty. The state of relations between majorities and minorities is regarded as a yardstick by which the degree of freedom can and must be measured; it is also affirmed that the rights of minorities are of paramount importance to everyone committed to human freedom. No country which does not acknowledge, implement and respect the rights of minorities can be considered as practising a liberal democracy. As opposed to the coercive power of legislation and legal regulations rooted in a national framework, by which the uniformity of citizens is built up against the diversi-

<sup>4</sup> The present treatise is built on the considerations, results and conclusions I have outlined in an earlier paper. Egyed Péter: *Diskurzus a közösről: a filozófiában és jogban (Discourse about the Collective: in Philosophy and Law)*. In: Egyed Péter (Ed.): *On Community – From a Traditional and a Communitarian Perspective*. Scientia Kiadó, Kolozsvár, 2005, pp. 11-41; *A kisebbségi jogok mint emberi jogok (Minority Rights as Human Rights)*. Habitus, Novi Sad, 2006, pp. 11-24; *Jogforrások a kisebbségi-kulturális jogok kezelésére (Legal Sources to Handle Minority-Cultural Rights)*. Híd, 2007, pp. 6-7, 55-69.

ty inherently deriving from the existence of minorities, one can confidently argue that the emphasis is laid on an entirely different definition of freedom, one that originates in the freedom of association with others as a right of citizens, a right that institutes community. (This is not infrequently in contradiction with the principle of historic sequence to which the authors of the document refer as an existential fact bearing diversity.) "Liberal democracy emphasises the rights and liberties of the individual citizen, because these include the right freely to associate with others..." It must be added that the legal conditions for such an association must be created from the beginning, as without that people cannot even formulate or express their intentions to associate. We find ourselves again in an existential paradox, where operation must be unfolded concurrently with the creation of the conditions for the operation. The content of the right to associate freely with others in the case of minorities inevitably coincides with cultural self-determination; hence the rights of minorities – by their meaning – spring from the unconditional recognition of cultural identity, this constitutes their inner form. This does not mean that we should stop here: these can also extend toward territorial autonomy as the Declaration points it out later on: "Belonging to a community based on common cultural, linguistic or religious heritage is an important factor of identity for most people, and where they freely and voluntarily associate on this basis, no government and no state legislation – and no majority, however large – may deny the right of such groups to be different within the limits of internationally accepted human rights." States are tilted towards uniformity and have a high density of regulations, therefore, any kind of reasonable positive discrimination aiming to protect the rights of minorities can be admissible and desirable. Specific measures need to go hand in hand with the basic characteristics and the structural forms of a free society. It is obvious on grounds of these stipulations, that a stronger philosophical/legal philosophical sense of freedom stands in the view of the authors of the Declaration, the positive meaning of a worthwhile liberty, yet which infers a multitude of actors, i.e. in individual forms (in a legal sense), but undoubtedly having references to multitudes (collectives). In a final sense minority legal entities will appear when minority associations/partnerships conclude agreements, and the self-enforcement present in contractual rights will retrospectively define collectiveness. (On the other hand, from a technical point of view it is extremely difficult to

establish such all-embracing associations, partnerships, which is proven in our region by the absolute failure of the Székelyland Union. In this particular case one has to face the fact that there is a large distance between the abstract comprehension of the necessity of something, respectively its actual will and construction.)

Authors being liberal minds, there is no other way for them than to get tangled up in the philosophical problem of liberty, being driven by the intention to create some sort of a new definition or extension. We must agree that the consequences lead us to reflect on the traditional sense of positive liberty, which consists of autonomy and self-determination. Following Kant, Isaiah Berlin<sup>5</sup> points out that paternalism is the greatest tyranny conceivable. And yet there is state paternalism insofar as the subjective forms of minority rights are completely neglected. (Three types of community rights can be distinguished today: 1. *Collective rights relating to individual rights* (judicial practice is only possible if the collective right is explicitly recognised), 2. *Clear collective rights* (their most important content elements are self-determination and perpetuance), 3. *State obligations towards an ethnic group* (in this case the groups benefit from a legal reflex, these indicate rather an accepted state of public law).<sup>6</sup>

The most significant new approach of the document proceeds from the recognition of a reversed relationship: in one respect it recognizes individual liberty as a supreme value, on the other hand it declares that minority rights must always contribute to safeguarding individual liberty for the minorities and the majority alike. Then a series of mutually restrictive conditions are asserted: "To the extent that this requires rights and provisions related to groups rather than individuals, it must always be understood that such group rights, while emphasising the distinct identity of groups, ultimately serve the rights of their individual members, but must not infringe them in any case. Thus, minority group rights may never put individual rights at the disposal of the group, whatever the traditions of a particular community may be." There are several considerations to discuss in the aforesaid paragraph: 1. safeguarding individual rights continues to be done by separate, basic legal regulations; 2. minority rights are attached as a complementary possibility to the legal

5 Isaiah Berlin: *Négy esszé a szabadságról* (Four Essays on Liberty). Európa Könyvkiadó, Budapest, 1990. p. 372.

6 Fábrián Gyula–Ötvös Patricia: *Kisebbségi jog (Minority Law)*. KOMP-Press, Korunk Baráti Társaság, 2003.

regulations mentioned, which consequently include the fundamentals, securing the possibility for individual rights; 3. individual rights do not derive from the minority legal principles; 4. minority (group) rights are indispensable from the point of view of the whole sphere of liberty. With these extensions and the restrictions connected to them, the authors of the document significantly surpassed the philosophical approach of liberal regulations, i.e. based on the concept of liberty, minority rights have been necessarily conceived as supplementary rights to individual liberties, which are meant to ensure the general legal cover for the whole issue.

It is not my aim here to give a detailed account of the paragraphs in the draft, yet a few reflections are worth mentioning. In the chapter on the rights of *national minorities* the following is pointed out: "The way the rights of national minorities can be organised and exercised depends to a large extent on the form of settlement they live in: in the case of compact settlement areas, with few or no members of the majority living there, territorial autonomy is the obvious answer..." In this case the expression of „obvious answer” is disturbingly insufficient and obscure. This should have been the very context to state that territorial autonomy is a tried and tested means of self-determination, with many different forms developed in European and local history, and which, from a public financial point of view, is generally a net „depositor” as it points toward maximum economic efficiency. The maximum concentration of will is always assigned to the community notion used by traditional social sciences (Ferdinand Tönnies). Subsequently, they also conceive forms of territorial autonomy as forms of association, and this is connected to viewing the community as an association or partnership. On the one hand, this raises the issue of the declaration to belong to the community (registration), or prefers the self-organising ways of civil society forms as a legitimacy based on a minority-community act of will (i.e. a secondary internal agreement). (Intuitively, the importance of this aspect has always been seen clearly by the leaders of the Democratic Alliance of Hungarians in Romania – DAHR, when they basically considered one of the elements of the organization’s self-definition safeguarding the interests of the community – as a definition meant to ensure their legitimacy, and they have never given that up!) Territorial autonomy means own public administration, which may also include the police authority. Territorial autonomy is entitled to infrastructure and social security, as well as the right to levy its own taxes. The document empha-

sises that endeavours to achieve autonomy cannot be considered as striving after an internal apartheid or separatism (in domestic parlance).

In that respect cultural self-determination is considered a legal minimum. The other minimum is participation in central decision making. We find the following formulation in connection with that: "Being full citizens of their country, members of national minorities have every right to participate fully in the politics of their country – politics which, after all, affects their lives as much as those of the majority." This is the right to equal participation, which has to be established or maintained even by means of positive discrimination. Two remarks have to be made here: the first one is that the legal principle of equal participation does not institute a collective right by itself. The other one is that participation in democracy cannot be but a question of election, the minority must participate in the democratic competition, and this is an issue pertaining to the dimension of citizenship. It is another thing that by setting a parliamentary threshold minority participation can be regulated/ensured.

The Declaration has got two fundamental flaws; one of them is that it declares on a *conceptual* level that political conciliation within national frameworks represents the solution in the discussion of minority-majority questions, without also stipulating the bone fide observation of existing European legal solutions. The other one is that it calls upon the "understanding" of governments. There may exist "good" governments, yet this is not always the case. *Solutions* obviously – and this is well-known by persons belonging to minorities – do not and cannot exist: one can always only speak of processes that handle the problems.

But why would it not be possible to solve the issue in a European legal-political framework? Because if the question were not raised in relation with national frameworks, then some sort of a duplication of European political entities would occur, which would be a legal philosophical impossibility. This mechanism resembles the problem best known by constitutional lawyers, which concerns the equality status of minorities from the point of view of the constitutional law. By thinking in national framework, – which is the beneficial framework of budgetary utilitarianism and artlessness – the problem of dual subjectivity can also be avoided. A constitution is either national or republican. A third possibility has not yet been invented by the legal brains of Europe.

The most important document formulated by the European legislation in our subject is the *Recommendation* 1735 (2006) of the Parliamentary

Assembly of the Council of Europe (one of its authors and initiators is Senator György Frunda from Romania, an ethnic Hungarian whose theoretical accomplishment ought to be highly valued). This is a scientific-legal document on the concept of "nation", which sets out from the fact that it is difficult, almost impossible to give a general definition of the concept, yet there is some evolutionary approach between the notions and realities of nation meaning citizenship and the cultural nation. From the point of view of our topic, however, the ascertainment, respectively the recommendations of this document, with regard to national minorities, are important: "These national minorities or communities, – often created as a result of changes in state borders – which represent a constitutive part and a co-founding entity of the nation state of which their members are subjects as citizens, enjoy their rights in order to preserve, express and foster their national identity, as provided for in Assembly Recommendations 1201 (1993) and 1623 (2003), the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages."<sup>7</sup> (As progressive as this establishment of facts may sound ("co-founding entity"), still it is quite difficult to grab it from a constitutional legal point of view. Otherwise, majority politicians representing nation state options – openly or in a hidden way – are unwilling to lay it down. National minorities do not have legal personality, therefore they cannot be legal subjects and cannot be parties to contracts or covenants. However, they must be the object of collective protection and /.../ must enjoy the capacity to act, either as individual legal subjects or within the framework of various entities with legal personality in defence of the respective national minorities' identity and cultural rights. (*Identity*, a scientific expression relatively difficult to define, hence receives a legal outline.) These rights cannot be territorial rights, yet paragraph 14 declares the following: "...Recommendation 43 (1998) on territorial autonomy and national minorities should be re-examined." The document insists on the national minorities' free choice of identity and the determination of their cultural affiliation, irrespective of the nation of citizenship to which they belong. The document ranks co-operation between minorities and their kin-states positively in the area of culture, and even considers new legal formulations exemplary. It has to be added that these develop most often in the area of so-called support policy. It is extremely important that national minorities are con-

7 Source: *Bécsi Napló*, March-April, 2006, p. 5.

sidered European security factors, as their protection is essential for the maintenance of peace and the development of democratic stability. At the same time, plurality is regarded as a value. Consequently, the Assembly recommends that the Committee of Ministers "invite member states, not yet having done so, to sign and ratify the Framework Convention for the Protection of National Minorities, the European Charter for Regional or Minority Languages and the European Charter of Local Self-Government, which are fundamental instruments for maintaining the national identity of national minorities or communities, and step up its efforts in this respect." (16.1) Perhaps the most important recommendation from the point of view of our topic is formulated in paragraph 16.2: (the Committee of Ministers) "invite the member states to promote in their national legislation the recognition of the cultural rights of minorities, *inter alia*, on the basis of Recommendation 43 (1998) on territorial autonomy and national minorities and Recommendation 70 (1999) on local law/special status of the Congress of Local and Regional Authorities of the Council of Europe."

It is obviously clear for the legislators that the application of law in national frameworks runs into difficulties, as well as that nation state based nationalism continues/ can continue to maintain majority attitudes in the confinement of colonial mentality. Therefore they turn to the Committee of Ministers with the following appeal: "take the appropriate measures in order to make sure that the member states reject any attempt to promote the ethnic purity of the state or to organise the territory and the administration of the state on an ethnic basis, with the exception of affirmative measures which aim to achieve a fair representation of the national minorities in their country's administration at central and local level." (16.3) This "admonition" is enforced by paragraph 16.4: "Invite the member states to bring their constitutions into line with the contemporary democratic European standards which call upon each state to integrate all its citizens, irrespective of their ethno-cultural background, within a civic and multicultural entity, and to stop defining and organising themselves as exclusively ethnic or exclusively civic states." The Assembly requested cross-border cultural co-operation and regulations on the level of provisions of law. Finally, it concluded that the request for the Committee of Ministers was terse, to say the least. "The Assembly (17.), therefore, requests the Committee of Ministers to ask Mr. Jean-Claude Juncker to focus in depth on the question of complementar-

ity of policies on protection of national minorities and recognition of their rights in his forthcoming report on relations between the Council of Europe and the European Union.”

In the following I will briefly reflect on how the principle of diversity – now closely linked to European freedom – prevails in the national framework and legislation. According to its self-definition, Europe is characterised by political and cultural diversity, which has to be represented and promoted at all levels. There is a lot of discussion about multi- and plurilingualism and multiculturalism, and the codification of language usage and of cultural entities continues to remain a lively process. Of course, this has to be represented also in the national legislation, and not even Romania could stay out of it. I consider this a positive process, with the remark that national minorities are always best interested in the preservation and development of their own culture, ensuring the cultural system of conditions they live in, thus their priorities are primarily monocultural. In Romanian nation state ideology this primary option has frequently been concealed by raising the value of multicultural models (e.g. in public higher education). This is equivalent with the absurdity that higher education in the mother tongue goes in a neutral medium from a cultural point of view. Ideological overtones are thus hard, yet not impossible to detach from the intentions of Government Decree 39/2000 (28 December)<sup>8</sup> defining the multiculturalism of state life. Chapter X. discusses the protection of national minorities, which has to be achieved by creating the conditions for the free and complete self-expression of national minorities in accordance with the European and Euro-Atlantic aspirations of Romania. In the concept of the Party of Social Democracy in Romania (in power at that time) minorities are an important resource for every country; their culture must be therefore developed, as it can represent the source for the establishment of a multicultural model of civil society. Yet, the terrible inaccuracy of the text, its „lingo”, rouses fundamental scepticism about what ideas the writers had in their minds, if they had any at all: it is said that appropriate frameworks must be established for the development of every specific cultural model within the respective community, within the local community, and on a national level as well (?). Values of minority cultures must be transmitted toward the majority culture by means of the model of cultural transfer, and it has to be made possible for the majori-

8 Monitorul Oficial. 2000 (700) 28 Dec.



ly to assimilate the inwardness and history of "others" living in the same region. The role of the Government, with respect to handling diversity, must also include crisis management. (Prevailing terms of social science evidently appear in the draft, yet these are always descriptive terms, and are never appropriate for mapping action procedures, these cannot be operationalised. And they are quite hazy even when they have to fulfil only an orienting role, as it can be expected from a government decree.) Paragraph 10.2 examines the possibilities for the Hungarian minority to strengthen and develop its national identity, with special regard to the fields of education, culture, language and religion. It mentions the enlargement of the existing framework in connection with education, and this is a very important phrasing; this is the general way of Romanian legislators or executives to look at things. The enlargement of the existing framework is an absolute priority, a conservative option, opposite to the creation of new forms, frameworks, which are never mentioned. It urges on the usage of mother tongue in the public sphere, with the remark that this should encourage both multiculturalism and multilingual integration. In the end, the document lays down the requirement for the unity and diversity of society, i.e. the direction of development is unity in diversity (!) This, of course, cannot be interpreted again without a certain ideological overtone.

At the end of the day this is not very much, written in a defective language that denotes the obscurity of the intentions, and yet eventually it is still important, as in a certain sense, it moves the attitude toward the extension of rights, by naming some directions of action. In 2000 this was definitely something else and something more, closing the violent decade of "post-communism" and "transition". Adrian Năstase was the great constructor of minority policy, as one of the architects of the *Romanian-Hungarian Basic Treaty*, – who up to this very day – has been mostly seeing through and understanding the opportunities of national and European minority policy, namely the forced path of collective rights. As a national politician, he has made the fullest use of all the "negative" opportunities therein; among others, by arguing that the institution of collective rights would mean „a step back" in the development of European history.

It is quite obvious that the European legal perspective is built on national integrations, and the introduction of national minorities into this legal system would mean the kind of „overtaking" the system could not bear because of the historic lag and the absolute preponderance of the

political dimensions. The outrun of politics in the past decade was also only a little short of a miracle. One must consider two things: 1. is it possible to move forward in this respect without a Constitution of the EU? 2. is it realistic to expect the change of minority policies, or is it realistic to change these without institutions to monitor them? Is it possible to introduce procedures truthfully adequate for European thinking, and not only measures taken only for the sake of keeping up the appearances in a national framework? The European way of thinking here should be that minorities create new values. Yet, I am, at least on the short term, Eurosceptical: it marks the magic limit that not even a law on minorities can get passed in Romania – because of the cultural councils established in autonomies, as bodies representing cultural autonomy entitled to submit proposals (a minimum from a minority rights point of view!), or more precisely the incorporation of these councils in law is impossible. The same is true for the wretchedness of each attempt to establish a public university in Hungarian language in Cluj-Napoca (Kolozsvár). These are the limits of Romanian mentality and national policy, which continue to see the Hungarian community – and the same has also been represented here by the communist regime – as factor that endangers national security.

Persons belonging to the minorities of European states are today European citizens. they are individually and – to a certain extent it is regulated – as community members subjects of the European Community law. Yet, the definition of that is very difficult, a perspective issue hard to derive from legal awareness.

The biggest difficulty results from the fact that the legal bases of the existing European Community are rooted in a system of legal principles that originates from international institutional law, to which only very abstract legal entities can be connected. European citizens continue to remain the subjects of laws laid down in national constitutions and of various legal regulations enacted by international legislations, and through these they are partly connected to the European provisions of law, or they can turn directly to European institutions. The matter is – partly – also true the other way round, as certain actions fall directly under the effect of European Community regulations, obviously on grounds of the appropriate legal and institutional background. The legal principles most often referred to are the following<sup>9</sup>: 1. the principle of limited specific empowerment: European Community procedural law is

<sup>9</sup> See Fábíán Gyula: *Drept instituțional comunitar (Community Institutional Law)*. Editura Sfera. 2004. pp. 64-93.

valid only in those spheres of authority and competence, which were transferred by the member states – by restricting their own sovereignty. European institutions are only entitled to make use of these, and cannot enlarge their circle; 2. the principle of implicit empowerment (implied powers) asserts that in case development brings about new objectives with no separate regulation, – as it is not possible to create it –, the Community, following a consultation with the European Parliament, is entitled to create new competencies and executive bodies; 3. the principle of subsidiarity asserts that the Community does not interfere in the areas that do not fall within its narrowly defined competence, only if the member states lack the appropriate competence; 4. the principle of proportionality asserts that community actions only make use of the minimum of means necessary to achieve the objectives; 5. the principle of institutional balance (checks and balances) asserts that community organizations and institutions can only operate within the legal framework related to their functioning, with regard to the functioning and competences of the other institutions and organizations; 6. primacy of community law over national law; 7. direct application of community law; 8. principle of respect for fundamental human rights – the Nice Treaty eventually determined 53 human rights, grouped thematically, thus compiling the most exhaustive such list in the history of mankind. European citizenship, in principle, means the possibility of taking advantage of all these rights – in national reality. Yet, these determine a legal entity with a complex profile. The legal documents and the institutions of the EU represent a safeguard for that, which is much easier to grab. The notion of a legal community can derive from all this, which, in a certain sense, has gone ahead of the political evolution of the continent. The legal entity of a European citizen is articulated in this, with the most important fundamental principle of the direct applicability of community law.

Direct applicability means that European community law is to be applied directly on the territory of the member states, i.e. community law must be executed by those addressed in the member states. By means of community law individuals can also have subjective rights that can be enforced in front of their own national courts of justice. These rights are due to private persons not only in their relations with the member states, but in some cases also in arguments between two individuals. The principle of direct applicability has got an important role in achieving that community law is applied uniformly and fully in all of the member states.

Obviously, the European citizen status also diversifies the legal possibilities of persons belonging to minorities, but only in a specific direction, when the individual wants and succeeds to enforce his/her rights deriving from the *acquis communautaire*. This also means a large extension of rights.

As a conclusion, it can be affirmed that a liberalisation of rights has occurred at least in perspective, but also in the statutory national and the European body of law, which is a process with a certain direction. The pressure of circumstances (Kosovo, the stemless evolution of Catalan autonomy) lead us to a time when the issue of collective rights will eventually have to be looked straight into the face also by the EU legislators.

## EUROPE'S WORKING REGIONAL AUTONOMIES. A COMPARATIVE ANALYSIS

### 1. Mapping Europe's Territorial Autonomies

Europe's working territorial autonomies share numerous common features, but they also reflect differences corresponding to their different genesis, development, geographical location, ethnic composition and political context. Autonomies are usually institutional and procedural systems based on complex legal provisions, starting from the basic autonomy statute or constitutional law and coming to enactment laws and decrees embracing the legal provisions approved and adapted by the autonomous institutions.

#### Europe's Regions with Territorial Autonomy

(in 2006, according to the selection criteria explained in Thomas Benedikter, *The World's Working Regional Autonomies*. ANTHEM Press, London/New Delhi 2007, chapter 2.10)

Table 1. *Europe's Territorial Autonomies*

State	Autonomous regions/entities	Capital	Population
1. Italy	Sicily	Palermo	5.031.081
	Sardinia	Cagliari	1.650.052
	Friuli-Venezia Giulia	Udine	1.204.718
	Trentino-Alto Adige	Trento	974.613
	Val d'Aosta	Aosta	122.868
2. Spain	Andalusia	Sevilla	7.849.799
	Catalonia	Barcelona	6.995.206
	Madrid	Madrid	5.964.143
	Valencia	Valencia	4.692.449
	Galicia	Santiago de Compostela	2.762.198
	Castile-Leon	Valladolid	2.510.849

State	Autonomous regions/entities	Capitals	Population
2. Spain	Basque Country	Vitoria/Gasteiz	2.125.000
	Canary Islands	Las Palmas de Gran C.	1.968.280
	Castile-La Mancha	Toledo	1.894.667
	Murcia	Murcia	1.335.792
	Aragon	Zaragoza	1.269.027
	Extremadura	Mérida	1.083.897
	Asturias	Oviedo	1.076.635
	Balearic Islands	Palma de Mallorca	983.131
	Navarre	Pamplona	593.472
	Cantabria	Santander	562.309
	La Rioja	Logrono	301.084
3. United Kingdom	Scotland	Edinburgh	5.094.800
	Wales	Cardiff	2.958.600
	Northern Ireland	Belfast	1.710.300
4. Finland	Åland Islands	Mariehamn	26.711
5. Denmark	Greenland	Nuuk	56.375
	Faroe Islands	Torshavn	44.228
6. Belgium	German Community	Eupen	72.000
7. France	New Caledonia	Nouméa	230.789
8. Moldova	Gagauzia	Comrat	171.500
9. Ukraine	Crimea	Sinferopol	2.000.192
10. The Netherlands	Netherlands Antilles	Willemstad	220.000
	Aruba	Oranjestad	102.000
11. Portugal	Azores	Ponta Delgada	253.000
	Madeira	Funchal	265.000

In this overview the autonomous entities of the Russian Federation (federal subjects) are not listed as this state should be considered a special case, in fact the most complex one of an "asymmetrical federal system" with autonomous republics, regions, *oblasts* and districts. The label "autonomous" of some of its 88 federal subjects reflects rather a historical distinct claim for a special relationship between the centre (federal government) and some of its entities, due to the presence of particular minorities or peoples, rather than a special territorial autonomy. Although regional autonomy in Russia can be compared substantially to the other remaining forms of autonomy in Europe, the prevailing organizational prin-

ciples in that state are federal by nature. In contrast, Spain officially is not a federal state, but a "state of autonomous communities" with blurred boundaries of a federal structure. As all of its regions have their own specific status; the Spanish autonomy system is again different, for example, from the Italian regionalist state consisting of 5 special autonomies and 15 "regions with an ordinary statute". But generally, regional autonomy – as in the rest of the world – is a special political arrangement in almost all states in Europe, established only for some special cases of a given state.

Although the fundamental aim of an autonomy arrangement might be identical, – territorial self-governance – the concrete "design" is a result of the dialectical relationship between the autonomous community and the central state. Nonetheless, the performance of each autonomy – in terms of peaceful and harmonious relations among ethnic groups sharing the same territory, respect for minority rights, stability and positive social and economic development – can be evaluated only on the basis of generally shared criteria, an ambitious endeavor still to be done.

## **2. Experiments in Incorporating "Functions" of an Autonomy System**

Which are the "functions" of an autonomy system to be compared? Generally, autonomy arrangements are established to meet specific needs and satisfy definable functions. The quality and the very success of an autonomy system depends essentially on how those functions are shaped and realized. We can consider these functions the constitutive elements of every autonomy system. If one or some of these elements are seriously flawed or even missing, the stability, durability, moreover, the system itself is at risk. In the past, some autonomy systems failed because one or some of these functions were faulty. Although the list may not be exhaustive, among the most important functional elements are:

1. The political representation
2. The scope of the autonomy
3. The entrenchment and revision mechanisms
4. The financial regulations
5. Provisions for regional citizenship
6. International relations

7. Language rights and protection of ethnic identity and minority rights
8. The consociational structures and internal power sharing
9. The control of economic resources
10. The settlement of disputes and legal protection mechanisms

These fundamental “functional elements” have found different forms of application and solutions within Europe’s working autonomy arrangements, which evidently cannot be compared in depth in this limited text. This is a project for the future, based on more empirical research that should make it possible to draw an exhaustive evaluation of the performance of the distinct forms of territorial autonomy, and even to determine the decisive elements of an “optimum standard of autonomy” to be tailored to each single case. The following comparative analysis will concentrate on showing nothing else than the existence of different forms and qualitative levels of regional autonomies in relation to several of the “functional elements” identified as fundamental to autonomy arrangements.

### **2.1. Political Representation**

All autonomous regions are governed by a democratically elected legislative body (parliament or council), which represents the whole population of the autonomous territory. The executive body of those regions, in turn, is elected by the legislative council or directly by the population, hence independent from the central government. The population of the autonomous regions – citizens of their respective states – is represented also on a national level, forming one or more constituencies for the election of members of the national parliament. In addition to that, some states with a regionalist structure, such as Spain and in close future also Italy, have second chambers representing the separate regions as such, elected or appointed in accordance to a different representational system. But Italy’s Senate will be transformed into a sort of “House of Regions” only in 2008, similar to the second chamber of federated units within the federal states of Russia, Switzerland, Austria or Germany.

In some cases, as the Nordic islands, the Azores and Madeira, the constituencies of the autonomous territories are much smaller than in the rest of the country, enabling the local communities to have their rep-



representatives in the national parliaments, although their numbers are insufficient.

Another special form of representation, also at the executive level, is the ex-officio membership of the Gagausian chief minister in Moldova's national government. In Italy the president of an autonomous region is only entitled to take part in the session of the national government in Rome, when some issues related to the autonomy are on the agenda. Some autonomous regions, such as Åland Islands, Faroe Islands and Greenland have even the right to be represented with a distinct delegate in international organizations such as the Nordic Council.

## 2.2. The Scope of Autonomy: Legislative and Executive Powers

There are huge differences regarding the content of the autonomy in terms of the powers transferred to the autonomous entities. At the bottom ranks Corsica with autonomous powers merely limited to administrative competencies, which cannot be considered an "authentic autonomy system", whereas at the top can be placed the Nordic islands, – Faroe Islands, Greenland and Åland Islands – which rely on their respective states, Denmark and Finland, only as regards the foreign affairs, defense, the monetary system and some aspects of the judiciary. Some regions like Catalonia and the Basque Country are also vested with powers in the administration of the judiciary.

There is one basic feature characteristic of the whole range of European autonomies – they combine core issues related to the preservation of the cultural identity (the education system, language policy, cultural affairs) and territorial functions (labour market, regional sector of economic policies, urban planning, health and social services, environmental protection, public transport, energy, local administrations and whatever refers to the management of local resources). Generally, the powers attributed to the autonomous regions are precisely enumerated in a closed list, whilst all the remaining policy sectors come under state competencies for both legislation and administration.

Only the autonomous regions of the Azores and Madeira possess a general legislative power, leaving the remaining powers to the central state of Portugal. In the framework of power sharing with autonomies, there is an instrument of mutual control: the right to veto and the right to challenge decisions in front of the Supreme or Constitutional Court. On the one hand,

the central government, in some cases, can exercise its veto regarding acts and decisions of the autonomous region, particularly of the legislative body, if it exceeds its powers. In Greenland and on the Faroe Islands a commission of mixed experts is entitled to mediate. In all other working autonomies the conflicts over the exercise and division of powers are to be settled in front of the Constitutional Court. In the Republic of Crimea, the President of Ukraine can temporarily suspend an act set forth by Crimea, if he considers it not to be in line with the national constitution.

### 2.3. Entrenchment and Revision Procedures

Europe's autonomy regulations, in most cases, have found entrenchment at a constitutional level. The special status of the Azores and Madeira, the Republic of Crimea, Russia's federated subjects are entrenched in the constitutions of the respective state. The autonomy statutes of South Tyrol and the Aosta Valley also enjoy constitutional rank. Although the autonomies of the Åland Islands and of Gagauzia are not part of the Constitution, they can be modified only with a two-thirds (Finland) or a three-fifths (Moldova) majority of the national parliament. Spain has recognized in its constitution the general right to autonomy, but the single autonomy statutes, elaborated by the respective autonomous communities, are approved by the national parliament with nothing more than a normal act. However, such an autonomy statute can be amended only by the procedure set forth in the same statute or through a regional referendum. Only the status of the autonomous regions of Greenland and the Faroe Islands do not have any constitutional entrenchment. Theoretically, these autonomies can be abolished with a simple national act without a qualified majority, and thus are vulnerable to changing moods in the national parliaments. As these autonomies are not even based on international treaties, the readiness of the majority to co-operate with the national minority or autonomous community is essential for defending the autonomy.

But some scholars argue that, even in the absence of a constitutional entrenchment, by granting autonomy, autonomy systems would be implicitly imbued with the recognition of the principle of the right to internal self-determination of a national minority under international law. In that sense autonomy regulations can be considered as protected by the general principle of self-determination of peoples. So, having

once established autonomy, it is not allowed to roll back these rights of a minority to any substantial extent without the consensus of the concerned community, or to abolish an autonomy statute. Still, there is no general mechanism of monitoring, controlling and guaranteeing autonomy regulations in positive international law. Such a provision would be an essential part of the proposed "Framework Convention on the Right to Autonomy", as submitted in a draft version by the FUEN in 1994 (Federal Union of European Nationalities).

Autonomous regions do not have a constitutional legislative and executive power as federated states in a federal system. Normally, those representatives of federal units also have the right to propose new initiatives and provisions in order to reform the working autonomy, or at least to be involved in joint commissions to shape reforms of the autonomy arrangements.

Then who is competent for the enactment and revision of the autonomy statutes? Do the regional communities and national minorities have any sovereignty to shape their own rules of the internal government system? Generally, the autonomy statute (or regional constitution) is elaborated and approved by the state parliament, but the concerned minorities are involved in the elaboration of the status. In some cases (Basque Country, Catalonia, Crimea, Azores, Madeira) the autonomous regions are entitled to define for themselves the extent and the internal architecture of their autonomy within the given constitutional framework. Spain's autonomous regions, for instance, may elaborate and approve their own statutes which subsequently have to be approved by the central parliament. Thus, the population of the concerned region enjoys some constitutional powers, but they are limited by the constitution of the state.

#### **2.4. Financial Regulations**

One fundamental condition for a well-functioning autonomy is the structure of financial regulation. Mainly there are two forms of financial regimes. The first consists of a financial transfer from the central government to the autonomous regions, the second one is based on the sharing of the tax revenues collected in the autonomous territory, even to the extent of devolving the fully locally earned taxes and tariffs to the autonomous entity. Fiscal federal system with effective powers for taxation is enacted presently only in the Basque Country and Catalonia, but,

in a more limited form, the Åland Islands, Gagauzia, the Azores and Madeira can also raise their own taxes. Regarding expenditures, all autonomous regions, with the exception of Corsica, enjoy full freedom to spend their resources and budgets in autonomous ways.

### **2.5. Forms of "Regional Citizenship"**

Generally, Europe's autonomous regions and republics have neither a distinct citizenship nor any power to politically interfere into this matter. Indeed, going by recent trends, citizenship, the control of immigration, asylum rights and passports are to be delegated even to a supranational level, namely that of the EU. Hence, these autonomous entities have no direct control on who is moving in and out from their territories and who is entitled to migrate and settle down in their territories. Nevertheless, in some autonomous systems (Crimea, Åland Islands, Faroe Islands, Greenland, South Tyrol and Gagauzia) there are some forms of "regional citizenship", consisting basically of the entitlement to specific rights and privileges to be determined on the basis of the period of residence in the region (Crimea, Åland Islands, Faroe Islands, Greenland, South Tyrol and Gagauzia). A minimum period of legal residence is required to exercise political rights (franchise to social, regional councils), social rights (housing, social grants and scholarships), eligibility to the local civil service and preferential treatment on the regional labour market.

The Åland Islands went some steps further: persons, who do not master the Swedish language and have not resided in the area for a minimum of 5 years, may not purchase any real estate or open a commercial activity on the islands. Significantly, however, the person is not exempted from the military service in Finland. Regarding "regional citizenship", there is a huge difference between the smaller islands in Finland, Denmark and Portugal and the big regions which are fully integrated in the common market, as Catalonia, the Basque Country, Friuli, Venezia Giulia, and so on.

### **2.6. Language Policy and Protection of National Minorities**

One feature common to all European autonomies is the fact that the minority languages along with the state language are accorded the rank of official language, as the recognition, preservation and promotion of

minority languages is the very rationale of establishing territorial autonomies (classical examples being: Gagauzia, South Tyrol, Basque Country, Catalonia and Galicia, Sardinia, Åland Islands, Faroe Islands and Greenland). Again, on the Åland Islands Swedish remains the only official language. In most regions bilingualism is a formal prerequisite for being admitted to civil service job, and each applicant has to be formally proficient in both languages. Also the topographic names are regularly bilingual or monolingual in the local language as in the Nordic Islands, Aosta Valley and some parts of the Basque Country. This is in contrast with the Swiss system based on the "language territory principle", which has resulted in four language formulae at the canton level, i.e. it is recognised as the official language in the respective cantons, while at the federal level all three major languages enjoy equal rights. Most of Europe's autonomous regions are not monolingual or not even predominantly monolingual, e.g. South Tyrol, Aosta Valley, Crimea, Corsica, the Spanish Communities, Wales, Gagauzia. In all these regions, except Corsica, the minority language has the status of official languages within the region, and it is on equal footing with the national or state language. In some cases a complex legal system of bilingualism had to be worked out in order to ensure the right of each citizen in the region to use his mother tongue at each level and sector of the public administration. In some regions – South Tyrol, Catalonia, Crimea, Åland Islands – the use of minority language is also admitted in various levels of the judicial system.

The issue of the minority languages strongly affects the promotion of minority rights, which are frequently in a weaker or even endangered situation. Hence, the autonomous governments are called upon to launch long term policies to ensure the preservation and modernisation of such "lesser used languages" (e.g. Basque, Irish, Welsh, Faroese, Inuktitut, Corsican, Gallego, Ladin Rheato-Romanian, Gagauzian, or Tatar on Crimea). Inevitably, the language policy deeply affects the education system, too. Several systems are operating in the European autonomy systems, beginning with the weakest form of promotion of a minority language in act in Corsica, where Corsican is nothing more than an optional subject in comprehensive schools; furthermore, there are various forms of bilingual school systems as in Great Britain, Aosta Valley and the Basque Country, as well as strictly monolingual school systems in the respective minority languages.

## 2.7. Consociational Structures and Internal Power Sharing

Autonomy is essentially an internal arrangement for settling state-region conflicts or conflicts between the national "majority" and minorities. They would like to place conflicting group rights and claims without redrawing state boundaries. In the case of complex conflicts in Europe autonomy arrangements have had to negotiate not only for the devolving of a considerable power to the territorial unit, but also in situations where different ethnic groups have been involved, they have had to build up overarching territorial loyalties and internal power sharing structures. While territorial autonomy is principally meant to empower a specific group to exercise a greater degree of self-governance regarding its internal affairs, consociational structures, divided societies, seek to ensure internal peace and stability, interethnic co-operation and the participation of all relevant groups in an autonomous region in legislative and administrative power processes.

The institutional design of such "regional consociations" and the legal and political enactment to preserve that kind of power sharing depends on diverse local conditions. There are few such rules in the island autonomies with an ethnically quite homogenous population, such as in the Nordic islands and the Azores and Madeira. The need to establish regional consociations arises in situations of internal heterogeneity, as in the Basque Country (not even 30% of the population are active Basque speakers), South Tyrol (26% are Italians and 4% Ladins), Crimea (58% Russians and 12% Tatars, apart from 24% Ukrainians), Northern Ireland (45% Catholics, 55% Protestants). Notably, there is one instrument for ensuring a first level of "consociational power sharing": democratic elections with the minimum representation guaranteed for all major groups. In South Tyrol, for example, the smallest group, the Ladins, have to be represented in the local parliament by law, regardless of the turnout at the polls. In Crimea 14 out of 100 seats in the Republic's parliament are reserved for the Tatars and one for each and every other indigenous peoples. This is a consociational way of governing that encompasses the various ethnic groups and ensures policy co-ordination, mostly through a political coalition. In order to set up stable coalitions for the governance of the region, minority forces have to enter into coalitions with parties representing other ethnic groups. This is also known as "concordance democracy", following the Swiss model.

Four more provisions for safeguarding the rights of the national minorities can be observed in European autonomy structures:

- mandatory power sharing
- segmental autonomy for each group
- proportionality in all governmental functions
- minority veto rights

Aspects of the functioning of these provisions can be tracked in several autonomy systems.

In Northern Ireland, to ensure participation of all communities in the Northern Ireland Assembly and to protect their rights, specific procedures for the allocation of committee chairs and ministries are applied. Key decisions have to be taken on a cross-community basis (parallel consent and weighted majority procedures). An "Equality Commission" has been set up; it is crucial for the operation of the Assembly that its members register their identity by category – Nationalist, Unionist or Other – in order to ensure parallel consent and weighted majority procedures. The executive functions are allocated proportionally, according to the party strength in the Assembly, as well as at the municipal level. The Northern Ireland government has to include members from each community. The First- and the Deputy First Minister cannot be members of the same community.

Similar provisions are enshrined in the autonomy statute in South Tyrol. The autonomous provincial government has to be composed of members from all three official communities and the ministries have to be assigned according to the numerical strength scored in the elections by each community within the provincial assembly. In addition to that, if any ethnic group considers itself discriminated against in ethnic terms, it can claim a separate vote in each group. Thus, each minority is entitled to cast a veto in a very important decision, like the annual budget. In South Tyrol, not only all governing institutions, including all administrative commissions, are composed in a proportional manner, according to the numerical relationship of the three official groups. Finally, there is a segmental autonomy for each group regarding cultural affairs: Germans, Italians and Ladins are entitled to manage their education systems and autonomously develop their cultural policies.

The Autonomous Republic of Crimea has established similar arrangements of "segmental autonomy" regarding cultural affairs for the major

ethnic groups living on the peninsula. All three major groups – Russians, Ukrainians and Tatars – have to be represented in parliamentary commissions and in the government. Apart from the proportionality determined by a political party's numerical strength and power relations, provisions are made to ensure cross-community decision making processes.

It should be added that there is no standard of an autonomy design structured along the lines of regional consociationalism that could be applied to all ethnic conflicts and autonomies in Europe, alike.

### 2.8. Control of Economic Resources

If autonomy means territorial self-government, by definition, it has to ensure the possibility for the autonomous community to manage their social and economic development. This basic need includes the means to control and manage, on own responsibility, the use of natural resources, an issue particularly important to many indigenous peoples depending – for their very livelihood – on natural resources, such as land, forests and seas. In Europe, this concern has not found articulation in the form of exclusive collective property rights over certain land areas and natural resources by an ethnic community (as in the case of numerous peoples in India, Russia, America and Africa), but in most of the autonomous regions of Europe have been fully integrated not only into their national market economies, but also into the common market of the EU. In some cases this has led to the immediate danger of overexploitation of local resources, as for example, the fishing grounds around the islands of Greenland and the Faroe Islands, which were previously part of the European Community. Both islands decided to opt out of the EU membership to preserve their special rights in fishery. This legal possibility is not given to other regions in the EU, except for the Åland Islands.

In the European case the need for the community to exercise some control over the economic development of an autonomous region has to be met by means of a general economic and fiscal policy, that is, in accordance with national macroeconomic and monetary policy, and with the policy set forth by the EU in Brussels. The division of powers offers a wide scope and political regulation in the field of economics: subsidies and regulations for the single sectors, regulation of the agriculture, development of infrastructures, direct intervention through public companies, environmental protection and energy control, urban planning



and economic planning. Generally, a solid financial system for autonomy provides the most effective means to steer a local autonomy.

### 3. Conclusions: a Comparative Ranking of Autonomy Systems

Considering the whole range of these ten autonomy systems in Europe, in accordance with the above listed criteria, it is possible to form a first ranking focusing on the real depth and extent of self-governance. Of course, this evaluation scheme is a very rough and provisional, but it should help us understand that – due to political, historical and social background – autonomy systems have developed differently and they are a flexible means of solving different problems.

The *Ålands Islands* detain the most complete and far reaching autonomy. Under the Act of Self-Government of 1991 the Ålanders enjoy legislative and executive powers in nearly all political sectors which matter for the peoples on the islands. The Åland Islands have even an administrative judiciary, whilst only the ordinary judiciary remains a state affair. The Åland Islands are also vested with some financial autonomy with some limited powers of taxation. Eventually, the Islands have to come to enjoy a form of “insular citizenship”, which is a prerequisite for the right to vote for the autonomous parliament. On the Åland Islands the local language is Swedish and this is the only official language. They are virtually a separate community, just linked to Finland by some parts of the juridical system (constitutional law, civil law and criminal law). But the Åland Islands, with its particular conditions, are probably an exception even when compared with many regions with national minorities aspiring to territorial autonomy. Finally, the Åland Islands have some powers entitling the autonomous region to be involved in international decision making and to have representation in international bodies. Some Ålanders consider their region as a “state in the state”.

A far-reaching degree of autonomy with quasi-statehood has been established in most political sectors, including *Greenland and the Faroe Islands*, as well. The legislative and administrative competencies are comprehensive, including a full budgetary freedom and a certain right of taxation. Only the judiciary is still controlled by the Danish state. Whilst sovereignty on the island formally lies with Denmark, the Faroe Islands have

their own "insular citizenship". The high degree of self-government is underpinned by the right of the islands' populations to participate also in foreign policy decisions if they are concerned. Greenland and the Faroe Islands – along with the Åland Islands – are represented in the Nordic Council, in their own distinct capacity along with their own state representatives. There is one major difference between Greenland and the Faroes on the one hand, and Åland Islands on the other hand. On the Åland Islands non-Ålanders have no right to purchase land or real estate (property of land is denied to non-Ålanders), however, in Greenland and the Faroes, which is accessible to Danish citizens, they have the right to own property.

Unlike most other European regional autonomies, Greenland and the Faroe Islands obtained autonomy regarding their participation in international or supranational organizations, as demonstrated by Greenland's opting out of the EU in 1985 in order to control its basic economic resources. If we take into account the fact that nearly one third of all the EU regulations are enacted by Brussels, for a meaningful functioning of the autonomy system, it has to be recognized that the degree of autonomy should not be measured only in terms of powers gained in front of the central government, but also with regard to the supranational structure of the EU. In an increasingly globalising international market autonomy systems of the future will have to be armed against the interference of decision makers at that level; too, if the autonomy is to be preserved in the core areas. The Nordic islands in Denmark and Finland are pioneers in this regard, whilst Åland's right for its possibility to regulate immigration by a sort of regional citizenship is a forerunner in that field.

<sup>3</sup> *The Spanish autonomous communities*, and in particular the autonomy systems of the historical "nationalities" of the Basques, the Catalonians and the Galicians, can also be qualified as comprehensive autonomies with legislative and executive powers in nearly every internally relevant political affair, and as a government which is responsible only to the regional autonomous parliament. They do not only have budgetary autonomy, but also clear-cut powers of taxation, shared with the central state. Spain's autonomous communities have their own civil and administrative judiciary, but the Basque Country and Catalonia have their own police force, too. The Spanish autonomous communities are also vested with a competence, normally reserved only to federated member states of a federalist union, the power to elaborate their own autonomy statutes. The amount of autonomous powers of a region in

Spain is in a high degree up to the region itself, which, within the constitutional framework, can freely regulate its own autonomy. Hence, Spain's regional autonomies are continuously extended and improved. However, the autonomy statutes have to be approved in simple majority by the central parliament of Madrid.

Spain is a highly complex and dynamic "state of autonomies" with a continuous evolution in the relationships between the center and the autonomous regions. Within this process, the historical smaller nations, *Catalonia, Basque Country and Galicia, along with the Canaries, Valencia and Navarra*, are continuously endeavoring to extend their "autonomous statehood", forcing the central state to find new forms of equilibrium and coordination. The Spanish autonomy system, sometimes labeled as quasi-federal or as "asymmetrical federalism without explicitly naming as such", is projected as a model for other European states hosting a number of powerful minority peoples or ethnic groups. However, despite the very advanced Spanish autonomy systems, it is evident that major continental regions, like Catalonia, are not in the same empowered position as a remote island group with regard to controlling citizenship and immigration, or integration in supranational organization.

The Portuguese islands of *Azores and Madeira* follow Spain's autonomy models in their progress towards an ever more advanced autonomy, although the two archipelagos are not distinct from the mainland regarding language and ethnicity. Hence Madeira and the Azores represent the "non-ethnic insular autonomy" claimed by so many island regions and states around the world, based rather on geographical reasons and needs than on cultural features. The new Portuguese constitution allows the two autonomous regions a broad range of legislative and executive powers, not specifically attributed to the central state. The general legislative competence, therefore, lies with the regional parliaments of the Azores and Madeira, and the Islands are governed by an elected government, independent from Lisbon.

Of particular interest are the two autonomy systems established in the former communist states of Moldova and Ukraine in the 1990's. The autonomy of the regions of *Gagauzia* in the Republic of Moldova is based on the state law, which has transferred autonomous legislative and executive competencies in the areas of cultural, social, education, economic and international affairs policy. The government of Gagauzia can also influence the composition of the personal staff of the judiciary on its ter-

ritory. The supreme executive organ is headed by a governor, along with a Gagauzian executive committee, vested with all governmental functions. The autonomy of *Crimea*, established in 1994, is reconstituting the former status of an "Autonomous Republic" under the Soviet regime. In both cases – Crimea and Gagauzia – the central state has transferred extensive legislative and executive powers to the autonomous territories, also ensuring a certain degree of financial-budgetary autonomy. Moreover, these regions or republics, although very different in size, enjoy a distinction of language policy regime aimed at safeguarding equality for the minority languages. They even have some freedom to regulate their international affairs, particularly in developing relation with their respective kin-states. The civil and criminal judiciary is still a central affair, but Crimea has its own constitutional Courts. Crimea's inhabitants hold a specific Crimean citizenship, without losing their Ukrainian one, which provides for a certain control over the demographic evolution of the peninsula.

Italy is a hybrid combination of a regionalist and a federalist state (asymmetrically structured), particularly after the last devolution reforms approved in November 2005. Now all 20 regions have an extended range of legislative and executive powers, but no full financial autonomy. They have independent regional governments and can approve their own statutes. The exercise of all judicial matters is strictly reserved to the central state. 15 out of the 20 regions are constituted as "regions with ordinary statute", while 5 of them are "regions with special statute" (*Trentino-South Tyrol, Aosta Valley, Friuli-Venezia Giulia, Sardinia and Sicily*). There are concrete plans to transform also the second chamber of the Italian parliament into a diluted form of "Chamber of the Regions", underscoring the new importance of the regions in the Italian devolution process. Italy, as well as Spain, is an "asymmetrical regionalist state", moving towards federalism. But the backlashes of the old centralist tendencies, a fragile public finance for the regions and the North-South dualism are still holding Italy back from giving way to more self-governance at every level.

The *German Community in Belgium* – in the framework of the transformation of the Belgian state into a federal state – has achieved a considerable level of cultural and territorial autonomy, although it is still not considered on an equal footing with the two main constituent communities, the Flamands and the Walloons, as they do not have their own dis-

inct region. Nevertheless, as a part of the Region of Wallonia, the German Community is establishing a special territorial autonomy step by step, underpinning the asymmetrical character of the Belgian federalism.

The *Netherlands Antilles* are a hybrid construction combining features of an associated state with that of a regional autonomy. Although the inhabitants of that island group are not directly represented in the Dutch Parliament, they have a democratically elected representation in Netherland's government. Being geographically distant one from another in 2008, they reorganized their respective relation with the "motherland", partially transforming in associated states.

The case of the United Kingdom highlights one additional typical feature of territorial autonomy in Europe. The historical process of the formation of nation states in European nation states along history has involved the integration, or sometimes just the swallowing up, of smaller historical nations. This happened in Spain as in Great Britain, in Russia and in the Balkans. The devolution process in the United Kingdom is legitimized not only by the particular linguistic features of the regions which are endowed with a high degree of self-governance, i.e. *Scotland, Wales and Northern Ireland*. Indeed, in Scotland and in Northern Ireland the minority languages are spoken by a very tiny part of the population. More significantly, there have been specific historical reasons in driving the devolution process, which, in turn, have caused internal conflicts, (Ireland) or centuries old strife for regaining a certain degree of "statehood".

The Nordic islands, South Tyrol, Spain's historical autonomous communities, Catalonia, the Basque Country, Galicia and Russia's Tatarstan, according to the functions delineated above, can be graded as having the most advanced forms of autonomy, whereas Corsica (a "*collectivité territoriale*" in France) is still at the beginning of the path towards a full-fledged autonomy. There are a number of autonomy systems in between, which still could be improved and enlarged. Nevertheless, France has established an authentic regional autonomy, although not labeled as such, but as "pay d'outre m<sup>er</sup>" (overseas country). *New Caledonia*, a major island in Oceania with a majority of indigenous population, shows all central issues of a territorial autonomy, and by an agreement signed in 1998, it will be even free to determine its further relation with France after 2011, without any restriction.

In Europe claims for self-governance and autonomy at the regional level are deeply rooted in history and in the story of building up the

European nation state system. There can be felt a strong consciousness of regional identity nearly everywhere in Europe, largely based on cultural, linguistic and ethnical features. Some European states tried to tackle this internal cultural complexity through federal structures (*Switzerland, Belgium, Germany, Russia, and recently Bosnia-Herzegovina*), while some other states with "asymmetrical regionalist autonomy systems" (Spain, Italy, Serbia before 1989, and the United Kingdom). However, a conspicuous number of regional communities are still lagging behind and do not enjoy the same degree of self-governance, thus giving rise to harsh conflicts with central governments. Once the working autonomies prove to be a historical success, or at least they stand the test, there will be better conditions to convince state majorities to go for autonomy solutions.

#### 4. Conflict Solution Through Territorial Autonomy?

Looking at the world map of autonomies, it is evident that Europe is still home to the majority of autonomy solutions worldwide. It is argued that territorial autonomy in Europe has proved to be a success in nearly every case for all the conflict parties involved – national minorities, regional communities, central states, and some kin-states. In none of the eleven European states with working regional autonomies is there a serious debate about cutting them back. On the contrary, in most cases the existing autonomy system is continuously being improved and deepened in order to grant an ever more appropriate system of self-government.

Spain leads the group of states with a dynamic development towards a more articulated "state of autonomies". Recently, in September 2005, Europe's largest autonomous region in terms of population, Catalonia, passed its newly reformed autonomy statute with a large majority of its regional parliament; also approved subsequently by the Spanish parliament. In Corsica local political forces are working to reform the still weak model of self-government in order to enrich the system with more legislative powers. In Italy the general devolution process of the central state powers to the ordinary regions is pushing the state towards a federal structure, indirectly reinforcing the position of the five regions with special autonomy. Northern Ireland is facing the most critical situation

since real self-governance, linked to a complex consociational arrangement between the parties involved, has yet to take off. The conflict has shifted to a political level, but decades of violence and political cleavages have left deep scars. An ever-deepening process of European integration in the framework of the European Union has definitely been helpful to these autonomy solutions, as they are backed by a legitimate role of the respective kin-states.

The new autonomies in Eastern Europe have been operating only for about a decade and are still in a provisional phase, with – at times – contradictory developments in the interethnic relations of the autonomous regions. In the Autonomous Republic of Crimea, for instance, the Russians retain their predominant rule, while the Tatar community, returning after the deportation by Stalin in the '40s, has yet to be accommodated. Tatarstan, on the other hand, presents a positive model of how national conflicts could be resolved inside Russia through an equitable balance of power between the centre (Moscow) and an ethnically mixed region (Tatarstan). Thinking about the ongoing conflict in Chechnya, a lesson to be drawn is that autonomy solutions should be envisaged before low-level violence escalates into a full-blown ethnic war. What makes these autonomies particularly important is their role as pioneers of autonomy regulations in a part of the continent which has been the site of raising new nationalism since 1990, state centralism and widespread hostility towards autonomy solutions. In this context, Gagauzia, Tatarstan and Crimea – if successful – are paving the way for a range of other regions aspiring to full autonomy (Abkhazians in Georgia, Albanians in Macedonia, Hungarians in Transylvania (Szeklerland), Serbia and Slovakia, Turks in Bulgaria, Ruthenians/Rusyns in Ukraine, and other regions in the Northern Caucasus).

In this political context, three patterns of establishing regional autonomies can be distinguished. First, there is the "traditional way" to grant autonomy as a special solution to a specific region in unitary states (Moldova, Ukraine, Portugal, France, Denmark, Finland, and the United Kingdom), due to its specific cultural, historical or ethnic features. Autonomy, here, appears as the exception aimed at accommodating a minority, whereas the state as a whole is not inclined to transformation in a federal or regionalist way. A second pattern is the establishment of autonomy in different (asymmetrical) forms to all subjects of a state, as it has been happening in Spain and Italy since the 1970's. A third solution is the

creation of different layers of self-government within a large and ethnically heterogeneous country, as in Russia, in quite an asymmetrical form, in order to find appropriate solution for each specific regional reality.

Indeed, autonomy is increasingly being proposed as a remedy for other self-determination conflicts, while it was previously seen as a step towards secession. Apart from granting autonomies to national minorities, multinational states were also faced with self-determination claims, like Bosnia-Herzegovina, Belgium and Macedonia. They had to adopt extensive provisions for self-governance for ethnically differentiated territories. While they were finding a new equilibrium (though in two cases still uncertain), other states had to face secessionist movements and acts, like Cyprus (Northern Cyprus), Moldova (Transnistria), Georgia (Abkhazia and South Ossetia) and Azerbaijan (Nagorno Karabakh) still have to find a way to reintegrate the breakaway regions. The formerly autonomous Kosovo is actually gaining full independence, since a return to forms of autonomy is unacceptable under Serbian sovereignty to the huge majority of its population, and its independence is increasingly accepted by the international community.

Even violent fringes of self-determination movements, like the ETA in the Basque Country and radical groups in Corsica, influenced the example of the IRA in Northern Ireland seem to be close to relinquish the strategy of violent confrontation if advanced forms of autonomy can be established. In those cases protracted violent insurgency has eventually evolved towards a compromise on a form of autonomy. Apparently, a growing number of states have acknowledged that autonomy can serve to integrate national minorities into the state and to stabilize the conflict in situations otherwise prone to go out of control.

## **5. Persisting Concerns about Europe's Territorial Autonomies**

The basic question to pose is whether territorial autonomy in Europe can achieve its objectives, namely granting self-governance in a limited area and protection of the national minorities living in that area. Generally, European states are still very sceptical about a right to autonomy. Often, the argument used is that its content is too vague and it cannot be clearly defined. However, distinction has to be made between the



right and the concrete form of application. Moreover, there is the concern that the interest of states to preserve full integrity of their territory should not clash with a possible right to autonomy. Autonomy, however, besides the conflict between the central state and the concerned region, often has to tackle a double problem: to grant the protection of the national minority on its traditional homeland, but at the same time also to include all the groups living in that area in the self-governance system. Territorial autonomy should benefit a whole regional community, not only one group of the population.

Every autonomy model in Europe has its unique features tailored to the specific problems to be solved. According to the specific premises and conditions of a region and national minorities, each autonomy system in Europe shows a particular "architecture" and mechanism to ensure participation, conflict solving, power sharing, minority protection and stability. These autonomies are "works in progress", involved in dynamic processes of reform, correction and transformation. By definition, they have to be dynamic, giving space to new answers for a developing society. On the other hand, there are some elements and conditions which have turned out to be key factors of success, as a detailed comparative analysis will eventually demonstrate. New autonomy projects and negotiations have to take into account avoiding the repetition of the harmful mistakes made in some other cases, and adopting devices that are more likely to bring about a successful solution.

Keeping this basic information about working autonomy systems in mind, some lessons can be drawn from the European experiences:

1. Autonomies are not a mere act of unilateral devolution of public powers. Establishing, entrenching and amending the autonomy must be based on a genuine negotiation process and constitutional consensus. This implies negotiations between political representatives of the concerned regional population and the central government.

2. Autonomy is an open, dynamic, but irreversible process, which has to involve at least three players: the representatives of the national minorities, the central government, and the representatives of other groups living in the same territory. All of their interests have to be brought in a balance, with a strong role of the civil society and the media in building up a culture of commonly shared responsibility for peaceful co-existence.

3. Autonomy can offer the necessary institutional framework for minority cultures, peoples and languages, insofar as the regional institu-

tions are endowed with all culturally relevant powers and means, especially in the field of education, culture and media.

4. An implementation plan is to be incorporated in the conflict settlement process. Sometimes this is a very technical, long-lasting undertaking.

5. There should be a possible complete set of functions and powers to endow local institutions with true potential of self-governance. Sufficient powers make autonomy meaningful and should encompass legislative, executive and judicial powers, which have to be transferred in an unambiguous way.

6. Autonomy has to be effectively entrenched, if not on an international or bilateral level (kin-state), then at least on a constitutional one, preventing it from being exposed to the vulnerabilities of changing political majorities in a central parliament.

7. There has to be a solid system of finance and sufficient provisions to allow the autonomous entity to control local economic resources, in order to ensure a positive social and economic development of the region.

8. There have to be established consociational arrangements internally – particularly when there are two or more ethnic groups sharing the same region – to grant access and participation to power to all relevant groups living in same territory.

9. Regional integration, transborder co-operation with kin-states, or integration in regional supranational organizations are definitely helpful in ensuring autonomy solutions.

10. There are even forms of participation of autonomous entities in international organizations exerting influence when the territory is affected.

11. In order to ensure the effective operating of autonomy, and in the case of overlapping powers between the state and the autonomous entity, there is a need of “neutral instances” of mediation and arbitration, or an effective conflict solving mechanism. Such role can be attributed to the Constitutional or Supreme Court of a state or various forms of joint commissions with an equal number of members of the state and the autonomous region.

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## THE BOLYAI UNIVERSITY AS A POLITICAL PROJECT

*The restoration of a state-financed Hungarian-language university in Romania, that of the Bolyai University, has probably been the most clearly formulated aspiration of the Hungarian minority in Romania after 1989. We can find it included in the very first manifestos put forth on those agitated December days in 1989, when dictatorship was abolished, as well as in the first declarations of those who came into office in the new era.*

*Two decades of political actions have not been enough to bring to life the fulfilment of probably the most general demand of the Hungarian minority in Romania, a demand that has been considered just and has been said to be supported by all Hungarian politicians in Romania. Considering the current political situation and the reactions of the academic community immediately concerned, it can be stated that in the first part of 2008 the question of the university is at its lowest ebb. It does not feature as a political goal on the list of the questions of distinguished importance. The political elite is neither arranging nor planning anything, professionals are waiting in confusion, while the Hungarian community in Romania does not react to the situation at all.*

*In the present study we are looking for answers to the following questions: 1. Was the goal setting mistaken two decades ago? 2. Were the means or the manner of handling the problem wrong? Is there anyone, or are there any people who could be held responsible, either politically or personally, for the failure? 3. How does that Hungarian publicity work in Romania, in the context of which even the most important public goals can lose their importance?*

### Transition – Future – University

Why the university? Why did the intellectuals who undertook the public representation of the Transylvanian Hungarians at the turn of

1989-1990<sup>1</sup> consider the issue of the university of a distinguished significance?<sup>2</sup> Exactly how important is the university in the life of a community numbering around 1.5 million souls?

Before starting to search for an answer to the previous questions, a statement should be presented, which in its simplicity and plainness clearly indicates something, namely a general feeling that the people in Romania *took back* at the beginning of 1990. They took back rights, they swept away paradoxical regulations, and they took over institutions. The first collective action of the people in this transitional period was to disregard the humiliating regulations imposed upon them by the dictator. Who would have considered at that time that the "liberation" of the press would raise institutional/legal questions,<sup>3</sup> that the regulation prescribing the alternate use of cars on even/odd Sundays had never been withdrawn, and that no one had legally introduced free Saturdays. Limitation on purchasing food ceased, uniforms disappeared from schools and in certain settlements people started to liquidate collective farms. The people took charge of their fate. Although during the Christmas of 1989 one couldn't make all this out very clearly from the processes, the general feeling was perceived by everyone.

1 In December 1989 four political documents – *Hívó Szó (The Call)* (Kolozsvár/Cluj, 23 Dec.), the manifesto of the DAHB (Democratic Alliance of the Hungarians in the Bánság/Banat) – (Temesvár/Timișoara, 24 Dec.), the Declaration of the NSF (National Salvation Front) – (București, 24 Dec.) and the Manifesto of the Provisory Syndicate of the DAHR (Democratic Alliance of the Hungarians in Romania) – (București, 25 Dec.) – show that the Hungarians in Romania wish to take charge of their fate. The fifteen intellectuals who sign *The Call*, as well as the provisory presidium of the DAHB, which has released the manifesto of Temesvár/Timișoara, declare the claim to cultural autonomy, while the document of Kolozsvár/Cluj names the Bolyai University as a distinct claim. Likewise, the Manifesto of the DAHR signed by Géza Domokos finds necessary the upbuilding of a complete educational system to provide instruction in mother tongue at all levels, from kindergarten to university. The declaration of the NSF draws up a 10 point programme, where the seventh point promises the same rights to national minorities as the majority has and promises to respect the rights of minority communities. The fourth chapter of the *Szándéknyilatkozat* (Declaration of Intention) of the DAHR issued on 13 Jan. 1990 names the re-establishment of the Bolyai University as a distinct goal, as well as the higher education in mother tongue in all fields of sciences and arts.

2 In December 1989 Hungarians in Romania didn't have their own politicians. Apart from rare exceptions, – Géza Domokos, Károly Király – intellectuals (mostly specialized in human sciences) took the lead in the self-organizational processes.

3 At that time the daily paper of Temesvár/Timișoara, being the successor of the earlier party newspaper, did not obviously stand by the regime-changer forces – as a consequence of the earlier political engagements/commitments of its editors. In that tro-

This socio-political background should be taken into account when re-reading the declaration of Attila Pálfalvi, the Under-Secretary of State coordinating the department for National Minorities of the Ministry of Education (released in January 1990 in the daily newspaper *Romániai Magyar Szó*): „From this fall the Bolyai University will start its work, the *Universitas*, which will comprise all higher educational institutions in Hungarian language, including the Hungarian line of study at the Conservatory and at the Academy of Fine Arts in Cluj. Instruction in Hungarian will be organized at the Polytechnic Institute (at the Technological University) as well.” The naturalness and plainness we meet in the context of other expectations and grievances of the minority must be observed in this case as well: *it is wanted because it is due*.<sup>4</sup> It is due on grounds of fairness, on grounds of historical antecedents and together with the affirmation of a common future with the Romanian majority. Thus, the question of the university arose quite self-evidently and it was completely justified. For – according to the Hungarian elite in Romania, the intellectuals who were guiding the very first actions of the change of regime – the situation of minority communities started to become impossible, and the pressure exercised upon them by the major-

ubled situation they decided to wait, to preserve themselves for future times, thus the new “independent” Romanian language newspaper (*Luptătorul bănăţean*) obviously took the side of a former local party-leader (Radu Bălan, who was condemned in 1991 for taking part in the violent suppression of the revolution), seeing in him the possibility of a social renewal: in other words they supported those former party-leaders who were compromised in a less degree. Because of this at the beginning of January the editorial office was besieged and occupied by several hundreds of people who launched a new paper (*Timișoara*) replacing the scarcely two weeks old *Luptătorul*. The editorial staff, of course, claimed back – exactly in the name of the newly received freedom – the newspaper, which claim was satisfied and *Timișoara* became a separate newspaper. The editorial staff set off *Renăşterea Bănăţeană* in place of *Luptătorul* and it is still being published as a medium with strong leftist bonds. At the end of 1989, when the Communist Party collapsed, (political) daily papers became the properties of their editorial staff without any legal act, but this appropriation was later approved by a central decree, the new political leaders simply acknowledging the situation formed by the editorial groups.

<sup>4</sup> The history of the KMDSZ library [Kolozsvári Magyar Diákszövetség – Hungarian Student Union of Cluj-Napoca] is very illustrative of the atmosphere of that period: the Hungarian Student Union of Cluj-Napoca received a considerable amount of books from Hungary, at the beginning of the 1990s. These books, according to some opinions at that time, might have constituted the foundation of the future university library. For this reason the books were carefully stored up until the establishment of the university.

ity had grown unbearable since 1959, when the autonomous Hungarian-language university was abolished. The absence of the university meant and symbolized – besides the non-existence of a vitally important institution for the community – historical injustice and deprivation of rights.

1989 confronted the Romanian elites with an unexpected task. While in Hungary, Czechoslovakia and Poland the transition was prepared by a process of events in the final years of the communist regime, the same did not happen in Romania and Bulgaria. The general feeling evoked by Brzezinski in *The grand failure*<sup>5</sup> aroused different feelings and political approaches. The validity of the process presented by him (“A new phenomenon – post-Communism – is now appearing. [...] a post-Communist system will be one in which the withering away of communism has advanced to the point that neither Marxist theory nor post-Communist practice dictate much – if any – of ongoing public policy. Post-Communism, very simply, will be a system in which self-declared «Communists» just do not treat communist doctrine seriously as the guide to social policy is limited.” /Brzezinski, p. 252./)<sup>6</sup> Post-Communism in Romania did not trigger social transformation and did not loosen the social chains of communism. During the life of the dictator it was impossible to elaborate ideas and values that might have become essential points in the restructuring of political life at the beginning of 1990, ideas that could have prepared the era after communism. At the same time, there was a need for setting forth certain social and political values related to the transition, values which might have legitimated the changes both on a theoretical and a practical level.

Socialization always takes place in the spirit of certain ideals, expectations, rules, values and norms: these are rules accepted by the major part of a community,<sup>7</sup> patterns of behaviour and of thinking considered as desirable. The model of socialization offers to citizens points of orientation concerning past, present and future, concerning smaller or larger groups, so that their collective self-definitions and the formation of

5 Zbigniew Brzezinski: *The Grand Failure*, Scribners, 1989.

6 Quoted from: G. Colțescu - Pato A. – A. Atanasescu – L. Vesalon: *Szótár plurális társadalmaknak* [Dictionary for Pluralist Societies]. <http://tarstudszotar.adatbank.transindex.ro/?szo=70>, downloaded on 17 March 2008.

7 I don't wish to use the term "Hungarian society in Romania" – although it seems unambiguous, from many perspectives it is disputable – as several analyses have pointed it out. See: *Változásban? Elemzések a romániai magyar társadalomról* [Changing? Analyses on the Hungarian society in Romania], KAM - Helyzet Könyvek. Pro-Print Kiadó, Csíkszereda, 1995.



collective identities can be accomplished. It also offers them possibilities of making connections, as well as the conceptual network necessary to orientation in society. In democratic societies this knowledge about the necessary competences, skills and attitudes that citizens should possess in order to be able to take an active and effective part in social processes develops in a peculiar way, that is, along the history.

If we used the public dictionary of the early 1990s, then we should say that: it was necessary to elaborate ideals and expectations that were politically unambiguous, were able to mobilize people and to help Hungarians in Romania in taking actions collectively. We don't dispute on the validity of Iván Szelényi's statement in the case of Hungary or of the countries of the "Velvet Revolution" (the new political class, which guided the post-Communist transitional process, presented as its programme the accession to Europe, the transition to democracy and market economy, as well as the formation of a civil society),<sup>8</sup> but in the first months of the transition it was impossible to arouse the interest of Hungarian minority communities with such an objective, or any other closely similar to it.

Furthermore, it is a well-known theorem of political sociology that political behaviour correlates with the structure of the society, and that in every country people consider an earlier situation, the values of a previous era as point of reference. In Hungary the year 1945 occurred probably self-evidently, and became a reference that produced positive energy for the transition.<sup>9</sup>

In Romania, the leaders of the political elite, which desired for a change, actual politicians, who rose from the second line of the earlier party apparatus, marked the ending of the Second World War as a point of reference. From that set of values politicians, who successfully preserved their status in the new era, adopted the slogans which instigated chauvinistic behaviour and xenophobia. The tragic manifestation of this has been the series of happenings (ethnic clashes), also known as the "Black March" of Marosvásárhely/Târgu Mureş.<sup>10</sup> After the elections of 1990, it became obvious that the construction of democratic institutions

<sup>8</sup> Editorial foreword by Iván Szelényi to the *Szociológiai Szemle* 1992/1, which gives a selection from the papers presented at the congress of sociology dedicated to the problem of post-Communist transition.

<sup>9</sup> T. Kolosi- I. Szelényi – Sz. Szelényi – B. Western: Politikai mezők a posztkommunista átmenet korszakában [Political fields in the period of post-Communist transition], In: *Szociológiai Szemle* 1991/5-34.

<sup>10</sup> A description of the events see in: Előd Kincses: *Marosvásárhely fekete márciusa* [The "Black March" of Marosvásárhely], Püski. Budapest, 1990.

is an extremely complex process. In Romania (but also in the Eastern area of the East Central European region: Bulgaria and Serbia) the one-time communist leaders were able to keep their power by repeating nationalistic slogans, and thus communist totalitarianism evolved into systems governed by rightist principles rather than into democracy.

The way Hungarians in Romania set their common goals was formed and strongly influenced by three factors.

1944-1945 could have by no means been a point of reference for Hungarians in Romania, as the end of the war did not bring them any solution to the injustice of Trianon. It couldn't have been accepted as a model from the point of view of the institutional frames of politics, as there had been an undisguised (royal) dictatorship in the country since 1938, and neither can the preceding years be qualified as a time of Western-type democracy. Regarding minorities, the only positive period was when – right before the negotiations that ended the Second World War – Romanian authorities promised them collective rights and created several important institutions of higher education. Self-evidently and without any debates among professionals – see the above quoted documents from the end of 1989 – the claim to the re-establishment of the university got on the list of the most important goals of the Hungarian minority. Beside general expectations regarding democracy, the elaboration of the minority law, the correction of unfair decisions made during the previous administrative division of the country, the founding of a general educational network in the mother tongue and the re-establishment, as well as reorganization of traditional educational and scientific institutions can all be considered minority-specific goals. The most clearly formulated goals of all these were the propositions of the educational package, eminently the rightful demand for a Hungarian language university. Thus, the first factor that influenced the goal setting of the Hungarians was the compulsion to answer the goals set by the majority.

The second factor is related to the respect for traditions of minority groups. Whilst a nation can be entirely for modernization, in the case of a minority community the dilemma between modernization and traditionalism is inescapable. It can be considered as proven that after 1990 restoration processes, taking earlier situations right as models, played a serious part in the life of Hungarians in Romania.<sup>11</sup> Institutions were brought into existence in the name of traditionalism, and different processes were start-

11 See: *Valtozásban?* op. cit. p. 27.

ed to help forming communities. Restoration processes show the aspirations of the people and small communities, who were hindered from experiencing their identity, and also show their faith in the fact that modernization is not synonymous with pushing ethnicity into the background.

Thirdly, it was possible to place the issue of the university and of cultural autonomy in general, as an expectation, on the top of the list of community goals of Hungarians in Romania because – as we have already mentioned – the new Hungarian political elite emerged from among those intellectuals to whom culture was a basic necessity, and as such, a question of utmost importance.

### **Who Served the Cause of the University and in what Way was it Served?**

The first question: whose duty was to serve the cause considered to be the most important for the community? Of course, it was the duty of the DAHR, which had to include it into its programme and had to consider it of vital importance in the course of its political activity. At the same time, did the responsibility rest solely with the DAHR? What other public characters could have embraced the representation of the cause of the university? This last question leads us to the examination of the socio-political role and place of the DAHR: beside the organization manifesting itself as a general administrator of minority problems, how and to what extent does the division of social duties (a characteristic feature of democracy) work?

The DAHR, as a political formation, is unique, for, according to the intentions of its founders, it holds together in a loose construction every professional, educational or religious organization and pressure group which is ready to cooperate for the sake of the social and national goals undertaken collectively.<sup>12</sup> This situation has changed in the course of time. Today, belonging to this construction means taking part in an associated partnership,<sup>13</sup> which, of course, is not compulsory, but, as sever-

12 See: The Declaration of Intention of the DAHR, Marosvásárhely, 13 Jan. 1990. Appeared in: *Romániai Magyar Szó*, 18 Jan. 1990.

13 See the related passages of the DAHR Statutes passed at the 2007 Congress: "The associated organizations of the Alliance are of social, scientific, artistic, cultural and vocational character, country-wide organizations, as well as stratum groups, which hand in their intention of cooperation with the Alliance in writing to the Procedure Monitoring Committee of the Alliance." <http://www.rmdsz.ro/script/mainframe.php?lang=hu>, the Hungarian version downloaded on 18 March 2008.

al examples show it, organizations which do not accept this partnership – moreover, criticize the DAHR – can expect warning or even negative discrimination at any time.

The relationship between political and civil/professional minority organizations is at the same time one of the basic issues of democracy. The problem is very difficult to solve even on a theoretical – national – level, for interpretations regarding civil society show continuous change. The basic principle is generally accepted: one of the criteria of democracy is the existence of a civil society, for where there is no civil society, there can be no citizens either, choosing their own identities, rights and duties themselves, in the given political environment. This principle in itself is an explanation for the civil sphere, but it does not touch upon the problem of the civil–political relationship.

It would be worthwhile to take the most important functions of civil society one by one – to ensure public welfare and civil service, to satisfy special and partial needs, solidarity, benefaction, unification and representation of interests, civilian control of the authorities, autonomous public “administration”, public activity, community building – and, constantly referring to these, to examine the relationship and the changes in this relationship. There is no space for it, and perhaps it is not necessary at all to reflect upon each component of this relationship,<sup>14</sup> but we can make a general remark: as a consequence of the transformation of the idea of a welfare state, civil and political spheres become more and more complementary. At the same time, there are certain functions of the civil sphere which do not change with the re-formulation of the idea of civil service. These are the representations of interests, civilian control of the authorities, autonomous public “administration”, public activity and community building. Autonomous public “administration” and public activity became an important theoretical paradigm in East Central Europe during the change of regime, for civil meant independence from the official, from the one in power, it meant something of private nature and sometimes even organizational autonomy. As the processes of the transition were, on the one hand, complicated and controversial, on the other hand, independence from the governmental sphere could be interpreted often as opposition with it.

14 From the general theoretical bibliography we refer – among others – to the works of András Arató, Máté Szabó, Ferenc Csefkó, Zoltán Laskai, Rita Glózer.

Máté Szabó examined the model of civil actions and movements regarding post-Communist transition in three countries.<sup>15</sup> The process is divided into three periods. In the first period (*crisis* period) civilian action becomes of primary importance (“we can speak of crisis in the case of political systems, when the gap between the conditions desired and reality grows so big that the system is compelled to make changes. Among others, a new wave of social movements, movements that attempt to loosen the strong administrative-political control over social protest, suggests the crisis of Eastern European political systems” – see the study by Máté Szabó). Civilian activity reaches its peak during the second period (period of *change*) of transition. This lasts until a new political system comes along with a new identity and normative policies. Then the period of institutionalization follows, which goes parallel with, and related to the development of the new political system. At that moment the main objective is to use up all those strategic and organizational options which arise for social movements in the political sphere, to choose from among alternative strategies and carry them out. Some of the themes once used to mobilize society now remain in the background and new ones are needed. Máté Szabó completed the analysis of the civilian movements of 1989-1990 in Hungary, Poland and the German Democratic Republic (GDR) in accordance with this model. The situation in Hungary and Poland strongly differed from the one in East Germany, where authorities possessed those political and administrative instruments which made them able to silence any dissenting opinion.

Compared to the East German variant, control over society was probably even stronger in Romania before 1989, as the conditions of civil movements and of expressing opinions were formed here in a very different way. Intellectuals during the dictatorship can be described with a pattern opposite to the habitual: they were not representing people, but projecting a sort of inducted people image and pressing it onto them. This meant that it was not the people who delegated intellectuals in order to be represented by them before authorities, but it was exactly the other way round: authorities instructed intellectuals to transmit their interests to the people.<sup>16</sup>

15 See: Máté Szabó: *A civil társadalom az állam ellen?* [Civil society against the state?], [www.regiofolyoirat.hu/newspaper/1998/3/08\\_konferencia\\_Szabo\\_Mate.doc](http://www.regiofolyoirat.hu/newspaper/1998/3/08_konferencia_Szabo_Mate.doc). 18 March 2008.

16 See: the publication of József Lőrincz D. in the periodical issued by the KAM in Csíkszereda/Miercurea Ciuc, in the *Átmenetek* 1990/1.

The appearance and development of civil sphere in Romania can be considered peculiar regarding the general traits of transition. Romanian political leaders initiated democratic transition not in the name of basic values and expectations, assumed solidarity and public spirit, but interpreted it rather as a procedural matter and understood the goal as the result of the constructing of institutions. The political elite was thinking in terms of institutions and believed that the achievement of Western European institutional conditions would bring about the materialization of the substantial elements of democracy. But public characters realized soon enough that the new institutional framework was scarcely operable in a generally hostile social medium, and the main objective in a world prone to "doing justice"<sup>17</sup> had become the exploitation of functional disorders. In this medium the "civil ideal" was very poorly supported (there are politicians – even in 2008 – who still question the functions of the civil sphere).<sup>18</sup>

Summing up the above: the organizations of the minority/Hungarian civil sphere came into being in an institution-centred political environment, which – most of the time – refused civil values. The advantage of these Hungarian civil organizations over those of the majority arose from the fact that they were supported in their aspirations by Hungary, thus there was a potential supporter, which behaved as a partner when it came to aims and means. In the long run this situation, in spite of the obvious advantage in the short term, induced unacceptable distortions on structural level. Not necessarily because financial resources from the mother-country were meant and destined for the support of programmes related to mother tongue (Hungarian language),<sup>19</sup> but rather because the institutional background of the support policy was formed – in the case

17 Because of the ill-functioning institutions the justice doer – in Romanian: *justițiar* – himself enforces the law and truth that is obvious for him. Among the parties, the Greater Romania Party is a prominent representative of this line, and there was a time (2000) when their programme, grounded on this idea, gained considerable support (it was represented in the Parliament in 25%).

18 In December 2007 a national conference was held in the presence of the representatives of the Council of Europe on the Romanian implementation of the Framework Convention for the Protection of National Minorities. On that occasion the leader (not of Hungarian nationality) of the minority deputies' faction declared that: civilians are talking wild, changing their opinion according to the support they are given from different sides.

19 Within non-governmental organizations, those specialized in culture and education, according to their first-rate and second-rate task-specification, attain 70%, while considerable territories remain without civil representation.

of the most important supporting organization, the Illyés Foundation – relying upon the DAHR, endowing the political leadership of the Alliance with important competences in decision making. With this the civil sphere became partly dependent on the DAHR; its goal settings and undertakings were greatly influenced by this dependence. This structure, or rather relationship overwrote any theoretical principle, and civilian control over the authority (the general administrator of minority affairs) could not develop. As a matter of fact, the general practice in Romania regarding these matters did not provide a positive influence in this respect either.

This is the political environment in which the *Bolyai Society* came into being and started its activity. The organization was founded in 1990, and, according to its Statute, its aim is: „to support and represent the rightful and well-founded claim of the community for the autonomous Hungarian language higher education system, including a state-financed university, as well as the exploration of legal possibilities regarding the achievement of this purpose.” The passage referring to the exploration of legal means is most probably to be understood as the compilation and submittal of documentation to the competent Ministry by the BS. The Bolyai Society had several such initiatives during the almost two decades of its activity, all of them without palpable results. What should have been done in a different way? Most probably we have to accept the statement of a publicist, according to which, in these academic circles „no one knows in reality how to found a university: academics unable to form a common standpoint pass the ball to the political representatives (DAHR), saying that, after all, the university is a political decision, do work on it in Bucharest.”<sup>20</sup> In 1998 in Marosvásárhely/Târgu Mureş university lecturers established the *Studium Foundation* with the purpose of: “carrying on activities concerning the increase in quality of Hungarian language higher education – engineering, medical and theatrical studies – in Marosvásárhely, to elaborate and effectuate educational concepts”. As we see, the aim of the Foundation is not the re-establishment of the Hungarian language university, which might mean that in 1998 it was already clear that this purpose cannot be achieved by means of civil action.

Opinions given by academics and organizations rarely had political effect; they remained private manifestations meeting no political reac-

20 Zoltán Sipos: A Bolyai Egyetem-saga [The Bolyai University Saga], see: <http://www.talajjuk-ki.hu/index.php/article/articleview/549/1/7/>, 25 March 2008.

tion. The *Bolyai Initiative Committee* (BIC), founded in 2004, constitutes the sole exception, which strongly thematized political discourse regarding the Hungarian language higher education. It was the BIC that laid the cause of the Hungarian language university in front of international forums,<sup>21</sup> and it was them who succeeded with their activity in lining up important personalities from the world of science and art, as well as from the Western press with the cause of the university.<sup>22</sup> At home, beside holding protest meetings and appearing in newspapers for several times, their action of placing Hungarian inscriptions in the buildings of the Babeş-Bolyai University<sup>23</sup> produced strong reactions and showed that they were looking for different methods instead of discussions that had lead to no result, and chose the way of political pressure in order to advance the cause of the university. The leadership of the university does not fail to answer, in December 2006 the two leaders (Péter Hantz and Lehel Kovács) of the BIC are dismissed on a trumped-up charge, while in the summer of 2007 BIC president, Barna Bodó is compelled to leave the university after a second notice from the Dean. During all these the DAHR mostly held itself apart from the BIC, never stood up for it directly.

The cause of the university, as a political problem, had undoubtedly belonged to the DAHR, and so it remained. The analysis of the political steps taken for the sake of the university shows that a genuine collaboration has never been formed between the professional/civil public and the DAHR.

21 See: Barna Bodó – Lehel Kovács: *A Bolyai Kezdeményező Bizottság kronológiája* [The chronology of the Bolyai Initiative Committee], In: *Romániai Magyar Évkönyv 2006* [Almanac of Hungarians in Romania 2006] (ed. Barna Bodó), Szórvány Alapítvány – Marineasa Kiadó, Temesvár, pp. 495-495.

22 At the beginning of 2006 the BIC makes the open letter public, in which they are urging the re-establishment of the Bolyai University. The letter is signed by 81 internationally renowned scientists and artists (among them 12 who were awarded Nobel Prize, Fields Medal or Wolf Prize).

23 In October 2006, on the same day when the BBU leaders intended to present the remarkable results of the so-called multicultural university in Kolozsvár/Cluj to the public at the exposition held in the European Parliament, and when – among other things – they claimed that multilingual inscriptions existed in the buildings of the BBU, Péter Hantz actually placed several multilingual inscriptions in three of the buildings of the university. These inscriptions were instantaneously removed, while Péter Hantz and his colleague, Lehel Kovács, who was only supporting Hantz from the background and did not take active part in the placing of inscriptions, were both excluded from the BBU staff. A few days later the resolution which had been adopted with violation of procedural rules was repealed and the two were removed from the university staff, in conformity with relevant regulations.



In the past 18 years three political situations were formed in which the question of the university came to the front of country-wide politics. Let's look at these one by one.

## 1. The Education Act of 1994

Kinga Mandel speaks about the passing of the Education Act no. 84/1995 in the following way: "At the beginning of the 1990s in Central Eastern Europe the Romanian education system was one of the most centralized ones. This is what the Act of 1995 is trying to alter. It wishes to review the regulations of the Act of 1978, and its purpose is to repeal communist-totalitarian ideological restraining decrees and to introduce democratic values into Romanian education system. The Act of 1995 was modified by an edict (36/1997) during the next – 1996-2000 – government period, and then finalized by the Act of 1 July 1999."<sup>24</sup> From the point of view of the minority Győző Székely describes the bill: "The education reform bill does not mention education on the languages of minorities. From this point of view it accurately reflects one trait of the Romanian education policy after 1920: thinking in terms of a nation state. It handles the matter of Romanian education as a national priority, regarding it as a system which has Romanian as its language (and in which the history of the Romanians is taught)."<sup>25</sup> In previous periods laws and provisions on education made possible for minority education the application of approaches and solutions different from the general. The wording of dispositions was concessive: "if there is a large minority community living in a settlement", "if more than 20% of the pupils belongs to a national minority", etc. The new law does not offer a similar possibility. It speaks only about education. The regulations were created obviously for Romanian language education.<sup>26</sup>

24 See: Kinga Mandel: A román felsőoktatás az 1994-es parlamenti viták tükrében [Higher education in Romania as shown by the parliamentary debates in 1994], [www.mtaki.hu/docs/all\\_in\\_one/051019\\_tezisek.pdf](http://www.mtaki.hu/docs/all_in_one/051019_tezisek.pdf), downloaded on 19 March 2008.

25 Győző Székely: Közoktatási reform Romániában [Public Education Reform in Romania], <http://www.hhrf.org/korunk/9809/9k03.htm>, downloaded on 19 March 2008.

26 It deserves attention that the Hungarian government led by Gyula Horn kept silent concerning the Romanian law on education, and there was someone (Lajos Molnos) who openly remarked upon that behaviour.

The bill formed through parliamentary debates on the Education Act in 1994 triggered the reaction of Hungarians in Transylvania; the initiative of the DAHR to create the autonomous Hungarian language education system was supported by almost five hundred thousand signatures. The preparation of a minority education bill supported by these half million signatures was at the same time a legal initiative and an intent to exert pressure in order to achieve modifications of the unacceptable articles of the actual bill. This document declares the most important rights concerning education, the right of students to learn in Hungarian on all levels of education (from kindergarten to university), as well as the right of any natural or legal person belonging to national minorities to found and maintain denominational and private educational institutions. The package submitted to the Romanian Senate in August 1994 was not even placed on the agenda. Only a few similar civic initiatives of extreme importance have been brought to life in Europe, and this one is doomed to perish without trace. The parliamentary majority voting for the Education Act was able to prevent – with its 64% majority – the minority education bill from being placed on the agenda.

The elections in 1996 brought the victory of the previous opposition and the DAHR became part of the governing coalition.<sup>27</sup> The public political<sup>28</sup> perspective resulting from the new situation, the hope of accessing different development funds<sup>29</sup> being now on the other side, meant to give up (partly) the policies represented until then. Goals and

27 At the meeting of the Council of Representatives on 2 Feb. 2002, Béla Markó asserted that the DAHR had led declarative politics until 1996, then from 1996 on they had been looking for means to achieve the goals announced. Something is wrong with this statement: it blends the inside and outside construction of the organization, for instance, to win autonomy presupposes a number of tasks carried out inside, but Markó's assertion thrusts these into the background.

28 The success of a party is usually characterized by political results and acquirement of offices. Ensuring education in mother tongue is thus a political achievement, while the other most important element of national/minority goals, the autonomy is more than that: it is a new frame, which directly influences political activity. Consequently, from a political point of view, the two national goals are to be handled separately, and I am fully conscious of this when I include education in mother tongue among the primarily national matters in the present study.

29 The question of financial sources in the Romania of the 1990s deserves special attention, because in the first years of the transition the division of these sources depended on the practice of the political centre of handling provincials/locals as clients. Hungarian characters of local politics were continuously experiencing the meaning of being in opposition, and as a consequence the leaders of the DAHR experienced strong pressure from the locals regarding the participation in government.

expectations specific to the minority were thrust into the background. This has to be outlined because there was a Romanian intellectual (Mihail Korné, the director of the Romanian emigrant newspaper, *Lupta*), who declared regarding the Act of 1994 that: Hungarian language education, and thus the reopening of the Hungarian university in Cluj, is needed "for the preservation of Hungarian tradition in Transylvania, beside the Romanian tradition", as only in these circumstances can Romania act authentically in favour of the Romanians living beyond the frontiers.<sup>30</sup> The dichotomy between success in public politics and minority/national aspirations can be perceived in the political ways of the DAHR in the followings (and invariably) the Alliance chooses the success in public politics.

## 2. The Petőfi-Schiller Diversion

The year 1996 was of overriding importance for the Romanian politics from two aspects. The previous opposition won the elections as a result of a democratic process (that is: without cheating). Both the president and the cabinet represented central-rightist forces and both promoted changes, thus the DAHR could rightfully count on their willingness to continue discussions. Furthermore, the year 1996 was important because Romania wanted to obtain an invitation to join in the NATO during the NATO Summit in Madrid in July 1997. This did not happen, and it is well-known that Romanian politics was compliant with the situation of Hungarians in Romania when having to prove something to international forums. Naturally, the DAHR was also aware of the importance of this situation, this is why it was surprising that they did not make efforts to conclude agreements with Romanian governing forces. This has been considered a serious mistake by several political analysts.

Coalition parties discussed the question of the Hungarian state-financed university and that of the amendments of the Education Act, this latter being considered by Hungarians as unacceptable in its original form. On 10 March 1997 Prime Minister Victor Ciorbea declared – among others – the followings to the Hungarian News Agency: "*We shall change all those regulations in the Education Act which contain certain barriers concerning education in mother tongue. [...] Then will the estab-*

30 Quotation by Géza Jeszenszky: Magyarország és a kétoldalú szerződések [Hungary and the Bilateral Treaties], In: *Magyar Kisebbség* 1996/4.

lishment of the university in Cluj take place, however this process will consist of two stages. As a first step, a Hungarian section will come into being inside the Babeş-Bolyai University. This is very important, and political leaders agree upon it, the leaders of the DAHR as well as our colleagues in the government. Likewise, in this very year, we want to create a department of studies in law at the university in Cluj where law will be taught in Hungarian language."<sup>31</sup> These promises were revolting for the Romanian side. Academic circles, the leadership of the Babeş-Bolyai University published documents referring to the institutional autonomy of the university, thus signalling that they have completely different ideas of the processes, and Ciorbea and his party can count on strong resistance.<sup>32</sup>

In order to escape this trap the idea of the Petőfi-Schiller University was conceived (according to some people, in the head of ambassador György Tokay, at that time Minister for Minority Affairs). On 26 June the Government adopted a motion on setting up a mixed committee in order to examine the possibilities of establishing a Hungarian language state-financed university. The committee numbered twelve members; half of them were Hungarian specialists, the other half were Romanian ones. Romanian intellectual circles reacted soon. In July 48 universities that had joined the Romanian National Forum rejected in an open letter the plan of a Hungarian university. After all this, on 2 September the Committee for Education of the Chamber of Deputies passed Article 123 of decree no. 36/1997, which aimed at the modification of the Education Act. This Article did not allow the establishment of a Hungarian university; it made possible only the formation of Hungarian faculties. As a response, the ultimatum of the DAHR was announced based on the decision of its Council of Representatives. According to this ultimatum, the DAHR would leave the coalition if the problem of Hungarian language education was not solved (in other words, if Article 123 would not make

31 See: *Szabadság*, 11 March 1997.

32 The university staff gave its answer one week later. 187 Romanian members of the teaching staff make their attitude public in a harsh tone, asserting that in settling this problem the university, as an autonomous organ, is the most legitimate forum. The university staff objects to any "intention directed towards the separation of the education at the BBU on an ethnic basis and they join the brave and patriotic standpoint of the prorectors Simion Simion and Mircea Muthu, as well as the declarations of the rector Andrei Marga, which have proved with rational arguments the necessity of the current form of Hungarian language education at this university." In: *Szabadság* 15 March 1997.

possible the establishment of an autonomous Hungarian university) until 30 September. On 14 September the leaders of coalition parties signed an agreement concerning the Hungarian university and on 29 September the Committee for Education placed the modification of Article 123 on its agenda once again; however, no decision was made. Hence, on 30 September the leadership of the DAHR discussed the possibilities of leaving the coalition. In order to avoid political crisis, in the very last minute, almost at midnight, premier Radu Vasile<sup>33</sup> made public the *Government Decree No. 687/1998 regarding the foundation of a Hungarian-German multicultural university, the Petöfi-Schiller University*.

The DAHR does not leave the coalition<sup>34</sup> and with this its trustworthiness is becoming questionable, for the Hungarian-German university never comes into being. The decree met intense resistance not only in opposition circles but also among governing parties. Many of those who rejected it referred to the Accreditation Act (88/1993), the first Article of which states that a university can be created only by law. As the legal basis of the Petöfi-Schiller University is only a decree, from a legal perspective it is anti-constitutional. After these it is not surprising at all that on 15 March 1999 the Court of Appeal in Bucharest declares the Decree on the foundation of the Petöfi-Schiller University unlawful and anti-constitutional.

The fact that the cause of the university failed to achieve international support<sup>35</sup>, while Romanian academic circles were continuously protesting against it, deserves special attention. It is certain that the cause of the Hungarian-German university couldn't get substantial support from either of the three sides concerned, – Romanian, Hungarian and German – as all three approached it in a constrained manner. As there were opponents of this project among Hungarian university staff

33 As a result of the tension inside the Government, the Democratic Party left the coalition, and then in the spring of 1998 introduced a motion of no confidence against the government of Victor Ciorbea. The premier resigned and on 17 April 1998 Radu Vasile became the new prime minister.

34 There were serious arguments inside the Council of Representatives about the correctness of voting on remaining in coalition, some of the CR-leaders (Barna Bodó CR vice-president and József Somai secretary) resigned as a mark of their objection.

35 Referring to the Romanian political forces, which were opposing the establishment of the university, Leni Fischer, president of the Parliamentary Assembly of the Council of Europe declared that "If the Romanians don't want Hungarian university, none is to compel them." Not even the Hungarian Ministry of Foreign Affairs did declare itself unambiguously for the university.

members as well, serious criticism could be heard regarding the professional preparation of the foundation of this university, or more precisely the haphazard manner of that. From that moment on the DAHR has been playing a double game regarding the question of the Hungarian university: they include it in their programme but they don't take the initiative in putting the matter into practice. Today it can be already stated that on the Hungarian side the motion regarding the Petöfi-Schiller University caused losses for everyone concerned in it.

After ten years it is even difficult to decide whether the DAHR was an accomplice or a victim in the Petöfi-Schiller diversion. The question remains open: was political short-sightedness or the grim insistence on remaining in power the cause of the complete failure? At that time it was obvious what the DAHR could lose accepting the coalition even in the given circumstances, and much less clear what they could win.

### **3. The SDP (Social Democratic Party) – DAHR Pact and the University**

The elections in 2000 brought about the complete downfall of the leader of the previous governing coalition (the National Peasant Party), and 5 parties succeeded in getting in the Parliament.<sup>36</sup> The Romanian Democratic – Social Pole (later SDP) won the elections and took the governing upon itself; at the same time they invited the National Liberal Party (NLP), the Democratic Party (DP) and the DAHR to sign a collective memorandum – to conclude a partnership agreement. Eventually, it was only the DAHR who accepted to support the government in the Parliament and with this a new, so far unprecedented process started. In exchange for the support given by the DAHR the SDP and the Alliance agreed – in a protocol<sup>37</sup> signed each year – upon the problems that should be solved concerning the Hungarian minority. An achievement of this period, considered very important from a DAHR perspective, was the restoring of the Statue of Liberty in Arad, a project that had been initiated much earlier. At the same time the DAHR had to face a lot of criticism (just like the

<sup>36</sup> Parliamentary parties and the proportion of their representation in the Chamber of Deputies: the Social Democratic Party – SDP 44,9 %, the Greater Romania Party (GRP) 24,3 %, Democratic Party (DP) 8,99 %, the National Liberal Party (NLP) 8,7 % and the DAHR 7,83 %.

<sup>37</sup> The general agreement was completed by local protocols, which moderated the opposition inside the DAHR apparatus, they “domesticated” the system.

SDP), saying that the Alliance was exchanging programmatic politics with a day by day political huckstering and bargaining.

As a reaction to different social debates, Viorel Hrebenciuc, vice-president of the SDP made the following statement at the beginning of 2002: the agreement of the SDP and the DAHR serves as a model for solving interethnic problems. Irrespective of the context of this statement, it is important to notice its contextual message: minority problems are to be solved by segmental concessions attained step by step after having fought for them.

In connection with the agreement in 2003 Béla Markó asserted that the most important problem was still the foundation of a state-financed Hungarian language university,<sup>38</sup> and as a first step they considered realistic the creation of independent Hungarian faculties inside the Babeş-Bolyai University. As for the actual facts: they wished to achieve the starting of two new faculties (of humanistic studies and of natural sciences) at the Babeş-Bolyai University in the academic year of 2003/2004, while at the Medical and Pharmaceutical University in Marosvásárhely/ Târgu Mureş they wanted to fix the number of Hungarian students enrolled.<sup>39</sup>

The DAHR took on and supported the initiative of the university staff, and thus a question emerged, which had not been tackled with in detail earlier either by politics, or by academic circles. The new idea is that when establishing the independent Hungarian university social, legal and professional points of view should be taken into consideration as well. Debates on the possible ways of solving this problem led the two parties to two separate dilemmas. On the Romanian side the debates were basically meant to shift the responsibility from the ministry to the university and back: that is, either the Ministry of Education was the one authorized in making the decision, or the university itself, being an autonomous institution.<sup>40</sup> On the Hungarian side the essence

38 The leaders of Hungarian study lines at the BBU together with the Hungarian vice-rectors address a "Memórium" to the government in January 2003, in which they solicit the establishment of two Hungarian faculties inside the university. This took place after the leaders of the university (with a Romanian majority) had repeatedly rejected the shaping of the organizational framework of Hungarian education in such a way that it would secure the decision making to the Hungarians.

39 The Medical and Pharmaceutical University in Marosvásárhely/Târgu Mureş did not separate the quota for Romanian and Hungarian study lines, and due to the admission system there was always a greater number of students entering the Romanian study line.

40 Certainly, neither of the parties was making an effort to resolve the dilemma, which offered them a great possibility of playing around for a long time while mimicking responsible behaviour.

of the problem was whether the establishment of a university was a political or a professional question.<sup>41</sup> If it was a political question and the claim for it was just, then they had to give way to it.<sup>42</sup> The other group put the professional side on the first place, considering the quality of the Hungarian higher education in Transylvania of utmost importance. The first group formulated their conception very precisely in a short memorandum and asked for political support. The latter were of the opinion that serious preparatory studies were needed in order to ground such important changes; a tangible manifestation of this was the appeal launched by Levente Salat and József Lőrincz D. (the Salat-Lőrincz appeal).<sup>43</sup>

The introductory part of this appeal contains a statement which will turn out to be of special importance a few months later. The appeal starts with the following: "The problem of a separate, Hungarian language education in Romania – and more precisely, the question of autonomous Hungarian faculties inside the Babeş-Bolyai University (BBU) – *most probably will not be* the object of any kind of political decision. Or rather, right the contrary: it is to be feared that political decisions made hastily and above the heads of those concerned might face Hungarian students and academic staff working at the faculties of the BBU with accomplished facts." [Italics mine]

At the beginning of 2004 Levente Salat becomes vice-rector of the BBU, responsible for the Hungarian sections. His first declaration is

41 It should be mentioned that among the academic staff of the BBU there was a loud and rather influential group, which, led by Éva Cs. Gyimesi, thematized the question of the university for several times since the beginning of the '90s. They refused the different initiatives referring to professionalism. The material of this series of debates has not been thoroughly studied yet, although it was especially important due to the fact that the advocates of professionalism helped – even if against their wishes – the opponents of the Hungarian university, the Romanian side with their arguments.

42 The advocates of this opinion brought forward as a practical argument the fact that at the beginning of the 90s, when the number of state universities suddenly doubled in Romania and almost just as many private universities were established, nobody was interested in the question of professional competence.

43 See the appeal by Levente Salat and József Lőrincz D. (3 Nov. 2003) to the Hungarian members of the BBU academic staff, asking them to help "not in the elaboration of a particular motion, but rather in the formation of a more comprehensive and nuanced picture, by inspecting the previous experiences with criticism, and making an inventory of the conceivable consequences of the different alternatives."



presented in the daily newspaper *Szabadság* in the following manner: he cannot back up the idea of Hungarian faculties that should be created in accordance with the agreement between the DAHR and the governing party, because that was worked out above the head of professionals. (...) vice-rectors representing the Hungarian line of study have to prepare themselves to face two great challenges in the following period: the large-scale reorganization required by the Bologna process, as well as the settling of the debate formed around the autonomous Hungarian faculties.<sup>44</sup>

With this the question of the university vanished from the political agenda, while the DAHR snatched at the opportunity of continuing political combats regarding a highly complicated problem like the one in question. It will remain an open question whether the political scientist Levente Salat was not aware of the fact that a political opportunity like the one in 2004 was extraordinary in the context of Hungarian language higher education in Romania, and being such, the only possible way would have been the elaboration of an agreement between politics and profession, and not the refusal; or did he not know that along professionalism certain other forces manifested themselves, those which helped a person, who had been at the university only for 3 years, become the leader of the Hungarian section?

### Hungarian University and Minority Publicity

Up to this day, the Hungarian community in Romania does not possess a Hungarian language state university.

The question of the Hungarian language university is (almost) no longer on the political agenda in 2008.<sup>45</sup> The information that reaches newspaper readers from time to time regarding Hungarian language higher education is rather non-essential considering the final goal, or is sometimes even confusing. At the end of 2007 it was announced – putting the vice-rector responsible for the Hungarian section – that steps were being taken regarding the placing of multilingual inscriptions. Why and in what way can something become possible, that was considered a major breach of discipline about two years earlier, bring-

44 Tamás Borbély: Margák győztek a BBTE vezetőségi választásán [Marga and his party won the BBU leadership elections], In: *Szabadság*, 2 March 2004.

45 No serious study from 2008 could be found on the internet on this topic. (30 April 2008)

ing about the maximal punishment – it is indeed a serious social dilemma.<sup>46</sup>

Apart from one or two – as we could see rather controversial – steps that have been taken, there is complete silence around the university topic. This silence gives rise to the question: what is the role of the media in the resolution of vital matters and problems that determine the future of the community they represent? Can one expect something different, something more from minority press than from media in general?

The media reflects a situation, presents events, reveals different phenomena –, informs people. It also gives direction and provides interpretation. Interpretation always has a theoretical-ideological basis, but in the case of minority press there is a particular circumstance which makes it different from the press of the majority.

The existence of a majority community – nation – is secured by the state, an internationally recognized political frame. The future of their mother tongue and culture is not a personal question for the member of the nation – the survival of both is given. In the case of minority communities cultural pertinence – identity – can appear as a dilemma, for assimilation is always present. Even if the majority nation does not pursue aggressive assimilation policy, one still has to take into account the assimilative effects of different structures and social circumstances.<sup>47</sup> Minority press has a serious role in managing these situations and dilemmas. Consequently, the role of minority press is determined by its being one of the prominent scenes of national identity politics. Contents transmitted by media shape and form the ideology which makes possible the preservation of minority existence. Preserving minority existence is

46 If a member of the academic staff places multilingual inscriptions at any of the faculties of the BBU, making reference at the same time to existing rules and to the promises of the university leaders, it is considered such a serious offence that the person in question is to be dismissed (see the case of Péter Hantz and his background supporter, Lehel Kovács). If the leadership of the university does the same thing, then this is a positive step. Hantz and Kovács lost their suit against the university – a further sign of the fact that the placing of the inscriptions can raise serious questions of juridical interpretation.

47 Structural assimilation means, in my interpretation, that there are places and situations where institutional conditions for the production of minority identity cannot be provided, and, as a consequence, the individual has to make the decision: if she/he wishes to choose the identity of her/his parents, then she/he has to undertake a lot more than the majority nation: one has to frequent school in a different settlement, prefer programmes and situations which help her/him preserve the cultural and linguistic values, etc.

inconceivable without an image of the future referring to its own otherness, and a substantial element of this is the university itself.

Referring to identity politics, Attila Papp Z. states that one must take into account a frame when speaking about the operating of minority public.<sup>48</sup> This frame is connected with the minority existence and marks the boundaries of the journalist's movements. Any intellectually creative behaviour of a minority assumes the (conscious or unconscious) acceptance of some minority ideology. This acceptance marks out the quasi-permanent frames for the minority press. This phenomenon is called "frameism" by Papp Z., and the suffix "-ism" suggests that the existence of the frame assumes some ideological determination. The journalist defines her-/himself as the insider "frame-familiar" and, as a result of her/his situation consciousness, adjusts her/his actions to this frame. The journalist contributes to the creation of the frames and, guided by these, she/he does not question matters that might disturb the unity of the frame. For a minority journalist, this frame also serves to protect her/his ethnic group and assumes some connection between her-/himself and the imagined reading public. The existence of the frame may contradict professional principles or the conscience; nevertheless, it is still being maintained. The journalist turns with higher probability to subjects that strengthen the frames guiding her/his work.

Frames operating press publicity are ideologically determined, but they bear political, cultural and interethnic dimensions as well. These dimensions are continuously transformed, partly by internal professional matters and partly by other kinds of interactions.

According to some researchers, two factors – which are shaping the press – are at odds in minority media: the professional logic and the minority ethos.<sup>49</sup> Accordingly, the Hungarian press in Romania has been pervaded by a certain 'literaturization', and on the other hand, the existence of a minority neurosis can be perceived, which results in examining world events almost exclusively from a minority point of view. Consequently, the minority journalist operates inside a frame which is determined by minority ideology and she/he cannot, dare not or does not want to leave this frame.

If we accept the above argumentation then we should say that the issue of the university – being a privileged question of identity politics –

48 Attila Papp Z.: A romániai magyar sajtónylvánosság a kilencvenes években [The Hungarian Press System in Romania during the Nineties], In: *Korunk*, 2006/4.

49 Tivadar Magyari: A romániai magyar média [Hungarian Media in Romania], In: *Médiakutató*, 2000/autumn.

is a recurrent, stressed topic of the Hungarian media in Transylvania. As we have already mentioned, this is not so. Most newspapers deal with the question of the university only when some kind of event gives specific cause for it. Looking back on the last two decades, the issue of the university seems a political failure. It would be justified to ask whether there is someone responsible for the problem, or organizational, structural causes account for the resultlessness. What does the political representation assume responsibility for in this failure, and what does it not take on? A row of questions that lack the answer.

There are no answers because the Hungarian press in Romania does not thematize,<sup>50</sup> most often it doesn't follow such scandal-possible questions either, which – beyond their ethnical dimensions – might refer to the unlawful activity of some civil servants. Although it is impossible to imagine the press without the existence of an authority, a power and a public, the Hungarian media in Romania first of all deals with Romanian public institutions as powerful factors. This is why it has to be particularly emphasized that the basic functions of media consist not only of information-socialization-entertainment but also of the control of public life.<sup>51</sup>

The theoretical question might rise: over what kind of authority can the minority Hungarian media exercise its controlling function? The answer is being looked for in theoretical literature, giving Riggins as a reference: minority media has to adjust itself twice, has to fulfil double function. According to St. H. Riggins, the media of ethnic minorities has to serve ethnic solidarity, cohesion and cultural survival on the one hand, and on the other hand it has to promote the integration of its public into the wider society.<sup>52</sup> Riggins' model presumes the existence of a multicult-

50 The raised index numbers in the subsidizing of Hungarian and German language higher education in 2008 constitute a provocative topic. Raised index numbers mean that the university receives double the amount of the subsidy for a Hungarian student, that it receives for a Romanian student, while a German student brings 2,5 times that subsidy. All this money gets lost in the financial labyrinth of the university; according to Hungarian academic staff the consequences of the raised index numbers cannot be perceived in their work. The details are not made public by the university, although the budget of public institutions has to be public – and the press keeps being silent.

51 The Romanian media is full of sensational exposures, of disclosures of irregular and illicit dealings of different prominent characters. A Hungarian politician or public figure becomes of interest for the Hungarian media only after the Romanian media has thoroughly explored her/his case, and only if the case has outgrown minority boundaries.

52 Cf. St. H. Riggins (ed.): *Ethnic Minority Media*, Sage Publications. 1992, quoted by Papp Z. op. cit.

tural strategy on the part of the state, and is built in entirety upon the thesis that minority media represents the interests of the majority, of the state. A recurrent question is, however, what happens when the interests of the state and that of the minority community are contradictory. The interpretation of the controlling function in the Hungarian media in Romania makes reference to this very rupture: the minority politics of the state "taught" them that every initiative by the state has to be received with maximal reservation and criticism. Then again, this attitude makes the minority involuntarily stand by their own political representation, expecting the necessary actions and protection from them. In case of such attitude criticism is fading out inside the community. There is criticism, but it is directed outwards.

It is interesting: the question of critical spirit has been rarely dealt with by the researchers of the Hungarian press in Romania, which is in itself a noticeable circumstance. The functioning of the Hungarian media in Transylvania is determined by its state of being minority even if the local leadership is Hungarian. The minority media cannot be linked with considerable exposures, not even where Hungarians form a local majority.

Riggins uses the concept of loyalty when speaking about mutual adjustment. Regarding Hungarians in Romania, this mutual adjustment exists on a theoretical level, but the day-to-day experience of the citizen is entirely different. Loyalty comes up in another respect, namely, between the minority press and the political elite of the minority, as all financial support that is due to the Hungarian community in Romania – either coming from the Romanian state budget or being part of the funds allotted by the Hungarian government to the Hungarians living in the neighbouring countries – is being controlled by the Hungarian political organization in Romania, the DAHR. This latter is indeed well capable of controlling the press through the supervision of the resources going to the media.

In most cases the weak social criticism that might be made possible – in the specific Transylvanian circumstances – by the minority statute under the banner of social control, is overwritten by the political control of the support policy.<sup>53</sup>

53 In the Czech Republic minority government officials distribute the subsidy to the minority media – which cannot be considered a good solution, either. (See: Vilmos Ágoston: *Médiapolitika vagy politikai média* [Politics of the Media or Political Media], EÖKIK, Budapest, 2007.) A body of trustees – deputed by the target group and controlled by means of publicity – should be entrusted with the distribution of all subsidies.

## Conclusions

Regarding the existence of social priorities and the political representation of these, there can be encountered, on part of some political scientists, a standpoint which questions the necessity of designating community goals. Thus the question arises: can one expect this to formulate distinct goals for its community and through that for itself in the case of a political organization (party)? In our case, can the political representation be expected to handle the establishment of a Hungarian language university as a distinct goal?

A majority party draws up a programme and gathers its supporters with that. The programme of the party does not set goals regarding the future of the community, but refers to the handling of certain situations, the resolution of conflicts and, naturally, to the theoretical frames of solution finding. The political representation of the minority does not administer primarily an actual situation, but offers an image of the future, the chance of survival for the community itself. The minority community, as a matter of fact, is decreasing in number. It is decreasing until some kind of institutional barrier is built to stop it. The goal setting of the minority politics refers to this barrier. Such barrier is the university.

The final conclusion of our analysis is that the primary responsibility for the fiasco of the university affair is to be assumed by the political representation. Every university (re-)establishment is first of all a political matter and the professional side comes second to it. The non-existence of the university shows the lack of an appropriate political will. Why has there been no success in forming it? – the answer to this should be searched in the first place by the political representation itself. The fact that the university staff was divided on the manner of the formation or restoration of the university does not absolve the political elite from the unsuccessful representation of one of the most important community projects. The Bolyai Society, the civil organization representing the restoration of the state financed Hungarian language university, was unable to drive professional discourse to the right track and to keep it there, which could have made possible the sending of an unambiguous message towards politics. This question has remained valid up to the present.

The Hungarian media in Romania does not function the same way in the case of the university affair as it does when approaching minority sit-

uation in general. In this case the protection of Hungarian community rights seems to be less important than some daily, segmental constraints. It must also be considered that in the long run, throughout a decade long unsuccessful process, the press was unable to "say" anything new, it did not search for the possibilities of a re-thematization, but it simply dropped the case.





## NATIONAL GROUPS, CONTACT SYSTEMS AND LINGUISTIC SCENES OF A WESTERN SMALL REGION

Today's usage of Hungarian language has got tight connections with the social environment, and also with the political, economical and cultural changes arising on a local and global level. Earlier national states are changed by so-called Euroregions, which connect people, municipalities, institutions, civil organizations. (Varga 2005)<sup>1</sup> The study analyses what kinds of changes were caused by the accession to the European Union in the system of connections and in the usage of language of the national groups in Burgenland.

### Minorities, National Groups: Changes of the Ethnical Character of the Region

In the most Eastern province of Austria three national groups are living out of the six officially accepted autochthon ones:<sup>2</sup> Burgenland Hungarians, Burgenland Croats and Romanians.<sup>3</sup>

Burgenland Hungarians are the descendants of the frontier guards<sup>4</sup>, settled in this region almost one thousand years ago. They live mostly in those four settlements where traditionally Hungarians live: in Southern Burgenland: 521 persons (54,4%) in Alsóór (Unterwart), 1169 persons (17,5%) in Felsőór (Oberwart), 163 persons (70,4%) in Órisziget (Siget

1 <http://www.talajjuk-ki.hu/index.php/article/articleview/77/1/42/> (Last reading: 13.04.2008)

2 The national group term has been used since the National Group Law from 1976 (in German: Volksgruppe)

3 Based on the State Treaty from 1955 and the National Group Law from 1976.

4 Our state founder king settled frontier guards (speculators) and archers (sagittares) for the protection of the Western frontier. He rewarded them with different privileges like compensation for their services. Settlements which provided service in the protection of the marchland keep in their names the memory of their former activities till today (Felsőór, Alsóór, etc.).

i.d. Wart); in Middle Burgenland 603 persons (21,5%)<sup>5</sup>, in Felsőpulya (Oberpullendorf), further on in the settlements of Northern Burgenland, but properly dispersed in the whole Burgenland.

Croatians ran away from the Turkish occupation towards the North more than 450 years ago, and settled down in the area of today's Burgenland. Outside of Burgenland they settled down mostly in Vienna. Their number, according to the last census, is 19,421.<sup>6</sup>

The chronicles mention the presence of Romanies in Burgenland as early as the 15<sup>th</sup> century (See: Martti Asari, Prof. Dr. Jochen Abr. Frowein and Dr. Marcelino Oreja 2000:5). Their number in Austria is 6,273. The situation of the Romanies is more difficult than that of the majority nation, or the other national groups. They have a weak political representation, they are less educated and, deriving from this, their situation on the labour market is also difficult.

The three national groups have been living together for centuries. The region has always been multilingual, only the status of the languages has changed during history (in comparison with Mühlgasner). The Romani and Croatian population have always belonged under the supremacy of another nation, and consequently the minority existence was not unknown for them, while the Hungarian national group had to confront the difficulties of minority existence only after the Treaty of Versailles. After the rearrangement of political situation, Burgenland Hungarians were left by their intelligentsia, who had migrated to Hungary. The national group has not only lost not its intellectual leaders, but also its former cultural centres, school towns (Kőszeg, Sopron, Szombathely). The iron curtain drew a physical and ideological border between Burgenland Hungarians and the home country.

In Hungary it was always considered that „Western” Hungarians in Burgenland live well, and they do not need any support. Burgenland was

5 Source: [www.statistik.at](http://www.statistik.at) (census from 2001)

6 The dialect of the Gradiste Croatian diaspora is among the endangered languages in the UNESCO Red Book. The South Slavonic Burgenland Croatian/Gradiste Croatian language, which belongs to the Indo-Germanic language family, is spoken outside of Austria in Czech Republic, Slovakia and Hungary (Western Transdanubia). The Croatian language area in Austria consists of different language islands. The written language has its roots in the Čakovian dialect, but the other dialects used in Southern Burgenland have effect on it. The written language uses the letters of the Latin alphabet. The dialect differs from the standard literary Croatian, this way the trilingual dictionaries published until now contributed to the stabilization and protection of the Burgenland Croatian language (compare with Tornow).

on higher level than Hungary in terms of living standards, yet it remains the poorest province of Austria. Burgenland Hungarians would need technical support in the field of education, in order to preserve their mother tongue. Before 1989 Burgenland Hungarians could not identify themselves with the language of a country which belonged to the socialist part of Europe, therefore they did not strive to use it.

### **The Frontier, the Region, the Network of Settlements Along the Frontier.**

The free movement through the frontiers may have natural and conceptual obstacles. I understand by this term state frontiers created by man, which provided a sort of a selective penetrability between Burgenland and homeland Hungarians. The ideological barrier influenced the frequency of language usage among the Burgenland Hungarians. For 70 years the physical barrier made obstacles in the economical, commercial, cultural contacts and hindered the connections among the relatives. The above mentioned factors minimized the areas of language use.

The emigration of the Hungarian speaking civil servants excluded the usage of Hungarian from the official activities. (Of course, there were exceptions). The Burgenland Hungarians could counterbalance these effects only to some extent.

I don't consider that the definition of the term „region” would be my task. (While the notion of geographical region may be easily defined, the definition of the same term – as used by the social sciences – is very difficult.) The subject of my analysis is the province of Burgenland, more precisely those settlements and areas of the province where minorities live. The region as a category of space doesn't necessarily mean a homogeneous area bordered with lines. (Compare with sociolinguistic encyclopaedia). This is really true in this case, because there are no homogeneous Romani, Croatian or Hungarian settlements in the region: All settlements are multilingual, and only the ratios of structures are different. I take the region as a microstructure, which has been created as a result of organic development.

The settlements are organized into zones of attraction, and from these zones the regions develop. The steady coexistence, the traditions,

the evolution of common values keep the people together, who are living in one region; and it also seems to be true, that the region is formed of the zones of attractions, such as building stones.

## Euroregional Co-operation

Central Europe is culturally and ethnically heterogeneous. As a heritage of the Trianon Peace Treaty some detached parts of the country near to the frontier fell behind, because the communities and living regions had been cut into two by the peace pact. The intensive regionalisation near to the borders, commencing from the 1990's, served the creation of a multipurpose relationship, which lead to the formation of Euroregions. In the Western areas, which are examined here, there are other regional organizations, such as the Alps-Adriatic Working Community,<sup>7</sup> the new Futureregion<sup>8</sup> or the Vienna centred Centrope region<sup>9</sup>; these are characterised not only by the common past, but also by the dynamic development of the present. The common projects of the regions contributed to economic growth and so the multiculturalism and the linguistic diversity of the area came to the front. The region offers great opportunities for small and medium businesses to co-operate with the regional and national markets of the area. To become a successful and strong player in the market it is essential to develop the command of a language and the intercultural know-how.

The small Hungarian community in Burgenland does not represent a strong economic power by itself; it is fully integrated into the Austrian

7 The Alps-Adriatic Working Community was founded in Venice in 1978. By today the community counts 13 members: the territories of northern Italy, eastern Austria and western Hungary, Croatia and Slovenia. The Alps-Adriatic Working Community focuses on the common identities that emerged during the centuries of coexistence of the people in this area. The aim of the community is the development of both commercial and cultural contacts through intensive, project-oriented co-operation.

8 The Futureregion (Zukunftregion) was founded in March 2002 with the motto: „old neighbours - new partners”. The Graz centred organization aims to renew the relationship developed in Alps-Adriatic Community. The organization focuses on economic projects, but also lays emphasis on qualification and trainings.

9 In 2002 a region called CENTROPE was started to be created from Burgenland, Lower Austria, from the area of Bratislava and Brno and from the north-western part of Hungary with its centre in Vienna. CENTROPE develops a multilateral, binding and lasting co-operation framework for the collaboration of regions and municipalities, business enterprises and societal institutions in the Central European Region.

economy. A part of the active people is employed in the local service industry, but neither the local community nor the province is able to offer appropriate workplaces for the qualified labour force, therefore they work in the capital and go home only at the weekends. The Northern diaspora is merely a census factor. The structure of the four settlements mentioned above is different and thus these settlements have different possibilities. Felsőőr (Oberwart) and Felsőpulya (Oberpullendorf) are cities and administrative centres. In these cities Hungarians live in minority. Órisziget (Siget i.d. Wart) is a small village attached to a close city. Alsóőr (Unterwart) is the only village where the Hungarian ethnic group lives in majority. The attribute „the most Hungarian” village is not an accidental one.

**Table 1.** *The data of the 1991–2001 censuses by settlements<sup>10</sup>*

Settlements	Hungarian population		Percentage	
	1991	2001	1991	2001
Kismarton/Eisenstadt	245	228	2,4	2,1
Nezsider/ Neusiedl am See	48	70	1,1	1,3
Boldogasszony/ Frauenkirchen	179	191	7,0	7,0
Alsóőr/Unterwart	617	499	86,3	74,4
Felsőőr/Oberwart	1514	1044	25,6	17,5
Felsőpulya/ Oberpullendorf	608	599	23,7	21,5
Órisziget/Siget i.d. Wart	217	183	81,9	70,4

Austria has been a member of the European Union since 1995, while Hungary became a member of the EU only in 2004. The attendance of the Hungarian section of the Federal Bilingual Grammar School in Felsőőr (Oberwart) shows the impact the economy has on the growth of the prestige of a language. The number of the students attending the Hungarian section has been constantly increasing since 2004, while the attendance of the Croatian section remained unchanged. It remains a question what will happen when Croatia gains EU membership. The development of local relationships emphasised the advantages of the use of Hungarian

<sup>10</sup> source: [www.statistik.at](http://www.statistik.at)

and thus it raised the appreciation of the Hungarian language. As a consequence, the Hungarian minority in Burgenland started to speak Hungarian more readily and lots of Austrian people started to attend Hungarian language courses.

### **The Role of Cultural Public Life in Building up Contact Systems and in Formulating Linguistic Scenes**

The opening of the Hungarian-Austrian frontier and the accession of the two countries to the European Union had a positive effect on the political<sup>11</sup>, economical and cultural contact network. The life of the region is mainly determined by the economy; nevertheless, in the life of the handful Burgenland fragment cultural contacts are several dominant. Those living in the region are connected to each other by lasting coexistence, traditions rooted in common historical past and the common scale of values developed in the region. Culture and art play a very important role in the life of the region. The area is characterized by multilateral creative activities and lots of events. Many artists and composers of the Monarchy are declared to be the heritage of more nations and minorities. Nowadays the attendance of cultural and culinary programmes is not hindered by the frontier or the different language. In spite of that, a great unused potential can still be in cultural and linguistic diversity.

The essence of culture and even of life is communication (Boas). The subsistence of culture in mother tongue is served by the institution systems and civil organizations maintained by the minority communities and segments (Lanstyák 2000:113, Szoták 2006:209). Furthermore, their role is not only important in keeping the community together, but also in creating the possibility for the use of mother tongue on the level of the community. The quality of their activity may also influence the protection and change of the language (Borbély 2001:27).

In the Hungarian communities of the so called „Örvidék” the most active event organizers are the associations and civil organizations, showing that folk culture has got many decades of tradition. They are free from political and social discrimination and they have created active contacts with institutions in Hungary.

11 After 1917 a first common Austrian-Hungarian government meeting was organised in 2005

The Hungarian Media and Information Centre founded in 2000 is the most active member of the new associations. Its headquarters are in Alsóőr (Unterwart). The library of this multifunctional association owns the biggest book collection in Hungarian language in Austria and it keeps good connections with the library of the Szombathely Highschool. The Centre has been a co-operating partner of many Hungarian counties in 5 PHARE CBC transborder projects since 2002.

By providing internet access services, the Centre is able to recruit the youngest generations. At the same time, the Centre is member of the e-Hungary Points Network connecting Hungarians from all over the world. It is also a forerunner of the digitalization of cultural heritage in Burgenland. It maintains excellent contacts not only with Hungary<sup>12</sup> but also with most Hungarian organizations abroad.<sup>13</sup> Its commissions offer programmes covering every part of cultural life.<sup>14</sup>

The IMRE SAMU Linguistic Institution is operating within this association, which is the 5th in the row of the linguistic research stations of the Hungarian Academy of Sciences. The research stations existing in Slovakia, Transcarpathia, Transylvania and Vojvodina deal with the usage of the Hungarian language outside the borders of Hungary, with the contact changes of the Hungarian language used in these transboundary regions, and with the fields of language usage in the areas where Hungarian is spoken as a minority language.

For example, the Burgenland Hungarians Folk Highschool organized the Burgenland Summer University for the Hungarian Youth in Órisziget. This event provided the possibility for young girls and boys arrived from different countries of Europe to get acquainted with the history and culture of Burgenland Hungarians. The highschool also deals within its curriculum with the language education of the Hungarian group. Among the interested one can find both those belonging to the Hungarian national group and Austrians as well. This may be interpreted as a change occurred after the EU accession, by which linguistic and intercultural competencies received more importance. Developing economic contacts with the neighbouring countries and increasing international tourism have contributed to this change. The organizations of the Burgenland Hungarian Cultural Association are strong in performing

12 EU-Interreg project with the village Velemér; Native Language Conference

13 Hungarian Democratic Community in Croatia (Horvátországi Magyarok Demokratikus Közössége)

14 Organizing exhibitions, literary evenings, musical programmes, theatre plays, scientific conferences

theatrical plays, maintaining folk dance groups and in the field of language education.

Its dance group, the Órisziget Hungarian Folk Dance Ensemble, is accompanied by an orchestra from Szombathely, which provides the choreography as well.<sup>15</sup>

The Ensemble generally offers programmes and amusement for local Hungarians at local and province festivals, but also accepts invitations from Hungary. The drama groups and the choirs act within the boundaries of the micro-region and transport the values of traditional folk culture.

### The Specialities of the Identity in Burgenland

The questions of Hungarian identities in minority are continuously present in the social science dialogue (see Biró A. – Bálint 2005:13). Many empirical research and theoretical argumentation give information on the factors that influence the identity of Hungarians in the Carpathian basin. The peace treaties of 1919-20 brought about the exceptional rearrangement of the region (comp. Haslinger). The national group becoming a minority from a majority status was a fragment community with traditions, active association life and programmes (Bodó 2005:46, Ilyés 2000.). With the emigration of the intellectuals these association events – which kept this community together and provided space for the use of the language – have become more and more rare. The identity of Burgenland Hungarians is a bit different – „we may not compare that with the identity of other Hungarians in the Carpathian basin. People here have always had a local identity”.<sup>16</sup> The descendants of former frontier guards created a language island here as early as the 16<sup>th</sup> century. The people living in this region boast with the noble origin of their forefathers, with the place where they were born. „They are different from the Austrians, they feel that they have certain values, even if they are not able to express it.”

15 The association is invited every year to the Savaria Historical Carnival in Szombathely.

16 Detail from a conversation with a local informant.



## Summary

There are no big cities in Burgenland, thus the minority living space of the Burgenland Hungarians is provided by village-like, rural environment, grouped traditionally in four settlements. In the Europe of euroregions the Hungarian national group has found its former town centres, separated from it before 1989 by the iron curtain. The strengthening of negative trends like the radically changing peasant farms, the shuttle transport, which is so typical of the villages of the Hungarian countryside, occurred in Burgenland as early as forty years ago. The sphere of minority condition is also indicated here by the settlements with mixed population and sometimes the two-three-four tongued contact zones. It is an observed tendency that in such small settlements the consequence of the ethnical changes is the loss of space for Hungarians living in minority (Szarka 2005:126). Burgenland Hungarians do not think of rapid or slow disappearance. Their civil organizations and transboundary contact system may contribute to the protection of the identity of local Hungarians and may help them use their mother tongue more often, and slow down the change of the language.

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**RESPONSIBILITY FOR EACH OTHER.  
CROSS-BORDER DISCOURSES ON NATIONAL  
CONSTELLATION  
(Transylvanian-Hungarian, Hungarian-Transylvanian)**

This lecture (partially) thinks over the cultural anthropology examinations of the 'national discourses' of the recent years and the present days. We would like to describe the term 'national discourse' with the present socio-political, ethno-political, ethno-cultural and minority strategies in connection with the 'Hungarian commonwealth'.

The image and the description of the 'discoursing communities' between the categories of Transylvania-Hungary and Hungary-Transylvania comprise the following notions: majority-minority, homeland, motherland, bolsterer, advocated. It also contains the paradigms of physical forms of making connections ('I have been in Transylvania', 'I have been over in Hungary'). In addition, we discuss the changes in mental sense and physical aspect to the state borders that have been occurring after Romania joined the European Union (if there is any kind of change).

Beyond the national constellation in the communities, we define the personal displays as the narration of the commonwealth's members about the lifestyle of the minority, which has been changed by those working, graduating in Hungary. The Hungarian tourist, the Hungarian bolsterer church and civil constitution, a Hungarian who has connections there are also all members of the commonwealth's narration.

Our point of view about the Transylvanian-Hungarian, Hungarian-Transylvanian relationship, as a commonwealth relationship, is partially based on practice, partially on conception. Both of them are instincts from the point of view of cultural anthropology. The former is driven by political anthropology, the latter by the empirical anthropologist's behaviour.

This essay undertakes to set the frame of the possibility of research in the field of cultural-political anthropology in connection with the national discourse between Transylvania and Hungary. Therefore, this

essay can be considered a starting point for solving problems which, according to our hopes, are going to be started in the near future.

## **Points of View in Relation to the Political Anthropology**

András A. Gergely defines political anthropology as one of the branches of cultural anthropology, and in his opinion it helps us get to know the political dimensions of society. So, it is an attitude which regards people as a social category and it analyses the historic trend of the political power relations, searching for points of comparison in the connection between people (society) and the devices of the political power, symbols and taboos.<sup>1</sup>

At the same time politics is considered one of the basic forms of communication in culture. In spite of all this, he adds that politics as a conceptual category cannot be described unambiguously and it has not got an exact or canonical definition, not even by using political anthropological points of view. Firstly, it is contrasted by the dynamic and wide-ranging features of politics which exist in several pluralistic acts at the same time. According to András A. Gergely, these acts are the real and symbolic limitations of power, influence and existence, so they are compromises and conflicts along the power and sources of power.<sup>2</sup>

In this research we borrow the aspects of the history of thinking and political sociology, the approaching aspects from the border territory of political anthropology, the aspects of the social and stereophonic existence of the ethnic identity, and the connection between the political macro-surroundings and macro-units.

## **Identity Narratives in the National Discourse Between Hungary and Transylvania**

We consider „Transylvanianism” as the best analysable notion of the Transylvanian-Hungarian national discourses from the ethno-political point of view, as we have already described it in another essay.<sup>3</sup>

1 A. Gergely, András 1996: p. 3.

2 A. Gergely, András 1996: pp. 7-11.

3 Simon, Zoltán 2007: pp. 130-142.

We have examined „Transylvanianism” on the basis of our present method, that is using the general criteria of the narratives of the social and Hungarian-Transylvanian national discourses. To be more exact, we focused on ethno-poses, which were generated from Hungary and which divide Transylvanian people and „Transylvanianism” into mystical ethno-categories. These days the continually increasing ethno-tourism, namely the presence of folk dance, folklore, religious tourism can be mentioned as a good example for it.<sup>4</sup> We also consider that the notion of „Transylvanianism” is ignored and it is considered to be a general stigma (backward Romanian stigma, poor, needy, and arbitrary), and it is used in the Hungarian national discourse, thus generating personal conflicts in many cases.

Furthermore, we have examined some self-reflexive elements of the identity of Transylvanian people and also the cultural-social-political repertoires about the existence of the minority. In fact, while adding ethno-political contents to the notion of „Transylvanianism”, we compared Transylvanian and Hungarian cultural and political entities. In this opposing connection we have tested the possibilities of the preferential laws offered by Hungary (Hungarian identity card, double citizenship), and we have tried to analyse their positive and negative influences on the actual national discourse with the help of the literature on the subject and the research on the spot, in Transylvania.

The present essay maintains the development of the notion „Transylvanianism”, but actually it considers more important to examine the recent principles of the Hungarian „commonwealth”. These days it is impossible to explain the principles of the national discourses between Hungary and Romania (Transylvania) without the consequences of the Romanian economic policy, which were caused by joining the European Union, and without the instability of the national will manifested by the preferential laws.

### **Transylvania – Hungary. Some Viewpoints Related to the Political Will of Togetherness**

While working out the new Hungarian diplomatic strategies, László Szarka points out the economic, social and regional differences between inside the Carpathian basin and the surroundings, which endanger the

4 Ilyés, Zoltán 2004: p. 189.

togetherness of the Hungarian national communities. He also emphasizes the necessity of considering all these aspects.

In his study entitled „A 21. század eleji magyar nemzetfogalom értelmezési keretei” (Interpretation of the Hungarian Concept of ‘Nation’ at the Beginning of the 21<sup>st</sup> Century)<sup>5</sup> László Szarka describes the strategies of searching for a new political consensus concerning the Hungarian national communities. The writer himself highlights the fact and we also have to consider that nowadays the emphasis has changed in the attempts of the national politics.<sup>6</sup>

Since 1990 Hungary has started to formulate and partly put into practice its national strategic principles related to the Hungarians who live beyond the frontier. In spite of it, between 1989 - 2004 the national strategic attempts are characterized by inability in finding the way out. However, László Szarka adds that the Hungarian concept of nation has always included togetherness as a „secret knowledge” and Hungary has always guaranteed the role of the „mother country”.<sup>7</sup>

These days the national political will is characterized by dissonance. The capability of the national political strategies is called out by political party interests, national catastrophes or particular pressures from outside. The referendum related to the double citizenship has proved that its process was moved by two-dimensional political party relations.<sup>8</sup>

## The European Union and the National Concept

Most experts dealing with social studies point out the crisis of the nation states in Europe. Its causes are the cultural globalization, the economic and political internationalism, social transnationalism and the revaluation of the citizenship.

New political anthropological approaches emphasize that the state is a structure of institutions which does not only assert common interests, but it also integrates cultural and political formations, representations and discourses. Cultural and political anthropology is not really inter-

5 Szarka, László 2006: pp. 11-39.

6 Szarka, László 2006: p. 11.

7 Szarka, László 2006: p. 15.

8 Szarka, László 2006: pp. 11-15.

ested in the state institutions, but it rather in the influence of the state on the social forms of contact.<sup>9</sup>

Due to the continuous enlargement of the European Union, it has been justified that the border controlling role of Central European nation states should come to an end. So, the borders of the Hungarian cultural national communities will be determined by new relations. Romania's joining the European Union is going to force the country to reconstruct the future of its political borders rooted in its nation state concept.<sup>10</sup>

## Border and Migration

Regarding the Central European countries, the more the European integration urges the new state concept the more urgently the social and political changes of attitudes are needed in connection with the border and the migration across the border.

The evaluation of the ideas related to the border is nowadays compulsory for the experts dealing with social studies. In his study entitled „*Határ: társadalmi tény*”<sup>11</sup> (‘Border: social fact’) József Böröcz does not agree with those who describe the notion „border” as the territorial encompassment of the state. That is the reason why he deals with the trends that cross the border. Both József Böröcz and this essay consider Simmel's essay with the title „*Híd és ajtó*” (‘Bridge and Door’) as their theoretical starting point.<sup>12</sup>

Simmel's bridge metaphor emphasizes the will to join, and it helps to overcome the feeling of being divided by the border. This will is positive and it can be characterized as a social will. The door metaphor symbolizes a frontier crossing point which has only two positions: open and closed. From our point of view these open/closed positions are equal with the outside inside positions controlled by those in power.<sup>13</sup>

In our opinion, the border exists in two separate forms. On the one hand, it is a spanning and bridge-like social institution, which symbolizes a unit, and on the other hand, it is the structure of doors which are close to each other and aim at dividing up this unit. Consequently, the

9 Donnan-M. Wilson: 2008: p. 118.

10 Szarka, László: 2006: p. 30.

11 Böröcz, József 2008: pp. 134-142.

12 Böröcz, József 2008. p. 134.

13 Böröcz, József 2008. p. 133.

bridge and the door might join us together, lock us out, or let us pass through, at the same time. So, the border is a „bridge with doors”.<sup>14</sup>

## Aim Instead of Epilogue

In demonstrating cultural anthropological research we are referring to a report, which can be read on the website of *Magyar Hírlap*.<sup>15</sup> Its extracts reflect the social and political responsibility between Hungary and Transylvania, the national constellation based on the everyday public discourse. This report is about a family who settles back from Hungary to Romania. The report is personal in tone and the interviewed express the general grievances experienced by the people who come from Transylvania and want to settle in Hungary. Their grievances are connected with administrative abuses. They have witnessed the existing Romanian stigma and emphasize that since the economic development of Romania there has been no reason for settling down and getting employed in Hungary, especially since the refusal of the double citizenship. This report is subjective in tone and forceful, but – according to my experience gained on field-work in Hungary and Transylvania – these opinions and remarks of ordinary people have to be considered as a base of research to be extended in time place and methods.

Our target group should be people or communities from Transylvania who work in Hungary legally or illegally, or study in Hungary. We want to look for people or families from Transylvania who intend to settle down in Hungary or have already settled down there, and we should study their lives, migration, double identity and assimilation to reconstruct the new social, national and political constellation. In this way we will also be able to form a more objective notion of the „force that attracts back”, through examining people whose stay in Hungary has not been permitted due to administrative or different social reasons.

The new function of the border described by Simmel, the letting in-out techniques and the qualitative changes in connections spanning over the border could also be examined methodologically. The Hungarian general public discourse and its image of the Hungarians from Transylvania must be the subject of a study as well, while analyzing of the political conditions, the qualitative changes in the educational and cultural connections, and in the connection of the Hungarian church and the civil organizations.

14 Böröcz, József 2008. p. 135.

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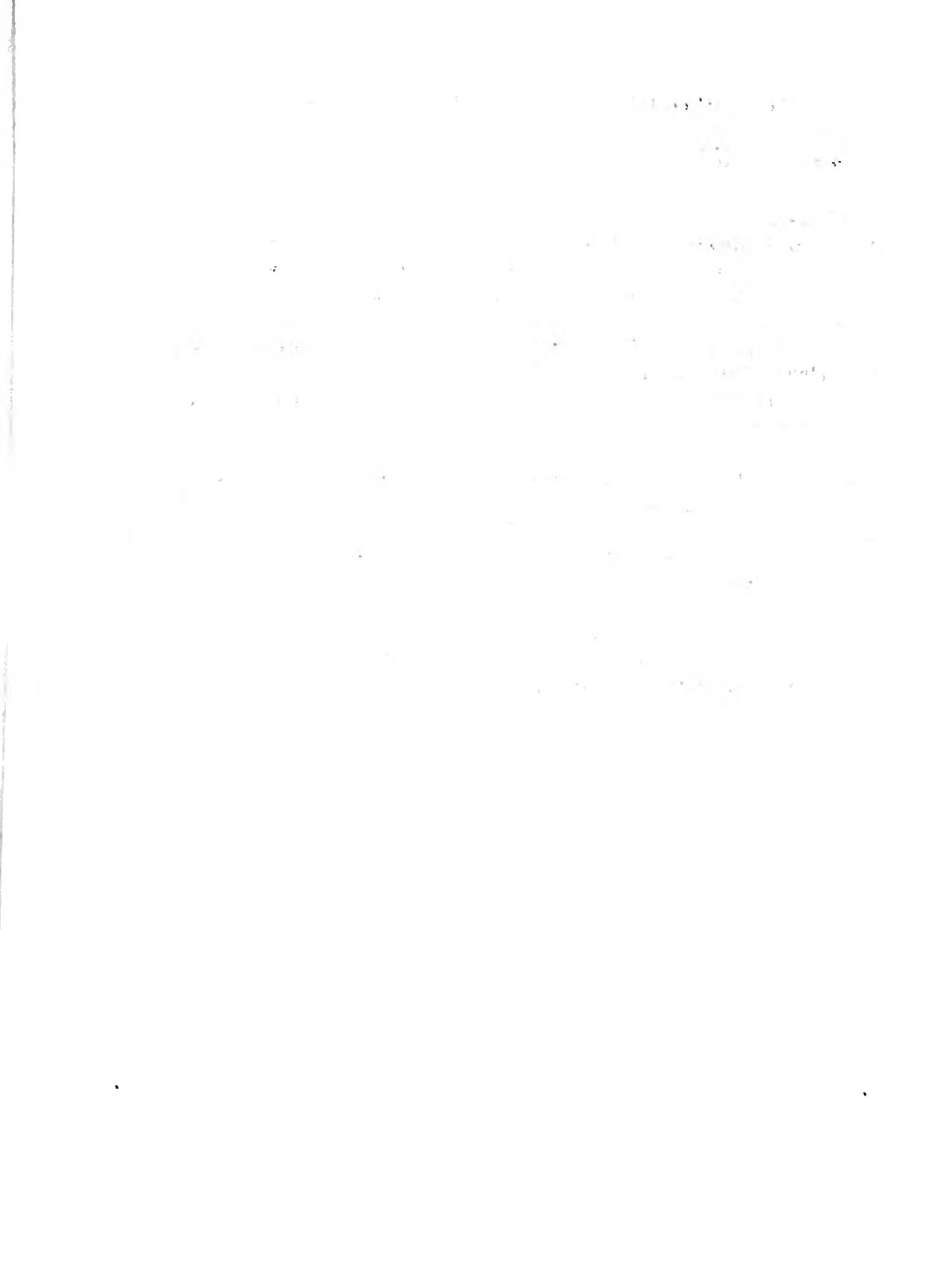
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## THE INSTITUTIONAL FORMS OF CROSS-BORDER CO-OPERATION AND THE POSSIBILITY TO BUILD UP AUTONOMOUS ENTITIES THROUGH CBC\*

First of all, before we would become immersed in institutional structure and legal regulation of cross-border co-operation in Europe, in my opinion, we should make clear the relationship between minority policy and CBC. I think this step cannot be neglected if we want to talk about a harmonious and successful minority protection, or want to understand the reform of Hungarian "nation policy" as it has been since 2006. The approach, which is also relevant to my present study, has got much criticism, namely that cross-border co-operation drains the political attention from the traditional ways of minority protection, decreases their efforts and successes, and, after all, it cannot solve problems that are really important for the minority societies in East Central Europe.

I personally do not think that minority policy and cross-border co-operation can replace each other, but I have the strong opinion that they can complement each other. CBC cannot solve many problems in the field of work of minority policy, but it can add much value to that. I do not question the matter of minority policy; I would just like to show some possibilities that CBC can offer as added values to the protection of minorities.

If we come across the terminology of "cross-border co-operation", we usually tend to think of "Euroregions". But, in my point of view, the term "Euroregion" serves as an umbrella name or outcome of a semi-political movement of cross-border co-operation supported by the Council of Europe, but not as a more or less common, comparable institutional or legal framework. The definition of Euroregion covers not more than a form of transnational co-operation structure lying between two or more territories located in two or more European countries. If we concentrate on the level of co-operation, Euroregions can be active communities on huge territories with the participation of – among others – states, as it is in the cases of the Carpathian Euroregion, or the Alps-Adriatic Working

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Community. Euroregions can be – and this was the original Western European example – associations of NUTS II or NUTS III level territorial units (regions, counties, etc.), which, in the cases of Romania and Hungary, are the Hajdú-Bihar – Bihor and the Duna-Körös-Maros-Tisza (DKMT) Euroregions. They can also constitute a co-operation platform of towns and cities (NUTS V level), as it is in the clean-cut case of Kassa-Miskolc Euroregion and that of Ister-Granum, which is a community development of 102 towns and cities and, in my personal opinion, it is perhaps the most successful Euroregion in the Carpathian Basin, or the Bihar - Bihor Euroregion between Romania and Hungary. So, we can see the very different levels of organizations, and the case is similar in connection with legal personality. The Association of European Border Regions (AEBR) considers a necessary condition for the existence of a Euroregion to have legal personality. But in fact there are still many Euroregions without any legal personality and legal capacity, – e.g. the Duna-Dráva-Száva Euroregion in Hungary – which for this reason are unable to stand alone and are not self-sufficient for an EU application, and thus their financial capacity is rarely sufficient to reach the original goals for which they have been developed.

The most widespread form is the private legal personality, frequently in form of an association. Today in Hungary most Euroregions still have the special status of a non-profit company (Kht.), which is a private legal entity established for complying with public interest goals. In cases where the foundation of a Euroregion is based on the bilateral (perhaps multilateral) agreements of the concerned states, and wherever that is the explicit content of the treaty, the co-operation platform can even have a public legal personality.

But, of course, the question can be raised: what importance does legal personality have in connection with the quality of cross-border co-operation. In the last years an opinion has been emphasised more and more, according to which the lack of finances is less and less a drawback in the field of cross-border co-operation. However, the differences in the various administrative and legal systems, the lack of the legal clarity (for example which law should be used in connection with a Euroregion) and general standards linked with how can a Euroregion be founded, which justified limitations can states afford, and which cannot be allowed (because are unjustified and undermine the spirit of cross-border co-operation) are still paralysing problems.

Until 2006 the main international framework for cross-border co-operation was composed by the Madrid Outline Convention and its optional protocols.<sup>1</sup> The major effort of the Madrid Outline Convention was to oblige the state parties to support and facilitate cross-border co-operation,<sup>2</sup> but, at the same time, to also offer many possibilities for them to control and narrow these co-operation processes. They can exclude territorial units, or types of territorial communities, or authorities from the scope of the possible co-operation.<sup>3</sup> Besides, because states are sometimes ethno-politically motivated in East Central Europe not to facilitate cross-border co-operation, this great space to manoeuvre can be counterproductive under some circumstances. For example, the declaration made by Romania to the Madrid Outline Convention on 16 July 2003 excludes the non-strictly border counties – and so Székler Land (Székelyföld/Ținutul Secuiesc) mostly inhabited by Hungarians – from the scope of possible geographical co-operation. This declaration also prescribes that the enforcement of the Outline Convention, in relation with every neighbouring country, is subordinated to an interstate agreement.<sup>4</sup> This agreement still does not exist between Romania and

1 European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities (ETS No. 106). Additional Protocol to the European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities (ETS No. 159). Protocol No. 2 to the European Outline Convention on Transfrontier Co-operation between Territorial Communities or Authorities concerning Interterritorial Co-operation (ETS No. 169)

2 Madrid Outline Convention, Article 1. „*Each Contracting Party undertakes to facilitate and foster transfrontier cooperation between territorial communities or authorities within its jurisdiction and territorial communities or authorities within the jurisdiction of other Contracting Parties. It shall endeavour to promote the conclusion of any agreement and arrangements that may prove necessary for this purpose with due regard to the different constitutional provisions of each Party.*”

3 Madrid Outline Convention, Article 2. 2. “*However, each Contracting Party may, at the time of signing this Convention, or by subsequent notification to the Secretary General of the Council of Europe, name the communities, authorities or bodies, subjects and forms to which it intends to confine the scope of the Convention or which it intends to exclude from its scope.*”

4 Declaration of Romania to the ratification instrument of the Madrid Outline Convention on 16 July 2003: „*Romania states that the enforcement of the Outline Convention, mentioned in Article 1, is subordinated to concluding interstate agreements, and that the area of enforcing the provisions related to the transfrontier cooperation is strictly limited to the territory of the border counties.*”

Hungary, and consequently cross-border co-operation between the two states theoretically misses any international legal background.<sup>5</sup>

Since 2006 there are two more or less parallel European regulation structures in this field. Beside the old regime of the Council of Europe based on the Madrid Outline Convention, the European Union created a new one with Regulation (EC) No. 1082/2006 on the European Grouping of Territorial Co-operation. Until 2006 the EU financed cross-border co-operation within the scope of its regional policy, mainly through the community initiatives of Interreg I-III, or – not to mention with lesser financial support – through pre-accession programmes as Phare CBC, CARDS or the contemporary IPA. But besides supporting programmes, there was also no common legal or structural framework for CBC until this financial period. Nevertheless, parallel with the growth of the length of frontiers through enlargement and with the efficiency problems of Interreg III programme, the European Commission decided to make great changes in the CBC-Sector of regional policy. European Territorial Co-operation has become the third objective of cohesion policy and it is not a community initiative with narrowed budget anymore. But in my personal opinion the greatest development in the last 40 years in the field of the structure of cross-border co-operation was the constitution of the first compulsory, general and comprehensive legal structure for cross-border issues, which is the European Grouping of Territorial Co-operation (EGTC).

The EGTC is by all means a legal person<sup>6</sup> and should have the widest legal capacity that could be granted by national law.<sup>7</sup> Concerning an EGTC, that specific national law should be used at any time, wherever it is proper to be used.<sup>8</sup> The EU followed the principle elaborated by the Council of Europe and laid down by the Additional Protocol of Madrid Outline Convention; thus the compatibility of the two regulation structures was secured in this area.

The geographical scope of EGTC Regulation is the 27 Member States of the European Union. The members of an EGTC should be situated in the territory of at least two Member States of the European Union. Third

5 It is interesting that with Slovakia, the other neighbouring country of Hungary, which prescribed the signing of an interstate agreement on cross-border cooperation, the case is totally different, since the parties signed a really detailed treaty in 2001, which also paid attention to the national minorities and their roles and possibilities in cross-border issues.

6 Regulation (EC) No. 1082/2006 Article 1. 3.

7 Regulation (EC) No. 1082/2006 Article 1. 4.

8 Regulation (EC) No. 1082/2006 Article 2. 1.

States (non-member states of the European Union) cannot be parties in EGTC, but regional or territorial units, or perhaps public institutions of third states – on the ground of paragraph (16) of the preamble – still can. This means for Hungary that cross-border co-operation in a bilateral Ukrainian-Hungarian or Serbian-Hungarian form is not possible, and – considering these countries' perspectives to EU membership – the situation will stay the same in the long run, too. This is not a huge problem in the field of territorial co-operation, because in Carpathian Ruthenia multilateral regional co-operation still has a great tradition – we can mention, for example, the Carpathian Euroregion with the participation of Poland, Slovakia, Ukraine, Romania and Hungary – and the eastern part of Voivodina, the Banat, constitutes one historical region with the area of Timișoara, called Banat in Romania; however, facts remain facts.

Concerning the institutional scope of EGTC, members can become states, local and regional authorities and public law governed bodies. Albeit it is always problematic that public and private law bodies have different meaning in continental and Anglo-Saxon legal systems, fortunately the Regulation lays down in Article 3, Paragraph 1 what exactly, in the scope of its application, a public law governed body means. They are legal persons that, in accordance with Article 1 (9) of the Directive 2004/18/EC, stand under the obligation of making public works, public supply and public service contracts.

The tasks and competences of an EGTC shall be regulated in the convention and statute of the Grouping, as far as there is any way for the EGTC to act in the name of its members. The scope of the Grouping's competences is always the common aggregation of the member's competences, but it is not possible to transfer powers exercised by regional and local authorities as public authorities (for example, police and regulatory powers).<sup>9</sup> It is important to be emphasised that EGTC can cover all three – cross-border, transnational and interregional – strands of territorial co-operation. But it should be also kept in mind that EGTC's activities in different co-operation strands can testify to really different characteristics not only as a result of their different goals, but also rooting in the diverse financial supporting mechanisms attached to the co-operation strands.

In connection with the financial question, the EGTC should be able to manage and carry out co-operation programmes with the co-financing of the Community Funds (ERDF, ESF, etc.), or without community

<sup>9</sup> Regulation (EC) No. 1082/2006 Preamble, paragraph (13)

sources initiated on national or subnational level. This last element has a great importance, since it leads to the fulfilment of co-operation programmes. But, in accordance with paragraph (7) of the regulation's preamble, the Community still has a possibility to monitor and follow up territorial co-operation programmes that have been implemented without the financial contribution of the EU. It is also important that, according to Article 7 (3) of the Regulation, it exists a minimum scope of competences that cannot be narrowed any further by state restrictions. These competences should be the ones listed in Article 6 of Regulation (EC) No. 1080/2006; they are necessary to manage community programmes under the aegis of EU cohesion policy.

It is politically important that the legal source is community regulation with "direct effect", which is compulsory for all 27 EU Member States. As its consequence, there is no possibility for the states to opt out just because they do not really prefer the concept of deepening territorial co-operation for some ethno-political reasons. Despite the regulation form it is not wholly a self-executing legal norm, the Member States shall compose their own national norms regulating the processes of how an EGTC can be established or how the participation of a local or regional authority in an EGTC can be approved. The only way that States can set back the execution of the Regulation and the birth of EGTC is to postpone the legislation of executing norms. Hungary was the first Member State that produced its national EGTC law. The law number 2007:XCIX was accepted on 25 June and published on 9 July 2007. It came into force together with the Regulation on 1 August 2007. Beside the speed of legislation we can also mention two other benefits: firstly, both the approving and registration processes are basically the competences of the Budapest Metropolitan Court (Fővárosi Bíróság), which means that they are subordinated to the judicative and not the executive power, and thus there will also be a more diminished political influence on the process. Secondly, the law, as a legal source accepted by the parliament, gives also some security against actions aiming at modification, which could get much simpler if the legal source were a governmental ordinance. The financial liability of a participating Hungarian local self-government has to be limited to the rate of its contribution. At the present time the establishment of two EGTCs is in progress. On the one hand, there is the transformation of the Ister-Granum Euroregion into an EGTC, which consists of Esztergom, Párkány/Sturovo and the surrounding towns. On



the other hand, there is the birth of the Ung-Tisza-Túr EGTC, which has never existed before as a Euroregion, and which – beside the founding members from Slovakia and Hungary – will hopefully consist of many Ukrainian towns, too.

It is really interesting to run through the states that composed their own EGTC laws. Our hypothesis would be the following: since ethno-national prejudices impede territorial co-operation, above all, in Eastern and East Central Europe, the countries in these regions will be under-represented in the first row of the legislators. 15 April 2008 was the deadline for Hungary, Romania and Bulgaria to finish the legislation process, and Slovakia also added the finishing touches to the process. But only the United Kingdom, Spain, Portugal and Greece have already finished it from among the old EU15. Interestingly, countries that used to be and still are strongly interested in cross-border co-operation – as, for example, Belgium and Austria, where the regulation of the question it is also a competence of the federal entities; or France and Netherlands – are just in the preparatory phase.

The motivations are diverse, of course, on all sides, and since within the frames of this study we are not able to enlighten this question any deeper, we will have to deal with only the Romanian and Hungarian legal norms. The legal source of the Romanian one is an emergency ordinance, which was published in the Official Journal of Romania on 13 November 2007. This form has made possible a fast legislation, but it has some disadvantages, too. The designated Notification Authority, which approves the establishing of and participation in EGTCs, is the Ministry of Development, Public Affairs and Housing. The current head of this ministry is Mr. László Borbély from the Democratic Alliance of Hungarians in Romania (DAHR/RMDSZ), which political party is strongly committed to the strengthening of European Territorial Co-operation. But the competences are still linked with an organ of executive power, which is sure to gain advantage now that the portfolio is managed by the DAHR/RMDSZ. However, this could also be a clear drawback if it is going to be lead by other political parties, possibly by some Romanian nationalist ones. The possibility to appeal against the decision of the Notification Authority is secured by the ordinance; the judiciary revision shall be carried into effect by the competent court within ten working days.

The Ordinance explicitly allows all three – cross-border, transnational and interregional – forms of territorial co-operation, which fact

shows that the Romanian reservation made to the Madrid Outline Convention is fully obsolete and it should be abolished. But there is also emphasis on the supervision and dissolution functions of the Notification Authority. The members of the EGTC are jointly liable, without any restraint, for the Groupings' debts, which can result in local self-governments being more cautious with regard to participation in this institutionalised form of territorial co-operation.

The last point we should examine in connection with EGTC is the supervision and the approval of competences concerning the establishment and functioning of the Grouping. According to Article 4 (3) the Member States, taking into account the constitutional structures, may approve the participation of every prospective member, and may refuse the approval whenever the participation would be against the national law; they might as well reject participation for some reason based on the public interest or public policy of the state. According to Article 14 of the Regulation every competent authority with a legitimate interest can solicit the dissolution of the EGTC if it no longer meets the requirements of the Regulation. The arguments for why the State can limit or cease the activity of an EGTC are enumerated in Article 13, and they contain the elements of public policy, public security, public health, public moral and public interest. Firstly, this might sound as if the State's control and limitations regarding the EGTC were just too arbitrary, based on the aforementioned reasons. However, in my point of view, this is not the case. In correspondence with the Regulation, a judicial revision against all the denying and dissolving decisions of the State should be secured, and the final phase of this review could be the European Court of Justice.

Non-incidentally, the ECJ still has a long and evolved judicial tradition in interpreting the phenomena of public interest, public moral, etc., as well as in figuring out how they can be invoked as reasons for limiting the "four freedoms". I think these interpretations will be the fundamentals of the ECJ's possible future decisions concerning the limitations of EGTCs through these arguments. Because of this legal remedy the state's acting cannot be arbitrary, and this is the reason why I mentioned above that one of the very few solutions for them is postponing the legislation of execution norms.

My personal opinion is that EGTC is nearly the greatest step, which has been made in the last 40 years for improving the institutional frame of territorial co-operation in Europe. It will also give a lot of possibilities

for the researchers of this thematic field in the forthcoming years, regarding how it can be used best to put an end to the effects of European frontiers. This is clearly not a minority protection tool, even if it can offer some benefits for minority societies, first of all for those living in border areas. But there is also a draft of another co-operation platform, which is also likely to have much effect on the field of minority protection.

Work has been under way since 2004 under the aegis of Council of Europe, elaborating a more or less complementary co-operation structure beside EGTC. The final version of the official name of the project is "Euroregional Co-operation Grouping" (ECG).<sup>10</sup> The legal form and source of the ECG regulation would be the third optional protocol of Madrid Outline Convention, and through that it would function – as every Council of Europe optional protocol – as a more or less independent multilateral international treaty. The legislation project has not ended yet, so we can only analyse the draft plan of the protocol. According to the latest news the Council of Europe Steering Committee on Local and Regional Democracy (CDLR) decided on its last meeting in December 2007 to slow down the legislation process. In the background of this decision stands the will to use the experiences gathered with EGTC.

Considering the characteristics of a legal personality, there are no differences between EGTC and ECG. Both shall have obligatory legal personality, the state law shall designate where to have the headquarters; they shall also have the widest legal capacity granted in national law.

In connection with the geographical scope ECG can bear a great added value not just because the Council of Europe has a much broader and greater circle of members counting 47 countries in total. The only two European states, which do not own a membership, are Belarus and Kosovo. The geographical conditions to establish an ECG are similar to those needed in the case of an EGTC. The prospective members should be on the territory of at least two member states of the Council of Europe. Non-member neighbouring states of the COE cannot participate directly in the work of an ECG, although their regional or local authorities can. With an extra wide horizon, which could mean, for example, inter-terri-

10 The newest text variant (LR-CT (2007)13) is available at the following address: [http://www.coe.int/t/e/legal\\_affairs/local\\_and\\_regional\\_democracy/main\\_bodies/sub-committees/lr-ct/LR-CT\(2007\)13\\_EN.pdf](http://www.coe.int/t/e/legal_affairs/local_and_regional_democracy/main_bodies/sub-committees/lr-ct/LR-CT(2007)13_EN.pdf) For more detailed information about ECG see (in Hungarian language): Hegedűs Dániel: *Komplementer vagy redundáns struktúrák a területi együttműködés európai szabályozásában? I-II* In: Európai Tükör 2008/február-március

torial co-operation between Russia and the Middle-Asian NIS States, it cannot be an accident why Russia is one of the project's greatest supporters. For Hungary it would mean that, contrary to the situation of EGTC, bilateral co-operation could be founded between Ukraine and Hungary, as well as between Serbia and Hungary. ECG could cover not only the cross-border (with Council of Europe terminology: transfrontier) dimension of territorial co-operation, but also the inter-territorial<sup>11</sup> one. However, in my personal opinion, one of the greatest added values is that ECG could help non-EU member states to constitute the framework of how their local and regional authorities can participate in the work of EGTCs. Paragraph (16) of EGTC Regulation's preamble contains that – as mentioned above – third states' entities can take part in an EGTC wherever the legislation of the third country (of international agreements) allows that. Because ECG and EGTC structures are more or less compatible, the ratification of the future third optional protocol of Madrid Outline Convention could come about on the part of the third state under these conditions.

The second greatest added value of ECG structure is related to the field of institutional membership. First of all, not only public entities can participate as it is the case of the EGTC non-profit oriented private entities, or profit oriented entities working for public interest goals. My opinion is that this could facilitate the integrated, sectorial co-operations (for example, in the field of health care, protection of environment, etc.), but, of course, it also has clear drawbacks in connection with the financial liability. Another important point is that Article 16 (2) contains the so-called "federal clause", which declares that federal and autonomous entities cannot be excluded neither from the membership circle of ECG, nor from the legally institutionalised form of territorial co-operation. This means that territories with autonomous minority status could maintain also legal cross-border co-operation with their kin-states.

The regulation of competences is similar to the EGTC regulation. ECG's scope of authority can be solely the members' common fields of competence. ECG's third greatest added value is that explicit conferring of public powers is also possible when it is duly authorized by the state

11 The Council of Europe terminology of interterritorial cooperation means, according to Article 1 of the second optional protocol of Madrid Outline Convention, a concerted action that is different from "cross-border cooperation of neighbouring authorities". Hence it covers both the transnational and interregional cooperation strands of the EU.

or by its members. It is, of course, both legally and politically problematic, but it could pave the way for cross-border regions with real competences and political power. And it could also be a way for establishing minority autonomies in border areas in such a way that not only one state; but all the participating parties would transfer competences to the regions. Of course, this is not really a solution for minority groups that do not live in the vicinity of state borders. This is also problematic, because many East Central European countries still have huge and unfounded fears of minority autonomy itself; an institutionalised, legal and political link with the kin-state would make the judging of the question even worse. In some other cases one of the very few obstacles of gaining autonomous status is creating a precedent that could be followed by other minority groups as well. They would also demand it and could use it to undermine the territorial integrity of the state, which is the case with the Tatar and Russian minorities in Ukraine. A solution for autonomies would be if they did not endeavour to be based on the right to self-determination. Thus a semi-autonomous status could be granted for some Hungarian-inhabited territories and counties in the Carpathian Ukraine without the danger of creating a precedent for the Tatar or the Eastern independent regional movements. But this is merely a theoretical possibility; the Hungarian constitutional law itself does not make the transferring of public powers for cross-border co-operation platforms possible.

And, finally, we should pay some attention to the limited possibilities of the states concerning the ECG. One of the main arguments of the Council of Europe experts for ECG and against EGTC was that in the case of ECG states there is no sphere of action for political restriction. This is simply not true. The draft does not really mention any possible limitation based on public interest; however, according to Article 16 (2) of the draft, states can exclude different types of public authorities they would not like to allow to participate in ECG. Beside this not really progressive point of view, which has been inherited from the Madrid Outline Convention, the text of the proposed protocol contains just commitments to administrative (legal) review and a notification procedure to inform the national authorities about the member's participation in the ECG. But the greatest source of misconception is that COE experts have not taken the different forms of legal sources into consideration. Implementing the EGTC Regulation is obligatory for all the 27 EU Member States and there is also a very slight possibility of arbitrary state actions. But in the case of ECG the greatest fil-

ter is the form of the legal source itself, which is a multilateral international treaty. A state that opposes its content should not find any legal or political way to hinder its implementation, because it will simply not sign and ratify the third optional protocol.

Independent from its problems, ECG could be, to a certain extent, a useful tool for territorial co-operation. Its fate is typical, sad and interesting at the same time. The main opposition of the legislation could be experienced on the part of Germany, Denmark and Sweden, countries with successful cross-border co-operation experiences, which rejected it with fully obsolete arguments. After the EGTC Regulation has come into force, it will simply not be possible to reasonably argue anymore that, according to the constitutional provisions, Danish and Swedish self-governments cannot participate in co-operation platforms governed by foreign law. The only two committed supporters of the project were Austria and Slovakia. Just to get a clear picture and enhance confusion, Austria – or to be more precise, the federal states of Austria – has not introduced the execution law of EGTC yet. The behaviour of Austria is hard to understand under these circumstances. But this is the case with Hungary, too. The country, which has published the first national law to the implementation of the EGTC Regulation and whose interest in a successful and comprehensive system of territorial co-operation would be possibly the greatest in Europe, was more or less neutral towards the ECG project. Hungary still has enormous deficiencies concerning the ratification of international instruments of territorial co-operation. Beside Serbia, it is the single East Central European country that has not even signed the first and second optional protocols of the Madrid Outline Convention. There is still much to do...

The present study has been trying to give an overview of the new European legal system of territorial co-operation, which should be used to the advantages of national minorities living in the border areas of East Central Europe. I have also tried to present a theoretical possibility of how cross-border co-operation platforms could be used for the purposes of autonomy efforts. My personal opinion is that politicians and experts of minority societies should not only use the toolkit of international minority law to support their activities, but they should also make use of the possibilities that are offered by territorial co-operation and by the national and international norms concerning local and regional democracy.

## ABSTRACTS IN HUNGARIAN

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Christoph PAN

### A KISEBBSÉGI KÉRDÉS AZ EURÓPAI UNIÓBAN

Az előadás egy, az Európai Unión belül fellépő ellentmondásra vonja fel a figyelmet. Mindamellet, hogy a kisebbségi kérdés alapvetően Európa etnikai struktúrájában rejlik, maga az Unió mégis ellentmondóan viszonyul hozzá, hiszen egymástól eltérő követelményekkel szembesíti a tagállamait. Miközben az új tagállamoktól szigorú kisebbségvédelmet követel, ugyanezt saját maga nem biztosítja, hanem az Európa Tanács hatáskörére bízta.

Ugyanakkor a létező kisebbségi belpolitika, amely a diszkriminálási tilalomra, a nyelvek és kultúrák, valamint a foglalkozások fejlesztésére, a szociális integrációra és a regionalizációra, a rasszizmus elutasítására és az egyenjogúság politikájára alapszik, képtelen helyettesíteni egy hatásos kisebbségvédelmet.

Kérdéses, hogy a kisebbségvédelem közjogi szabályozása utópikus-e vagy sem, bizakodásra viszont okot ad a két létező eszköz, a Nemzeti Kisebbségek Védelmének Keretegyezménye és a Nyelvi Charta érvénybe lépése. Hatásuk alatt a kisebbségvédelem mennyiségileg és minőségileg jelentősen fejlődött, és ez a fejlődés tartósan ígérkezik.

DEMETER M. Attila-TONK Márton

### AZ EURÓPAI SZERVEZETEK ÉS A NEMZETI KISEBBSÉGEK KÉRDÉSE

A tanulmány elsődleges célját annak a kérdésnek a vizsgálata képezi, hogy a kisebbségvédelem területén melyek azok az európai normatívák, amelyekhez a kelet-európai államoknak fel kell zárkózniuk, melyek a közös európai mérce elemei, illetve hogy milyen lépéseket tettek és tesznek az uniós tagállamok a kisebbségvédelem terén. Vizsgálni kívántuk az emberi jogok védelmét, a kisebbségi jogok intézményesítését, a létező autonómiaformákat az egyes uniós tagállamokban, elemzéseinket pedig össze kívántuk vetni a nemzeti/etnikai kisebbségek státuszának hazai megközelítésével.

A tanulmányba foglalt ilyen irányú elemzések egyik fontos eredménye annak a tényállásnak a kimutatása, hogy az európai szervezetek

kettős mércével mérik a kisebbségi helyzetet, s ez nyomon követhető az általuk kifejtett monitoringtevékenységben is: részint nyomon követték, hogy a kisebbségekkel rendelkező államok megfelelnek-e a kisebbségvédelmi normáknak, de ugyanakkor azt is figyelemmel követték, hogy veszélyt jelentenek-e a regionális béke és biztonság számára, külön figyelmet szentelve azoknak az országoknak, ahol a kisebbségi kérdés potenciális erőszakforrást jelentett. A nemzeti kisebbségek problémájának nemzetközi problémává alakításában tehát nem csupán elvszerű, a nemzetközi kisebbségvédelmi dokumentumokba foglalt jogvédő szempontok, hanem biztonságpolitikai szempontok is belejátszanak, s ez utóbbiak rendszerint többet nyomtak a latban, ha a Nyugat katonai vagy diplomáciai intervenciójáról kellett dönteni.

Az európai szervezetek kisebbségi problémához fűződő konfúzió viszonyának köszönhetően ma igen nehéz megmondani, hogy az európai kisebbségvédelem alternatív stratégiái milyen üzenetet közvetítenek mind az államok, mind pedig a kisebbségek irányába: az európai szervezetek erőfeszítései egyszerre bátorítják és fogják vissza a kisebbségek politikai mobilizációját, egyszerre propagálják és vitatják a nyugati föderalizmus és autonómiák értékeit, egyszerre nyilvánítják ki és utasítják el a speciális kisebbségi jogok legitimitását.

VIZI Balázs

## REGIONÁLIS ÉS ETNIKAI KISEBBSÉGI MOZGALMAK EURÓPÁBAN

Az utóbbi időben szakmai körökben jelentős mértékben megnőtt az etnoregionális politikai mozgalmak iránti érdeklődés. Ez érthető, amennyiben Közép-Kelet-Európában, a kommunizmus bukása után, új nemzetépítési folyamatok indultak el, és az itt élő nemzeti kisebbségek azzal az igénnyel léptek fel, hogy valós képviselőt kapjanak a demokratikus állami struktúrákban. Ekként ezekben az országokban párhuzamosan jelentek meg a nacionalista pártok és a kisebbségi etnikai pártok. A nemzeti identitás erős politikai mobilizációs komponenssé vált, s ez véres ütközetekhez is elvezethet, miként az egykori Jugoszlávia példája mutatja.



A. GERGELY András

## NEMZETEK UTÁNI EURÓPAI KISEBBSÉGEK – ESÉLY VAGY ÁLLAPOT?

Az európai nemzetek integrálódási mechanizmusai a térség számos országában fontos projekté váltak, de a folyamatok mélyén végbemegy a közösségek bomlása, a nemzeti identitás rangvesztése is, párhuzamosan pedig a kisebbségi státusz láthatatlan kiterjedése a(z állam)nemzetet alkotó politikai többségre is. Kisebbséginek maradni, vagy az átmenet folyamatában azzá lenni lassan erőteljesebb élmény lesz, mint nemzeti színekben szerepelni az Európai Unió vagy a világ más térségeinek nemzetállami reprezentációjával szemben. Föltehető tehát a kérdés: állapot-e inkább a kisebbségi lét, vagy esély az integrálódásra, esetleg kényszer vagy belátás választási lehetősége? Ha nemsokára már mindenki kisebbségi lesz, van-e sansza a történeti, kulturális, nyelvi, államnemzeti kisebbségeknek akként megmaradni, ahogyan ezidáig tehették?

NÁDOR Orsolya

## EGYNYELVŰSÉG, KISEBBSÉGI KÉTNYELVŰSÉG ÉS AZ EURÓPAI UNIÓS TÖBBNYELVŰSÉG

Kelet-Közép-Európa nyelvileg és etnikailag heterogén országokból áll, amelyeket a kisebbségi-többségi nyelvi egyenlőtlenség jellemez. A kisebbségek két-, illetve többnyelvűek, a többség ezzel szemben döntően egynyelvű – főként ami a kisebbségi nyelvek ismeretét illeti. Térségünkötől hagyományosan nem idegen a két vagy több nyelv ismerete, azonban a minőség és a célok tekintetében nagyok az eltérések, térben és időben egyaránt.

Kelet-Közép-Európára évszázadokon keresztül jellemző volt a nemzetközi közvetítő nyelv (lingua franca) jelenléte, így a latin, a német, kis-mértékben az orosz, jelenleg pedig az angol tölti be ezt a szerepet.

Az Európai Unió nyelvpolitikájának az egyik alapelve a többnyelvűség megtartása, valamint az uniós polgárok ösztönzése arra, hogy anyanyelvükön kívül még legalább két nyelvet megtanuljanak. A kisebbségek, ha nem is önként, de elindultak ezen az úton, és helyzetüknél fogva kétnyelvűségük két kevéssé ismert nyelvre alapul, amelyhez hozzáadódik egy széles körben ismert nyelv. A többség, bár egyelőre még többnyire egy széles körben ismert nyelv megtanulásával bajlódik, lassan

felismeri az interetnikus kapcsolatok jelentőségét, és nyelvtanulási céljai közé felveszi a területén honos valamely kisebbségi nyelvet is.

Vasile DOCEA

## ETNIKAI IDENTITÁS ÉS TÖRTÉNELEMÉRTELMEZÉS

A különböző temesvári etnikai és vallási közösségek mindenike kialakította a saját képét a múlttól. Mindeniknek megvoltak a történéseik, akik a múlttól olyan képet közvetítettek, amelynek alapján olyan-nak láthatták magukat, amilyen képet az illető pillanatban szükségesnek éreztek. A történelem idézése ekként a jelen által megfogalmazott célok igazolásaként működött. A történelmi diskurzus legitimáló tartalma éppen a konjunkturális elemnek tudható be.

A dolgozat alapját 197 Temesvárral foglalkozó várostörténeti monográfia feldolgozása képezi. A munkák szerzői különböző (német, magyar, román, szerb) közösségekhez tartoznak, felekezeti szempontból is (katolikus, protestáns, ortodox, zsidó) hagyományosaknak számítanak. A munkák megírásának nyelve nem mindig releváns az etnikai hovatartozás szempontjából. Létezik olyan német nyelvű történelmi munka, amely a magyar identitásdiskurzushoz tartozik.

Az elemzés alapján úgy tűnik, létezik egyfajta nyelvi mozgás, amelyet akár „nyelvek közötti migrációnak” nevezhetünk. A legjobb példák ebben a vonatkozásban a zsidó közösségekről szóló történelmi munkák. Miközben 1918 előtt ezek a munkák jórészt németül jelentek meg, a két világháború között elsősorban magyarul, 1990 után ezeknek a munkáknak az elsődleges nyelve a román. Szintén idevágó példa a német identitásdiskurzust szolgáló munkák kérdése. 1945 után, miközben a munkák megjelenési helye döntően Németország lett, egy másik mozgás keretében a németiségről szóló munkák jelentős része Romániában románul jelenik meg.

Mindenik identitásdiskurzusnak megvannak a sztereotípiái. Ezek a monográfiákban is kimutathatók. Egy összehasonlító esettanulmány keretében, ebben a dolgozatban azt vizsgáljuk, hogy az 1848–49-es forradalom temesvári eseményeit miként jelenítik meg magyar, illetve német történetírók.

BINDER Mátyás

## „HÁRMAS IDENTITÁS?” – MAGYARORSZÁGI BEÁSOK ETNIKAI ÉS NEMZETI IDENTITÁSA

Kutatásom célja egy beás (cigány) közösség etnikai és nemzeti identitáselemeinek – kulturális antropológiai módszerekkel történő – megismerése volt. Kérdéseimet elsősorban a „roma nemzeti koncepció” fontosabb összetevői (pl. roma történelem, nyelv, szimbólumok stb.) mentén haladva fogalmaztam meg. A terepmunka során egy „hármás identitás” bontakozott ki előttem, mely egyaránt merít a beás, a cigány és a magyar etnikai-nemzeti tudáskészletekből.

SÁROSI-MÁRDIROSZ Krisztina-Mária

## HIVATALOS DOKUMENTUMOK FORDÍTÁSA

A jog, akárcsak a nyelv, mindig változik, ezért mind a nyelv, mind a jog minden „pillanatnyi” állapota viszonylagos, és soha nem határolható be egyszerű deskriptív módszerekkel. A jogi nyelvet sem lehet tehát zárt technikai, szaknyelvi rendszernek tekinteni, bár nagyon sok vonatkozásban rendelkezik a szaknyelv tulajdonságaival. A jogi kijelentéseknek nincs önmagukban vett értékük, kizárólag adott esetekre vonatkoztatva minősíthetők valahogyan.

A hivatalos dokumentumokat több különböző célközösség számára fordítják le: közigazgatási, bírói közegek számára, továbbá kétnyelvű környezetben élő személyek számára. Azért is szükség lehet e szövegek fordítására, hogy egy bizonyos ország normáit alkalmazzák idegen állampolgárokra, bevándorlókra. Mivel a fordítások hitelesítési záradékkal is bírnak, a fordító a fordítás tartalmának igazolója lesz.

A hivatalos fordítások célja sokkal jobban körülhatárolt, mint más fordításoké: kommunikatív ekvivalenciát kell elérniük a célközösség körében. A fordító általában a célnyelvi környezet törvényeit tartja tiszteletben, a célközösség pedig jól körülhatárolt: törvényszéki szervek, minisztériumok, közigazgatási szervek, rendőrség. Minden hivatalos szöveg potenciálisan fordítható, mivel adott pillanatban be kell töltenie kommunikatív funkcióját egy bírósági tárgyalás során, vagy bármely más hiteles helyen.

MARÁCZ László

## LESZ-E A MAGYAR NYELV LINGUA FRANCA A KÁRPÁT-MEDENCÉBEN?

A trianoni békeszerződés (1920) után a magyar nyelvet immár nyolc különböző országban beszélik a Kárpát-medencében: Magyarország, Ukrajna, Románia, Szerbia, Horvátország, Szlovénia, Szlovákia, Ausztria. Ezek az országok szomszédosak Magyarországgal, amely a térség központi helyét foglalja el, és részben a Kárpát-medencében terülnek el: Felvidék (Szlovákia), Kárpátalja (Ukrajna), Erdély (Románia), Vajdaság (Szerbia), Horvátország, Mura-vidék (Szlovénia), Burgenland (Ausztria). Az utóbbi területeken etnikailag vegyes a lakosság, etnikai és nem-etnikai magyarokból áll. Mindenki, aki etnikai magyarnak vallja magát, magyarul is beszél. A fordítottja azonban nem mindig igaz, de számolni kell azzal, hogy ezeken a területeken sokkal többen beszélik a magyar nyelvet, mint ahány etnikai magyart kimutatnak a hivatalos népszámlálások. Így a Kárpát-medencében, amelyet a tudományos kutatók földrajzi egységnek tekintenek, az etnikai magyarok az összlakosság 39,7 százalékát képezik, abszolút többségben vannak. Tehát a magyar nyelvűek is minimum 39,7 százalékot tesznek ki. Attól eltekintve, hogy főleg Romániában, Szlovákiában a magyar nyelvet a jogrendszerben másodrendű nyelvként tartják számon, diszkriminatív nyelvtörvények sújtják, a magyar nyelvnek erősebb lett a pozíciója Közép-Európa európaizálásával. A határok a Kárpát-medencében átjárhatóak, a köztérben nem lehet megtiltani a magyar nyelv használatát. Továbbá Európa jogi egyezményeinek köszönhetően a magyar nyelv jogi helyzete javult az érintett országokban, ilyen egyezmények például a Regionális vagy Kisebbségi Nyelvek Európai Kartája és a Keretegyezmény a nemzeti kisebbségek védelméről, amelyeket ezek az országok közben mind aláírtak. Végül is a Kárpát-medencében a magyar nyelv a lingua franca státuszáért versenyez az angol nyelvvel, mint globális lingua franca. Mivel az angol nyelvet még mindig aránylag kevesen beszélik a Kárpát-medencében, a magyar nyelvnek jó esélye van arra, hogy a huszonegyedik században a térség lingua francájává váljon.

EGYED Péter

## LIBERÁLIS JOGI SZEMLELET, LIBERALIZÁCIÓ AZ EURÓPAI KISEBBSÉGPOLITIKÁBAN

A kisebbségi jogokról szóló irodalomban általában kétféle megközelítést alkalmaznak: az egyéni jogokkal és a kollektív jogokkal kapcsolatos perspektívát. A kisebbségi kérdések kezelése az EU mai jogszabályozási álláspontjának megfelelően az egyéni állampolgári jogok alapján szabályozza a kisebbségi jogokat, és csak a diszkriminációellenes szabályozásban bukkan fel a kisebbségi közösség egésze. Ettől az egyes országok eltérhetnek és el is térnek (például az őshonos kisebbségeket érintő jogi szabályozás Ausztriában), de egyes indokolt esetekben az EU is eltér, például a koszovói autonómia elvi alapjait illető megfontolásokban. A liberális kisebbségjogi álláspont hosszú ideig különböző, tipológiailag három kategóriába sorolható kisebbségjogi filozófiával kísérletezett (például a közösen gyakorolt egyéni jogok fogalma, avagy a nyelvi-kulturális tevékenység által afficiált közösség, amelyet meg kell nevezni stb.), a liberális szakértők azonban hamar belátták az ilyen jellegű álláspontok felemás voltát. Egy, a Liberális Internacionálé által megbízott liberális szakértői csoport, amelyben többek között Will Kymlicka is részt vett, 2000-ben egy olyan dokumentumot dolgozott ki, amelyben radikálisan szakított a liberális hagyománnyal (*A kisebbségek jogai. Nyilatkozat az etnokulturális és nemzeti kisebbségekre, valamint az őshonos lakosságokra vonatkozó liberális demokrata elvekről. (The Rights of Minorities. A Declaration of Liberal Democratic Principles Concerning Ethnocultural and National Minorities and Indigenous Peoples.)* Visszatérően a klasszikus alapokra, kijelentették, hogy amennyiben a kisebbségek közösségben akarják megélni a szabadságukat, ezt a szabadságukat el kell ismerni a jogi szabályozásokban. A dolgozat még két dokumentumcsoportot elemez, amelyek jelentős liberális többletet tartalmaznak: az Európa Parlament 43/1998-as, valamint 70/1999-es *Ajánlásai* a területi autonómiákkal kapcsolatos álláspontok újraértékeléséről, illetve a területi önkormányzati kompetenciák megerősítéséről. Végül kitér a 39/2000-es román kormányrendeletre, amelyik az államélet multikulturalitásának elismerése alapján szorgalmazza a kisebbségek nyelvi-kulturális önaffirmációját. A szerző ezeket még akkor is fontos liberális elméleti előrelépésnek tartja, ha a politikai alkalmazásuk csekély volt.

Thomas BENEDIKTER

## EURÓPA MŰKÖDŐ REGIONÁLIS AUTONÓMIÁI

Európa működő regionális autonómiái több általánosnak nevezhető jellemzővel rendelkeznek, ugyanakkor léteznek a kialakulás folyamatainak eltérő voltával, társadalmi fejlettséggel, földrajzi helyzettel, etnikai összetétellel, politikai kontextussal kapcsolatos különbségek. Az autonómiák többnyire olyan intézményi és procedurális rendszerek, amelyek alapját komplex törvényi előírások képezik, ezek kiindulópontja pedig egy autonómiastatútum vagy alkotmányos előírás, aminek alapján az autonómia intézményei rendeleteket, jogi szabályozásokat hoznak.

BODÓ Barna

## A BOLYAI EGYETEM, MINT POLITIKAI PROJEKT

A romániai állami magyar – Bolyai – egyetem kérdése alighanem a legvilágosabban megfogalmazott 1989 utáni magyar kisebbségi elvárás. Éppúgy megtaláljuk 1989 diktatúrát váltó, forrongó decemberi napjainak első kiáltványában, mint az új korszak hivatali tisztségbe jutóinak első nyilatkozataiban.

Két évtized politikai történései nem hozták el a romániai magyarság talán legáltalánosabban igényelt, minden romániai magyar politikai szereplő által jogosnak ítélt és támogatottnak mondott követelése megvalósulását. A jelenlegi politikai folyamatok, a közvetlenül érintett egyetemi közösség viszonyulása alapján kijelenthető: az egyetem kérdése 2008 elején mélyponton áll. Politikai célként lekerült a kiemelt fontosságú kérdések listájáról. A politikai elit nem mozdít-tervez semmit, a szakma zavarosan várakozik, a romániai magyar közösség nem reagál a helyzetre.

Jelen dolgozatban a következő kérdésekre keressük a választ: 1. Két évtizede rossz volt a céltételezés? 2. Rossz eszközökkel rosszul szolgálták volna az ügyet? Személyes/politikai felelősség terhel-e valaki(ke)t a kudarc miatt? 3. Hogyan működik az a – romániai magyar – nyilvánosság, amelynek terében a legfontosabb közösségi célok is jelentőségüket veszthetik?

SZOTÁK Szilvia

## EGY NYUGATI KISRÉGIÓ NÉPCSOPORTJAI, KAPCSOLATRENDSZERE ÉS NYELVI SZÍNTEREI

Ausztria legkeletibb tartományában a horvát, a róma és a magyar kisebbség él együtt a többségi nemzettel. A legsajátságosabb a magyar kisebbség helyzete, amely a legrégebbi őshonos kisebbség a területen.

Kisebbségi státuszba a trianoni békeszerződés után került, amely diktátum anyaországától szakította el, s ezzel együtt gazdasági, rokoni kapcsolataitól, kultúrájától és nyelvétől. A 90-es évek politikai és gazdasági változásai új kapcsolatrendszer kiépítését eredményezték a határ közelében.

Az EU-csatlakozással a nemzetállamok mellett megjelentek az úgynevezett eurorégiók, amelyek határok nélkül kötnek össze embereket, önkormányzatokat, intézményeket, civilszervezeteket. A határokon átnyúló együttműködések segítségével a burgenlandi magyar kisebbség újra megtalálta és kiépítette kapcsolatait a Trianon előtti regionális központokkal és azok intézményeivel.

Az előadás azt mutatja be, hogy a burgenlandi népcsoportok kapcsolatrendszerében és nyelvhasználatában milyen változást hozott az Európai Unióhoz való csatlakozás.

SIMON Zoltán

## EGYMÁSÉRT FELELŐSSÉGGEL... NEMZETI KONSTELLÁCIÓK, HATÁRON ÁTNYÚLÓ DISKURZUSOKBAN

Az előadás az aktuális „nemzeti párbeszéd” kulturális antropológiai vizsgálhatóságának továbbgondolása. A „nemzeti párbeszéd” fogalmát a jelenlegi magyar nemzetközösséget érintő és befolyásoló társadalompolitikai, etnopolitikai, etnokulturális, kisebbségi-lévhelyzeti stratégiákkal igyekszünk körülírni.

A nemzeti konstellációk közösségi szinten történő vizsgálatán túl, értelmezzük az egyéni megnyilatkozásokat, mint a nemzetközösségi tagok narrációját a kisebbségi lévhelyzetről, amelyet az ideiglenes fekete vagy hivatalos munkavállalás, a Magyarországon való továbbtanulás vagy letelepedési szándék időközben így vagy úgy változtatott. Az egyszerű magyarországi turista, a magyarországi támogató hajlamú egyház és civilszervezet, a rokoni és baráti kapcsolatokat ápoló magyarországi

egyén, a „romlatlan magyarság” pátoaszát kereső magyarországi magyar szintén a magyar nemzetközösségi tagok narrációját alkotó egyének.

Szemléletünk a magyarországi-erdélyi, erdélyi-magyarországi viszonyról, mint nemzetközösségi viszonyról, egyrészt elméleti, másrészt gyakorlati. Mindkettőt a kulturális antropológiai *valóságkereső* szemlélet hatja át. Előbbit a politikai antropológiai elv vezérli, utóbbit az empirikus (jelenlélet, otlítélet követelő) antropológusi magatartás határozza meg.

HEGEDŰS Dániel

### **A HATÁROKON ÁTÍVELŐ EGYÜTTMŰKÖDÉSEK INTÉZMÉNYES FORMÁI, VALAMINT AUTONÓM ENTITÁSOK LÉTREHOZÁSÁNAK LEHETŐSÉGE EZEK SEGÍTSÉGÉVEL**

A határokon átívelő együttműködések létező archetipikus formáinak rövid bemutatása után a tanulmány az Európai Területi Együttműködési Csoportosulás (EGTC), ezen új, az EU által létrehozott, kötelező és az Unión belül a területi együttműködés számára egységes jogi keretet biztosító együttműködési platformnak szentel nagyobb figyelmet. Rámutat azokra az együttműködési relációkra, amelyek akár működésükben, akár ennek hiánya okán nagy jelentőséggel bírnak a magyar nemzetpolitika számára. Majd végezetül bemutat egy, az Európa Tanácsban még előkészítés alatt álló másik új együttműködési formát, az Euroregionális Együttműködési Csoportosulást (ECG), amely hatályba lépését követően lehetővé tenné hatósági jogkörök delegálhatóságát határokon átívelő együttműködési platformokhoz, ami akár autonóm, politikai hatáskörökkel is bíró határmenti régiók kialakulásához is hozzájárulhatna.



## ABSTRACTS IN ROMANIAN

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Christoph PAN

### UNIUNEA EUROPEANĂ ȘI MINORITĂȚILE NAȚIONALE

Analiza abordează o contradicție prezentă în politica privind minoritățile naționale ale Uniunii Europene. Deși problema minoritară este strâns legată de actuala structură statală a Europei, UE are un comportament incoerent în speță: nu există un cadru unitar în privința minorităților naționale. În timp ce în cazul țărilor nou aderate se cere implementarea unor politici de protecție a minorităților, în cazul țărilor fondatoare nu există astfel de impuneri, problema minoritară fiind lăsată în seama Consiliului Europei.

Politica minoritară în UE are anumite principii: nondiscriminarea, dezvoltarea fiecărei limbi și culturi, integrarea socială, interzicerea oricărei forme a rasismului, promovarea egalității. Acestea, deși bune și necesare, nu sunt capabile să înlocuiască o politică coerentă de protecție a minorităților.

Se pune întrebarea dacă așteptările, privind un cadru juridic coerent referitor la problema minoritară, sunt sau nu utopice? Oricum, cele două instrumente elaborate în ultimele două decenii, Convenția Cadru pentru Protecția Minorităților și Carta Limbilor Minoritare ne oferă speranțe. Datorită lor, protecția minorităților s-a dezvoltat mult, atât sub aspect calitativ, cât și cantitativ.

Attila M. DEMETER – Márton TONK

### ORGANIZAȚIILE EUROPENE ȘI PROBLEMA MINORITĂȚILOR NAȚIONALE

Scopul primar al acestui studiu îl reprezintă analiza acelor norme europene din domeniul protecției minorităților cu care statele din Europa de Est trebuie să se conformeze, și care sunt elemente comune ale standardelor europene, precum și măsurile care au fost și sunt luate de către statele Uniunii Europene în vederea protecției minorităților. Am studiat atât protecția drepturilor omului și instituționalizarea drepturilor

minoritare, cât și formele de autonomie din anumite state membre, comparând analizele efectuate cu abordarea statutului minorităților naționale/etnice în România.

Un rezultat important al studiilor efectuate în acest sens este demonstrarea faptului că situația minorităților este privită prin prismă dublă de către organizațiile Uniunii Europene, acest aspect putând fi urmărit și prin activitatea lor de monitorizare: pe de o parte, se urmărește măsura în care statele dețin norme corespunzătoare de protecție a minorităților, în același timp monitorizându-se și măsura în care acestea reprezintă un pericol pentru pacea și securitatea regională, acordându-se o atenție sporită țărilor în care problema minorităților ar putea fi o eventuală sursă de violență. La transformarea problemei minorităților naționale într-o problemă internațională contribuie nu doar criteriile de principiu cuprinse în documentele internaționale referitoare la protecția minorităților, ci și o serie de criterii din domeniul politicii de securitate, cele din urmă având o importanță sporită în situațiile în care se decide intervenția militară sau diplomatică a țărilor occidentale.

Din cauza atitudinilor confuze ale organizațiilor europene față de problemele minoritare, este destul de greu să stabilim mesajul adresat de către strategiile europene alternative din domeniul protecției minorităților, atât către statele membre, cât și către minorități: eforturile organizațiilor europene sprijină și, în același timp, frânează mobilizarea politică a minorităților, propagând, dar în mod paralel, și contestând valorile federalismului și a autonomiilor occidentale, declarând și refuzând în același timp legitimitatea drepturilor speciale ale minorităților.

Balázs VIZI

## **MIȘCĂRILE MINORITĂȚILOR ETNICE ȘI REGIONALE ÎN EUROPA**

În ultimul deceniu, a crescut interesul privind fenomenul mișcărilor politice etnoregionale. Acest interes este de înțeles, din moment ce în țările din Europa Centrală și de Est în care a început, după căderea comunismului, o nouă construcție a națiunii, minoritățile au cerut dreptul la reprezentare în structurile democratice ale statului. Astfel, în aceste țări au apărut, simultan, partide naționaliste și partide etnice. Identitatea națională a devenit o componentă importantă a

mobilizării politice, ce poate provoca acte de violență, cum ne arată cazul fostei Iugoslavii.

András A. GERGELY

### **MINORITĂȚILE NAȚIONALE EUROPENE ÎN ERA POSTNAȚIONALĂ – ȘANSĂ SAU STARE DE FAPT?**

Mecanismul integrării națiunilor europene constituie, în mai multe țări a spațiului central-european, un proiect important. În acest context are loc, concomitent cu integrarea, un proces de dezintegrare, identitatea națională pierzând din importanță, națiunea majoritară devenind și ea un fel de minoritate. Condiția de minoritar, în procesul tranziției, devine un sentiment tot mai profund, ce poate surclasa reprezentările naționale în raporturi cu state de pe alte continente. Astfel, se poate formula întrebarea: statutul de minoritar este, în aceste condiții, o stare generală ce condiționează integrarea? Ce înseamnă această stare: o șansă pentru integrare sau o condiție obligatorie pentru toți? În acest caz, când statutul de minoritar devine cvasi-general, ce se va întâmpla cu minoritățile naționale, culturale, tradiționale?

Orsolya NÁDOR

### **MONOLIGVISM, BILINGVISM MINORITAR ȘI PLURILINGVISM EUROPEAN**

Țările din Europa Centrală și de Est sunt din punct de vedere etnic și lingvistic eterogene, constatăndu-se un dezechilibru lingvistic în relația majoritate-minoritate. Minoritarii sunt bi- sau plurilingvi, în timp ce majoritarii nu prea cunosc o altă limbă, dacă da, de regulă nu cea minoritară din anturajul lor. În această parte a Europei, se cunosc tradițional, mai multe limbi, motivația cunoașterii variind de la o epocă la alta.

În Europa Centrală, timp de secole, au existat diferite limbi intermediare (lingua franca), bunăoară latina, germana, pe scară mai mică rusa, azi engleza.

Un principiu al politicii lingvistice a UE este păstrarea plurilingvistului, mai mult, cetățenii UE sunt stimulați să învețe alte limbi, pe lângă cea maternă. Minoritarii din această parte a Europei, chiar dacă forțați de statutul lor, au pornit pe acest drum și, pe lângă două limbi de circulație restrânsă, ei mai învață una de largă circulație.

Majoritarii, dornici să învețe o limbă de largă circulație, realizează pe zi ce trece importanța relațiilor interetnice, opțiunile privind însușirea unei limbi minoritare folosită în anturajul lor devin, pare-se, tot mai naturale.

Vasile DOCEA

## IDENTITATE ETNICĂ ȘI DISCURS ISTORIOGRAFIC

Diferitele comunități etnice și confesionale din Timișoara și-au construit propriile imagini asupra trecutului. Fiecare a avut proprii istorici, care și-au imaginat trecutul, în așa fel încât acesta să ofere argumente pentru ceea ce comunitatea respectivă își dorea să fie într-un anumit moment. Recursul la trecut este, astfel, un instrument de justificare a scopurilor prezente. Conținutul legitimant al discursului istoric provine, astfel, din însuși caracterul său conjunctural.

Lucrarea de față pornește de la inventarierea a 197 de lucrări monografice despre Timișoara. Autorii lor aparțin tuturor comunităților etnice (germană, maghiară, română, sârbă) și religioase (catolică, mozaică, ortodoxă, protestantă), tradiționale din oraș. Limba în care sunt redactate monografiile nu este întotdeauna relevantă pentru apartenența la o anumită comunitate etnică. Există, de exemplu, monografiile aparținând discursului identitar maghiar, dar care sunt scrise în germană.

Se poate vorbi de o anumită mișcare a monografiilor de la o limbă la alta, pe care am numit-o „migrație interlingvistică”. Cazul cel mai vizibil este al lucrărilor despre istoria evreilor. Dacă în perioada dinainte de 1918, limba acestora a fost germană, în perioada de după 1918 ele apar în maghiară, pentru ca în etapa de după 1990 astfel de lucrări să se publice în limba română.

Un alt caz este cel al migrației spre limba română a lucrărilor care exprimă discursul identitar german sau care au ca temă germanii din Timișoara. După 1945, în paralel cu transferul locului preferat de apariție spre Germania, cele care au mai fost publicate în România au migrat dinspre limba germană spre română.

Fiecare discurs identitar are propriile stereotipuri. Acestea apar și în monografiile. Printr-un studiu comparativ de caz, lucrarea de față analizează felul în care evenimentele petrecute în Timișoara în timpul revoluției de la 1848-1849, sunt descrise în moduri diferite de către istorici germani și maghiari.

Mátyás BINDER

## **„IDENTITATE TRIPLĂ?” - IDENTITATEA ETNICĂ ȘI NAȚIONALĂ A UNEI COMUNITĂȚI DE RROMI DIN UNGARIA**

Lucrarea prezintă rezultatul unei cercetări privind elementele identitare ale unei comunități rrome – țigani „lingurari” – din Ungaria. Cercetarea, realizată cu metode aparținând antropologiei culturale, a fost focalizată pe componente importante ale „conceptului de națiunea rromă” – istorie, limbă, simboluri etc. Munca de teren a relevat structura lor triplă, identitară, cu elemente distinctive proprii ale acestei comunități, dar și unele preluate de la rromi (nelingurari) sau de la maghiari.

Krisztina-Mária SÁROSI-MÁRDIROSZ

## **PROBLEMA TRADUCERII DOCUMENTELOR OFICIALE**

Limbajul juridic este în continuă schimbare, astfel, starea lui „momentană” este relativă, imposibil de definit cu metode descriptive. Acesta nu poate fi conceput ca o structură tehnico-profesională închisă, chiar dacă sub mai multe aspecte, poate fi asemănat cu un limbaj profesional. Enunțurile juridice nu au o valoare intrinsecă, ele devin calificabile exclusiv într-un context dat.

Publicul țintă al documentelor oficiale poate fi o autoritate administrativă, o instanță a justiției, dar și persoane ce trăiesc în medii bilingve. Se fac traduceri și în acele situații în care normele dintr-o țară sunt aplicate în cazul unor cetățeni străini de respectiva țară. Din moment ce traducerea conține și o clauză de autenticitate, traducătorul este cel care autentifică conținutul traducerii.

Scopul traducerilor oficiale este foarte bine definit, în comparație cu alte traduceri: se cere realizarea unei echivalențe în cadrul publicului țintă. Traducătorul, de regulă, are în vedere legile limbii publicului țintă, acesta fiind riguros definit. Orice document oficial trebuie tradus astfel, ca el să corespundă funcției comunicaționale în situația dată.

László MARÁCZ

## VA DEVENI LIMBA MAGHIARĂ LINGUA FRANCA A BAZINULUI CARPATIC?

În urma Tratatului de pace de la Trianon (1920), limba maghiară este vorbită în opt țări ale Bazinului Carpatic: Ungaria, Ucraina, România, Serbia, Croația, Slovenia, Slovacia, Austria, toate fiind țări vecine ale Ungariei, care se situează în centrul regiunii, toate făcând parte parțial din Bazinul Carpatic: Ținutul de Sus din sudul Slovaciei, Ucraina Carpatină (Ucraina), Transilvania (România), Voivodina (Serbia), Croația, Ținutul Murii (Slovenia), Burgenland (Austria). Populația teritoriilor sus menționate este mixtă din punct de vedere etnic, compunându-se din etnici maghiari și non-maghiari. Toți cei care se autodeclară etnici maghiari vorbesc limba maghiară, ceea ce în situație inversă nu este întotdeauna așa. Cu toate acestea, trebuie luat în calcul faptul că, pe aceste teritorii, numărul celor care vorbesc limba maghiară este mult superior numărului acelor care s-au declarat de etnie maghiară cu ocazia recensămintelor oficiale. Astfel, în Bazinul Carpatic, considerată zonă geografică unitară de către cercetătorii științifici, etnicii maghiari reprezintă 39,7% din totalul populației, alcătuind astfel o majoritate absolută. Făcând abstracție de faptul că sistemul juridic din România și Slovacia consideră limba maghiară o limbă de rang secundar, aplicând o serie de legi discriminative pe acest fond, „europenizarea” Zonei Centrale a avut drept consecință fortificarea poziției limbii maghiare. Granițele din zona Bazinului Carpatic sunt permeabile, folosirea limbii maghiare în spațiul public nu poate fi interzisă. Ca urmare a semnării unor convenții juridice în cadrul Uniunii Europene, situația limbii maghiare din țările respective s-a ameliorat simțitor (acte de acest tip sunt, de exemplu, Carta europeană a limbilor regionale sau minoritare și Convenția-cadru pentru protecția minorităților naționale, semnate, printre altele, și de aceste țări). În consecință, putem presupune că, în Bazinul Carpatic, limba maghiară poate fi considerată concurenta limbii engleze în ceea ce privește statutul de lingua franca. Deoarece în Bazinul Carpatic și în momentul de față limba engleză este vorbită de relativ puțini oameni, în secolul XXI limba maghiară are șanse mari de a deveni lingua franca a acestei regiuni.

Péter EGYED

## ABORDAREA JURIDICĂ LIBERALĂ ȘI LIBERALIZAREA ÎN POLITICA EUROPEANĂ PRIVIND MINORITĂȚILE

În literatura de specialitate, privind drepturile minorităților sunt abordate din perspective: perspectiva drepturilor individuale, respectiv cea a drepturilor colective. Abordarea UE preferă legiferarea drepturilor minorităților pe baza drepturilor individuale, numai legile anti-discriminatorii reflectă entitatea colectivă a minorităților. Unele țări pot face abstracție – chiar și o fac – de acest tip de legiferare (de ex. Legiferarea drepturilor minorităților istorice în Austria); dar chiar și UE poate să facă excepție (vezi Bazele principiale ale autonomiei ținutului Kosovo). Perspectiva liberală a drepturilor minorităților a încercat să cuprindă posibilitățile teoretice în trei tipuri mari de filosofie minoritară (de ex. noțiunea unor drepturi individuale care se exercită în mod colectiv sau drepturile lingvistico-culturale, exercitare care vizează în mod real o comunitate care trebuie denumită).

Un grup de experți investit de către Internaționala Liberală, din care făcea parte și Will Kymlicka, a elaborat, în 2000, un document, care reprezintă o întorsătură radicală în ceea ce privește doctrina liberală clasică. (Drepturile minorităților. Declarație privind principiile liberale democratice referitoare la minoritățile naționale și etnoculturale, respectiv populațiile indigene). Revenind la legiferările clasice, au declarat că, în cazul în care, minoritățile vor să-și trăiască libertatea în colectiv, această libertate trebuie să i se recunoască. Lucrarea analizează încă două tipuri de documente, care conțin un excedent liberal important: recomandările nr. 43/1998, respectiv 70/1999, privind reconsiderarea punctelor de vedere vizând autonomiile teritoriale, precum și întărirea competențelor la nivelul autoguvernărilor teritoriale. Sunt analizate și directivele-program din Ordinul Guvernului României nr. 39/2000, care, pe baza recunoașterii multiculturalității vieții statale, promovează sprijinirea afirmării lingvistico-culturale a minorităților. Chiar dacă aceste schimbări de perspectivă teoretică au avut un impact redus asupra politicii, importanța lor nu este de subestimat.

Thomas BENEDIKTER

## **AUTONOMIILE REGIONALE ALE EUROPEI**

Autonomiile regionale din Europa pot fi descrise ca având mai multe caracteristici comune, totuși, există diferențe datorate unor factori ca: modalitatea prin care au luat ființă, dezvoltarea societății respective, poziția geografică, contextul politic. Autonomiile sunt structuri instituționale și procedurale bazate pe legi complexe, primordială fiind existența unui statut al respectivei autonomii regionale, respectiv un articol în constituție, în baza căruia instituțiile autonome pot emite ordonanțe și alte acte normative.

Barna BODÓ

## **PROIECTUL POLITIC NUMIT UNIVERSITATEA BOLYAI**

Problema universității de stat cu predare în limba maghiară – numită Bolyai – poate fi considerată pretenția comunitară cel mai bine articulată dintre cele enunțate de comunitatea maghiară din România, după 1989. Se solicită universitate maghiară de stat în toate documentele promovate de minoritatea maghiară, începând cu declarațiile din decembrie 1989 și terminând cu programele UDMR.

În cele aproape două decenii, această solicitare, considerată de toți actorii politici justă și îndreptățită, nu a avut sorți de izbândă. În contextul politic actual, se poate afirma: problema universității aproape că nu există, nu figurează pe agenda politică actuală. Clasa politică nu are niciun proiect în această privință, comunitatea academică este contrariată și nu întreprinde nimic, comunitatea maghiară stă în expectativă.

În lucrarea de față se caută răspuns la întrebările:

1. Acum două decenii au fost greșit identificate prioritățile?
2. Cauza a fost susținută defectuos, ineficient; dacă da, cine se face vinovat de această situație?
3. Cum funcționează sfera publică maghiară din România; dacă și cele mai importante cauze își pot pierde relevanța, pot fi trecute cu vederea?



Szilvia SZOTÁK

## **GRUPURI ETNICE ÎNTR-O MICROREGIUNE DE VEST – RELAȚII ȘI CONTACTE LINGVISTICE**

În regiunea cea mai estică a Austriei, pe lângă națiunea majoritară trăiesc croați, maghiari și romi. Situația maghiarilor este specifică, ei fiind comunitatea cu prezența cea mai veche în regiune.

Maghiarii sunt aici minoritari. Tratatul de la Trianon aducând schimbări profunde privind relațiile economice-culturale cu națiunea mamă. Începând cu anii '90 are loc un proces nou, de instaurarea a unor relații transfrontaliere, gen rețea.

Odată cu aderarea acestor țări la UE, au apărut în regiune așa zisele euroregiuni, cadru pentru cooperări în cele mai diverse domenii: administrație, cultură, societate civilă. Maghiarii din Burgenland au reușit să reinvie o serie de contacte și relații de cooperare cu frații de dincolo de graniță.

Lucrarea prezintă schimbările survenite în relațiile dintre grupurile diferitelor etnii din această regiune și efectul acestora asupra limbii materne.

Zoltán SIMON

## **RESPONSABILITATE RECIPROCĂ...**

## **CONSTELAȚIILE NAȚIONALE ÎN DISCURSURILE TRANSFRONTALIERE**

Lucrarea abordează „discursul național” din punctul de vedere al antropologiei culturale. Interpretăm conceptul de „discurs național” în contextul strategiilor sociale, politice, culturale, minoritare ale națiunii maghiare.

Dincolo de analiza constelațiilor naționale, abordăm tema la nivelul individului, ca narațiuni ale membrilor unor comunități privind statutul de minoritar, piața muncii mai mult sau mai puțin legală din Ungaria, posibilitățile de a se stabili în această țară. Narațiunea națională include pe toți: pe turistul sosit în vizită, pe cel venit la rude sau prieteni, respectiv pe cei din țara mamă, care vin în Ardeal pentru a trăi sentimentul unei apartenențe etnice „adevărate”.

Analiza realizată, privind relațiile dintre Ungaria-Ardeal, Ardeal-Ungaria este, deopotrivă teoretică și practică, având la bază viziunea antropologiei culturale, respectiv politice.

Dániel HEGEDŰS

## **STRUCTURI ȘI FORME INSTITUȚIONALE ÎN RELAȚIILE TRANSFRONTALIERE**

Lucrarea, după o trecere în revistă a formelor arhetipice ale relațiilor transfrontaliere, abordează o structură nou creată de UE, cu scopul de a institui în privința relațiilor transfrontaliere un cadru unic, juridic, și anume Gruparea Europeană de Cooperare Teritorială (EGTC). Prezentăm acele elemente care, atât în practica cotidiană cât și în principiu, au o mare importanță privind politica ungară națională. Prezentăm, în final, o altă structură, pregătită de astă dată de Consiliul Europei, denumită Gruparea de Colaborare Euroregională care, după intrarea ei în vigoare, va face posibilă delegarea unor prerogative la nivelul unor structuri de colaborare transfrontalieră ceea ce, în viitor, ar putea înlesni constituirea unor regiuni transfrontaliere chiar cu funcții politice.

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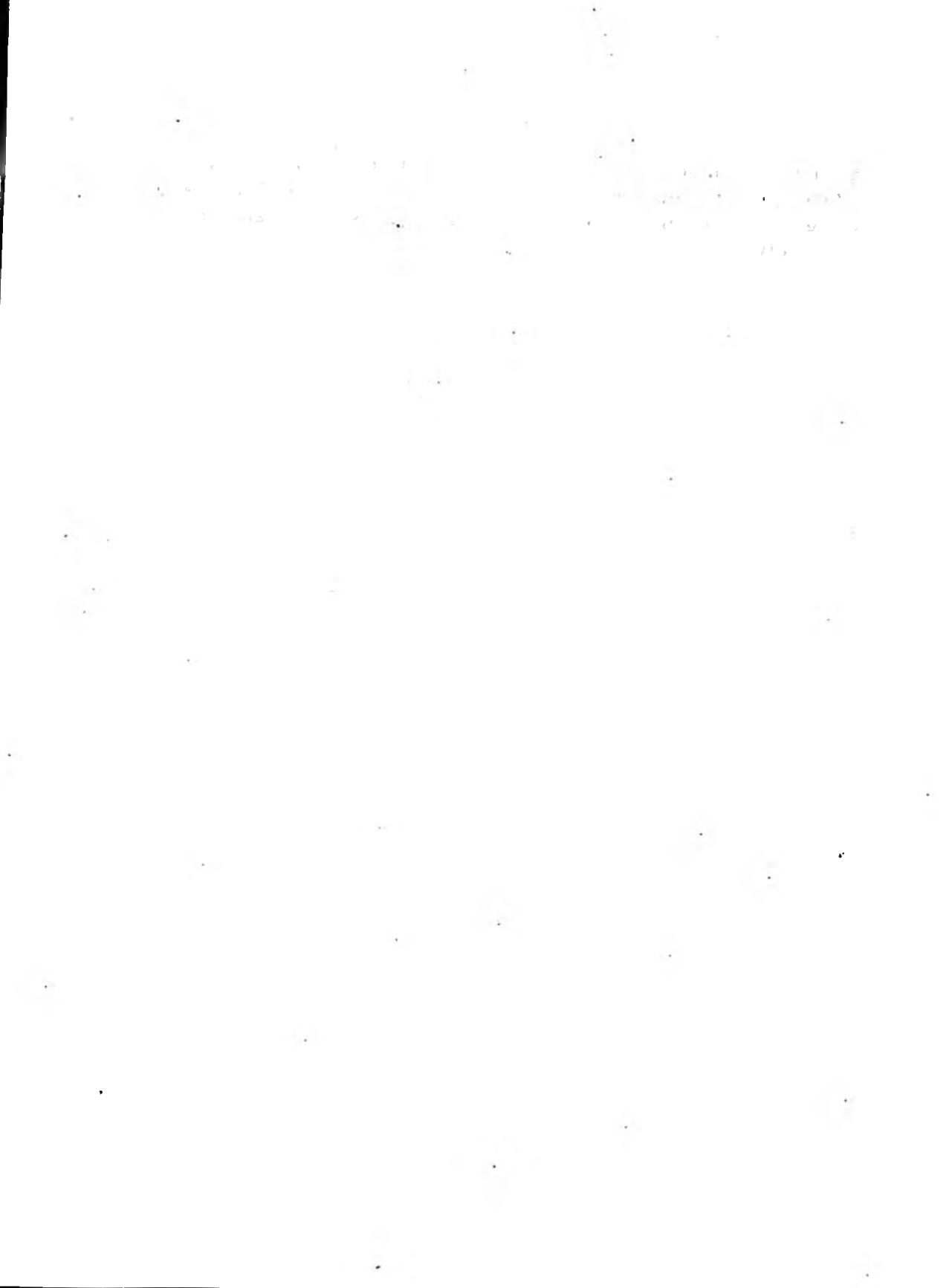
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