

## NATIONALIZING MINORITIES AND HOMELAND POLITICS

*There is no single state in Europe that is not based – in a way or another – on the principle of nationality. In different places, in different historical periods nationalism was, and is, present in various forms.*

*The article focuses on the general aspects, mechanisms and processes of what is called “nationalism in East-Central Europe”, and illustrates the different nationalisms on the case of the interdependence of Hungarian and Romanian nationalisms. The article presents the different types of nationalisms involved in the relationship between Hungary and Romania, as an emblematic example.*

*The issue of definition of the nation is not only a scientific issue, but a political one too. The Hungarian status law and the debate on dual citizenship, as well the international consequences of the debate is a perfect example of how scientific and political approaches merge. The real question of social sciences target how does societies transform and institutionalize.*

*The status law syndrome is post-communist nation building. It is the institutionalization or re-institutionalization of societies on a national basis. The Hungarian case may have put this question on the table for Europe, however, this type of law is not novel. The status laws show that the nationality principle underlies the principles of ECE states, and that all ECE states employ the ethnocultural definition and institutionalization of their societies. The status laws and policies of dual citizenship reflect nothing else but the prolongation of nationalism. The democratizing states in ECE and the enlargement of the European Union created new institutional frameworks also for the managing the issue of national minorities*

Keywords: nationalism, nation, citizenship, Hungary, Romania

“NACIONALIZIRANJE” MANJŠIN IN DOMOVINSKA POLITIKA

*V Evropi ni niti ene države, ki ne bi temeljila – na ta ali oni način – na principu nacionalnosti. Na različnih območjih, v različnih časovnih obdobjih je bil, in je še danes, nacionalizem prisoten v različnih oblikah.*

*Članek se osredotoči na splošne vidike, mehanizme in postopke pojava, o katerem govorimo kot o “nacionalizmu v Vzhodni in Srednji Evropi” in razlaga različne nacionalizme na primeru medsebojne odvisnosti madžarskega in romunskega nacionalizma. Predstavlja različne vzorce nacionalizma, ki je vpleten v odnose med Madžarsko in Romunijo, in sicer kot simboličen primer.*

*Vprašanje definicije naroda ni le znanstveno vprašanje, ampak tudi politično. Madžarski zakon o statusu in razprava o dvojnem državljanstvu, kakor tudi njune mednarodne posledice, sta odlična primera načina, kako se znanstveni in politični pristopi strnejo. Glavno vprašanje družbenih znanosti je, kako se družbe spreminjajo in institucionalizirajo.*

*Sindrom zakona o statusu je post-komunistični način ustvarjanja naroda. To je vzpostavitev ali ponovna vzpostavitev družb na narodnostni osnovi. Morda je madžarski primer postavil to vprašanje pred evropsko javnost, vendar pa ta vrsta zakona ni novost. Zakon o statusu kaže, da je princip narodnosti osnova principov držav članic ECE in da vse te države temeljijo na etno-kulturni opredelitvi in institucionalizaciji svojih družb. Zakoni o statusu in politike dvojnega državljanstva niso nič drugega kot nadaljevanje nacionalizma /principa narodnostne pripadnosti. Demokratizacija držav znotraj ECE in širitev Evropske unije sta ustvarili nove institucionalne okvire tudi za upravljanje vprašanja narodnih manjšin.*

Ključne besede: nacionalizem, narodnostna pripadnost, narod, državljanstvo, Madžarska, Romunija

The paper focuses on the general aspects, mechanisms and processes of what is called “nationalism in East-Central Europe”, and illustrates the different nationalisms on the case of the interdependence of Hungarian and Romanian nationalisms. Nationalism may not be the central issue of understanding transition in East-Central Europe, however salient aspects of this process of social transformation cannot be understood without an analysis of the different types of nationalism. I use nationalism as a value-free and descriptive concept, in the sense of a politics based on the nationality principle.

In the first part, I will describe the common characteristics, and then I will turn to the analysis of the different types of nationalisms involved in the relationship between Hungary and Romania, as an emblematic example. In this part I will analyze the nationalizing politics of the Romanian state, the homeland politics of the Hungarian state and the politics of the Hungarian national minority – with a special emphasis on the Hungarian status law. At the end I will focus also on the role played by the European Union regarding nationalism in East-Central Europe.

The analytical framework relies partially on Rogers Brubaker’s triadic nexus (Brubaker 1996), which is applicable for basically all the situations where there is a nation-state, an external national homeland and a politically active national minority.<sup>1</sup> Brubaker’s concept ‘nationalizing state’ captures the dynamics of the politics of the nation-state. I will argue that using ‘nationalizing minority’ instead of national minority serves the analysis of the interplay of nationalisms. In this case we can see the common features of the parallel and usually conflicting nationalizing processes, making the understanding of national politics easier.

In the early 1990s there was a vision that nationalism replaced communism. These explanations are false. One may say that a nationalist rhetoric replaced the communist one. Or one may argue that certain communist leaders suddenly became nationalists. However, this change is no more than a continuation of past politics in a new – more or less democratic – framework. Nationalism, as an ideology, as a sentiment, as a principle of organizing society is present since the 18-19 century. It is a facet of modern European history. One may interpret the history of modern Europe (also) as the history of national-based institutionalizations. There is no single state in Europe that is not based – in a way or another – on the principle of nationality. In different places, in different historical periods



1 Besides the analyzed example, we could apply the framework to the other Hungarian minorities in the neighboring states, or to the Russians in the Baltic states. Obviously, no one situation is similar to the analyzed one, but resemblances can be easily detected. This has only limited applicability for the nationalisms of stateless ethnic groups (e.g. the Roma), or for national minorities/ethnic groups that do not have political, only cultural goals (i.e. Bulgarians in Romania, Armenians in Hungary, etc.).

nationalism was, and is, present in various forms. The rhetoric of communism only affirmed that it is not based on the ideology of nationalism. The fact is that communism institutionalized nationalism in another form, and often used it for the legitimation of the system (or the leaders of the system). Walker Connor (1984: 6) observes “Marxists not only learned to accommodate themselves to an expedient coexistence with a world filled with nationalisms, but they also developed a strategy to manipulate nationalism into the service of Marxism.” The explanation is simple: communist (socialist) ideology or legitimation (backed by the secret services) suddenly became empty. No fraction of the population could have been mobilized invoking socialism or communism.<sup>2</sup> The underlying assumption was that socialism/communism will resolve the national question, and national values will lose their salience. This was false. Nationalism is much deeper rooted, and it is highly questionable whether the European integration will create a new non-national identity.

## NATIONALISM

Tom Nairn’s (1997: 1) remark shows how central nationalism is in the contemporary world: “[Gellner] demonstrated how industrialization produced modern political nationalities; yet did not go on to suggest that the true subject of modern philosophy might be, not industrialization as such, but its immensely complex and variegated aftershock – nationalism.”

Nationalism, according to most scholars, came into being in the 18-19<sup>th</sup> century. Since then societies have been organized on the basis of the principle of nationality. The invocation of the “nation” is perhaps the main legitimizing principle. Nationalism is inherently related to culture. Nationalism comes into being when culture replaces structure (Gellner 1983). Nationalism emerged first in Western Europe as a consequence of major transformations, explained differently by the major authors. Gellner considers that nationalism is the outcome of the transition from agrarian society to industrial society, while Anderson (1991) detects the emergence of national consciousness – the nation as an imagined community – as a result of the “convergence of capitalism and print technology on the fatal diversity of human language”. In all these cases a new legitimation of the state occurred, by institutionalizing nationalism as a principle of organizing society. Since nationalism emerged, the organization of societies is (also) based on the principle of nationality. In this respect, we may consider every European society



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

as being nationalist. In the age of modernization, states tended to homogenize ethnically their societies, doing this in various ways.

States, societies and cultures became more and more institutionalized. The standardization of language, the creation of high culture, the introduction of compulsory education and the nationalization of culture served the titular nation. Non-dominant ethnic groups intended to create their own nation, with leaders from that particular nation, and intended to have their own state. The nationalists' programs and projects of nation-building/nationalizing usually were formulated and made in opposition to dominant groups/nations and other nationalizing processes. The breakdown of empires, the division of states and transitions reconfigured political power and offered new frameworks for nationalist politics.

Almost all the European states have national minorities or ethnic groups. The majority of the European states have co-nationals living in other states. Those states that have co-nationals (kin-minorities) in other states have adopted a policy that supports – financially, culturally, or even politically – their kin-minorities. The support of kin-minorities is based on the idea of the nation as an ethno-cultural entity, not on the political conception of the nation. It is assumed that the co-nationals have, or should have a special relation with the kin-state. The historical process of nation-formation can easily explain this, from the 18<sup>th</sup> century on. Nations have been formed and have been institutionalized. A sense of national identity emerged within the population, usually due to the (often painful and aggressive) process of nation-building.

It is argued by scholars that western nationalism differs from eastern one (Meinecke 1970, Kohn 1994, Plamenatz 1973, Dieckhoff 2003). This distinction may be conceptually valid, however, what matters are the politics implemented on the basis of one or another conception. There is no one state that employs only one of the conceptions. Usually, an ethnocultural conception is employed regarding the titular nation and the kin-minorities, while a political conception is employed regarding the national minorities and ethnic groups living in the particular state.

The history of nationalism in East-Central Europe can be best understood if we analyze the different – i.e. of the majority and of the minority – nation-building, or nationalizing processes. An important role in the nationalizing process of the national minority is played by the external national homeland. As the borders of states have often changed, different groups have experienced at different times the assimilationist or dissimilationist politics of the titular nation. In other words, they were the suffering subjects of nation-building processes, not infrequently with disastrous outcomes. A description of such policies is presented by Mann (1999) and a theoretical account, describing the mechanisms, is offered by McGarry (1998) – the settlement of majority groups in peripheral regions inhabited by minorities, relocation of minority groups within the state, and expulsion

of minorities from the state. Basically, every national minority, which was once a component of the majority nation, or expressed nation-building goals within the new state, or seemed to be a potential danger to the nation-building of the majority, experienced one or several of the processes described.

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

Rogers Brubaker distinguishes between four types of nationalism, those of the nationalizing state, the external national homeland, of the national minority and populist nationalism (Brubaker 1998). I will focus only on the first three.

Since the 19th century nationalism became the basic organizational principle in this region, too. Every major transformation, be it the peace treaties after the world wars or the breakdown of communism, started a reorganization/reconfiguration of the state. Nationalism did not appear, or reappear, after 1989, it only became manifest in a new form. Hroch considers that post-communist nationalism, especially the nationalism of the national minorities, resembles the path of nation-formation of non-dominant ethnic groups in the 19th century (Hroch 1996). Rogers Brubaker sees similarities between the post-1918 and the post-communist period (Brubaker 1996). Katherine Verdery emphasizes the similarities between the post-colonial and post-communist nationalisms (Verderey 1996).

The emergence, and the strengthening of nationalism in East-Central Europe followed a different pattern. While nationalism in Western Europe was the consequence of modernization, East-Central European nationalisms are mainly adapting the successful western model. Several nations of today were in the 19th century only aspiring to become nations as the western ones. Most of them were encompassed in large empires (the Tsarist, the Ottoman and the Habsburg, later the Austro-Hungarian Monarchy). Hroch describes a model of how these non-dominant ethnic groups became nations (Hroch 1993). In his analysis of non-dominant ethnic groups in the framework of nation formation, he summarizes their goals as follows: (1) The development or improvement of national culture based on a local language, which had to be used in education, administration and economic life; (2) The creation of a complete social structure, including their 'own' educated elites and entrepreneurial classes; and (3) The achievement of equal civil rights and of some degree of political self-administration (Hroch 1995). As Hroch puts it: "the process of nation-forming acquires an irreversible character only once the national movement won mass support, thereby reaching phase

C.”<sup>3</sup> (Hroch 1996) Since nationalism has appeared, the process is permanent. Nationalism has become the central ideology of the state, especially – but not only – in the eastern part of Europe.

Breakdowns of regimes, revolutions and transitions are usually accompanied by the redefinition and re-institutionalization of the nation, and by the reconfiguration of the state. The nationally mixed territory of East-Central Europe followed this model. As Beissinger notes: “the goal of nationalism is the definition or redefinition of the physical, human, or cultural boundaries of the polity.” (Beissinger 1996) Obviously, when one part redefines the polity in national terms, the other actors will probably react and take similar steps. T titular nations framed their constitutions disregarding, or even opposing the claims of national minorities. As Culic shows, the primordiality of the titular nations determined the central values of the states: “In the preambles of the Constitutions, as well as the public political and cultural discourses, and in the substance of other state policies, *the evidence and elements of the historical existence and continuity of a Nation state represent the most salient and powerful arguments,*” (Culic 2003).

National minorities immediately formed their ethnic (ethno-regional) parties. External national homelands expressed their concern regarding their kin-minorities living in other states.

The following part deals with the politics of the nationalizing state, the nationalizing minority and the politics of the external national homeland.

## HUNGARIANS AND ROMANIANS

To put the question very simply, the origin of the problem is the Gellnerian incongruence of the boundaries of both states and both nations.<sup>4</sup> As a rule, the titular nation practiced a nationalizing policy hostile toward the minority. This is true for the Hungarians until 1918, and for the Romanians since then.

After the First World War, Hungary lost a part of its territory, and around three million Hungarians became national minorities in the bordering states. The situation of the Hungarian minorities abroad has been a permanent concern for the Hungarian government. Hungarian nationality politics, as basically every nationality politics in Europe, is based on the assumption that the Hungarian state is responsible for Hungarians living abroad. Between the two world wars, the shock of the Trianon Peace Treaty deeply influenced Hungarian domestic and foreign



3 In Hroch’s approach a non-dominant ethnic groups becomes a nation only if the political projects of the elites gain mass-support.

4 All Hungarians lived in one state only between 1867 and 1918, the Romanians only between 1918 and 1940.

policy. Hungarian foreign politics was characterized by a strong support for the Hungarian minorities abroad, and irredentism (Zeidler 2002). The second Vienna Award<sup>5</sup> granted to Hungary the northern part of Transylvania. However, the end of the WW II saw the redrawing of Hungary's borders to almost as they were before 1938. The Soviet system was based on the assumption that socialism would resolve the problems of national minorities, and that minority issue belongs to domestic affairs. The breakdown of the socialist/communist system brought to the surface the old tensions between the titular nation and the national minorities, and, similarly, this led to tensions between neighboring states. This was the case of Hungarian minorities and the titular nations in the neighboring states. The domestic national tensions are also reflected in the relationship between Hungary and its neighbors. The essence is that the relationship between a kin-state and its neighbors is strongly correlated with the (perception of the) situation of its minorities and the titular nation.

Following World War I, Romania acquired Transylvania. As a result, a sizeable Hungarian population became a national minority in Romania. In other words, a part of an already formed nation, which had been involved in the process of nation-building, suddenly became a national minority. Up to 1918, the Hungarians considered themselves the rightful masters of Transylvania, and acted on the basis of this idea. Consequently, after 1918, while being backed ideologically by the revisionist politics of the Hungarian state, the leaders of the Hungarian national minority in Romania organized their political and cultural organizations on an ethno-cultural basis and promoted a policy of self-defense in regard to the nationalizing thrust of the enlarged Romanian state. The essential point is that the ethno-cultural basis of organization, which increasingly characterized the Hungarian politics of nation-building after the Compromise of 1867, prevailed after a part of that nation became a national minority. Obviously, the framework had changed dramatically, but the politics based on the ethno-cultural conception of the community remained dominant.

The nationalizing process of the national minority has characterized Hungarian social and political life in Romania since 1918. Besides striving for different forms of autonomy and self-government, the political elite, with the help of the intelligentsia, has been engaged in the establishment of separate Hungarian institutions. The idea behind this practice is that without such institutions Hungarian culture cannot be preserved and promoted. The nationalizing process of the national minority has been influenced both by the "nationalizing state" and by the "external national homeland" (Brubaker 1998).



5 30 August 1940.



In the following section, I will analyze nationality politics in the Romanian-Hungarian context. The three major actors are: the Romanian state, the Hungarian state and the Hungarian national minority in Romania. In the first part, I will briefly present the historical antecedents, followed by an analysis of the post 1989 period.

#### NATIONALIZING NATIONALISM. THE ROMANIAN STATE.

The nationalizing politics of the nation-state is not new. In the 19<sup>th</sup> century basically all states in Western Europe pursued such policies. However, nationalizing state policies became characteristic in the region in the inter-war period. The newly formed states conceived themselves as nation-states, and intended to create their ethnically homogeneous nation-states. Governments practiced both exclusive and inclusive policies regarding different national groups. Brubaker summarized the following characteristic elements of the nationalizing state: 1. the existence of a “core nation” or nationality, defined in ethnocultural terms, and sharply distinguished from the citizenry or permanent resident population of the state as a whole; 2. the idea that the core nation legitimately “owns” the polity; 3. the idea that the core nation is not flourishing, that its specific interests are not adequately “realized” or “expressed” despite its rightful “ownership” of the state; 4. the idea that specific action is needed in a variety of settings and domains to promote the language, cultural flourishing, demographic predominance, economic welfare, or political hegemony of the core nation; etc. (Brubaker 1996: 83).

Romania was formed in 1859 with the unification of the Principates Moldova and Wallachia, and gained its full independence in 1877. Greater Romania came into being after the First World War. It was a nation-state that encompassed all the Romanians, who before 1918 lived in different empires, but 28% of the population were members of national minorities: Hungarians, Germans, Jews, Ukrainians, Russians, etc. The simple existence of these national minorities hindered the project of the Romanian state to achieve the status of a homogeneous nation-state. The Romanian state started a nationalizing process, the creation of a state dominated by the titular nation (Livezeanu 1995). After 1918 Romania started an intense nationalizing policy. In the case of nationalizing nationalism, the core nation is understood as the legitimate ‘owner of the state’, which is conceived as the state *of* and *for* the core nation. In the communist period, Romania followed the Leninist principle of national self-determination, granting – under Soviet pressure (and military presence) – a kind of autonomous status for the counties inhabited by Hungarians. In the 1960s, when Nicolae Ceausescu became the leader of the Romanian Communist party, a nationalist turn could be observed. Katherine Verdery states that Ceausescu realized that only with this nationalist twist would he obtain support for his regime from the intellectuals (Verdery 1991). The



consequence was that nationalism became institutionalized in the communist system.

The breakdown of the Romanian communist system in December 1989 created a new environment for the different processes of national institutionalization, now in a democratic framework. The national projects, that of the titular nation, and that of the Hungarian minority found themselves in an antagonistic situation. Romania's nationalizing policy can be best observed in the process of framing the constitution, when Romania was defined as a nation-state. Later, several laws reinforced the national character and national orientation of the Romanian state. The emergence of nationalist parties, like the Greater Romania Party and the Party of National Unity of the Romanians, tacitly backed by the post-communist party,<sup>6</sup> in power at that time, were the major promoters of state-directed nationalism. After the Democratic Convention came into power, and invited the DAHR to participate in the government, nationalism played a more minor role (Kántor – Bárdi 2002). However, tensions were still present, but their manifestation was more controlled by the state. The elections in 2000 again reshaped the political sphere in Romania. The Social Democratic Party, supported in parliament by the DAHR, clearly realized that Romania's only hope is to join the EU and NATO. The criteria set by these organizations forced the Hungarian and Romanian parts to cooperate.

The policy of the nationalizing state, in our case Romania, questions the legitimacy of the claims formulated by the Hungarian elite as essential for its nationalizing process: the decentralization of power and the establishment of institutions that reproduce the Hungarian elite. Analyzing more carefully the national policy of the Romanian state, we can observe that the Hungarian minority obtains only such rights that minimally affect the Romanian nationalizing process. From a Hungarian perspective, the Hungarians in Romania do not enjoy the rights they need to fulfill their national institutionalization, i.e. administrative decentralization, a state-sponsored Hungarian university, a mode of autonomy for the regions inhabited by Hungarians, return of church property, etc..

#### NATIONALIZING MINORITY. HUNGARIANS IN ROMANIA.

The following develops an interpretative framework for the study of the national minorities that could help one understand the ongoing developments and explain the process of nationalizing of the national minority. Many possible frameworks can be employed to analyze a national minority. However, to under-



<sup>6</sup> Frontul Salvării Naționale (National Salvation Front), that became later the Partidul Democratie Sociale din România (The Romanian Party of Social Democracy), and is at present the Partidul Social Democrat (Social Democratic Party).

stand the essence of this issue, one has to concentrate on the questions related to nations and nationalism. National minority politics are *par excellence* based on the principle of nationality. Furthermore, their organizations are based on national or ethnic grounds. In order to understand the nationalizing policy of a national minority, one must analyze the process through which a particular group became a national minority, and the institutionalization of that national minority on an ethno-cultural basis.

I focus especially on the situations where the national minority was once part of a larger nation within the framework of one state. One of the consequences of the dissolution of the empires is that a part of the nation became a national minority in another state. One part of the ethno-cultural nation, now a national minority, has not accepted the new situation. It has continued the nation-building process, but it has reshaped it. Although this nation-building process is different from the former one, its mechanisms are similar. Ethno-cultural bonds do not lose their strength, on the contrary, generally they are invigorated. Since the nation-building of the majority challenges the nation-building of the national minority, the strengthening of the internal boundaries of the national minority is the logical consequence.

On a theoretical level, I consider that one should focus on the processes of institutionalization of the minority, on an ethno-cultural basis. One should not commit the mistake of essentializing the national minorities. National minorities are constructed and imagined as much as nations are.

In line with Brubaker's conceptual transformation of the *nation-state* into *nationalizing state*, I propose the concept of *nationalizing minority* instead of *national minority* (Kántor 2000). This concept captures the internal dynamics of the national minority and permits the analysis of long-term processes. These processes are slightly different from those of the nationalizing state,<sup>7</sup> but the mechanisms are similar. National minorities engaged in a nation-building process are *nationalizing minorities*. Nationalizing national minorities are distinguishable from the non-nationalizing ones.<sup>8</sup> Empirically, one can present the following distinctive features: (1) A nationalizing minority is sufficiently numerous to have a real possibility of achieving a number of its goals; (2) Nationalizing minorities express political goals, not only cultural ones. Their goal is not only the preservation of national/cultural identity, but also the promotion and institutionalization



7 The resources of the national minorities are incomparably limited, as those of the state; however, the resources of the minorities are often supplied by the external national homeland.

8 For example, Hungarians in Romania constitute a nationalising minority, while Bulgarians in Romania or Hungarians in Austria do not; in Western Europe, the Northern Irish are a nationalising minority. In the light of the past twenty years' events, Albanians in Kosovo can also be considered a nationalising minority.

of it. The creation of institutions that resemble those of a state is essential, as is the establishment of a minority “life-world”; and (3) Nationalizing minorities attempt to transform the political structure of the state and struggle for political representation on the state level.

The claims of national minorities are also made in the name of a core nation or nationality, defined in ethno-cultural terms, and are not related to citizenship. The difference in this case is that the “core” of the ethno-cultural nation is localized in the nation living in the “external national homeland”. However, institutionally, the national minority is distinct from the ethno-cultural nation. The national minority has no state of its own. Therefore, the leaders of the national minority create a “surrogate state”, a system of political representation of the national minority, which, as mentioned, is conceived on an ethno-cultural basis.

Usually, a national minority is defined without reference to an external national homeland. The definitions emphasize only that it represents a minority in relation to the titular nationality, and characterize the national minority putting an accent on the numerical element. The question of the ethno-cultural nation, including all the members of the same ethnic group, is marginal. This is, on the one hand, due to the legal and political definitions, that concentrate on the rights of the national minority, and, on the other, due to the practice of social scientists who analyze the transition to democracy, nationalism and ethnic conflicts within a country, discussing only short-term processes, and concentrating on the situational setting. To avoid these narrow approaches one must focus on the national minority and analyze such questions in a historical perspective. In order to do this, one must look for a different approach and Brubaker’s definition is useful in this respect:

A national minority is not simply a “group” that is given by the facts of ethnic demography. It is a dynamic political stance, or, more precisely, a family of related yet mutually competing stances, not a static ethno-demographic condition. Three elements are characteristic of this political stance, or family of stances: (1) the public claim to membership of an ethnocultural nation different from the numerically or politically dominant ethnocultural nation; (2) the demand for state recognition of this distinct ethnocultural nationality; and (3) the assertion, on the basis of this ethnocultural nationality, of certain collective cultural or political rights. (Brubaker 1996: 60)

After the definition of the entity, one should also look at the definition of the nationalism of a specific group:

Minority nationalist stances characteristically involve a self-understanding in specially “national” rather than merely “ethnic” terms, a demand for state recogni-

tion of their distinct ethnocultural nationality, and the assertion of certain collective, nationality-based cultural or political rights (Brubaker 1998: 277).

Members of the national minority still consider themselves as belonging to the former ethno-cultural nation, emphasizing the common culture and language. They used to perceive themselves as one nation, and still conceive themselves in such a way. However, they also perceive themselves as a national minority. These two complementary but nevertheless competing images characterize national minorities. National minorities are institutionalized on the same ethno-cultural basis as the nation in the external homeland, but the framework and resources are different. The particular principle of nationality is identical, and therefore there is no reason to search for other explanations why a national minority is engaged in a nationalizing process.

The nationalizing minority's politics is oriented toward strengthening and maintaining ethno-cultural boundaries. This is done by the creation of institutions for achieving the above-mentioned aims. It involves the creation of a parallel social and political system and the striving for a legal setting in which nationalizing can continue in more favorable conditions. Institutions have an exclusive, ethno-cultural character. The nationalizing minority acts in a specific political arena, and not all the political actions of the national minority can be subsumed under this process.

The concept of nationalizing minority is thus helpful for a general account regarding the politics of national minorities, but for a meticulous analysis one has to operationalize the concept. These actors can be: the ethnic party and the elite of the national minority. The main promoters of these nationalizing processes on the part of the national minority are the ethnic parties.<sup>9</sup> Ethnic parties are formed in societies that are organized along ethnic or national cleavages. In cases where nationally relevant conflicts exist, for example, in times of revolutions or changes of regimes, it is almost certain that the elite of the national minority will form an ethnic party. An ethnic party is very different from non-ethnic parties in the sense that the national minority usually has a program that is oriented toward securing the individual and collective rights of the members of that particular national minority.

The main concern of national minorities, expressed by the goals and policies of the ethnic parties, is generally the preservation of their culture and the promotion of the interests of the members of the group and the perceived interests of the group as a whole. To achieve this aim, the minority has, on the one hand, to secure



9 I use the concept of "ethnic party" as a synonym for "national minority party" or "minority party" or "ethno-regional party".

the legal and political framework on the state level and, on the other, to establish those institutions and an internal organization that permits them to form a distinct society. Therefore, one has to analyze every ethnic party as both an ethno-political party and an ethnic organization. The ethnic party has to act simultaneously as a political party, as a representative and promoter of the interests of its community, and has to strengthen the internal boundaries of the community organizing them into an *ethno-civil society*.<sup>10</sup> The key difference is the political arena in which the party acts. As a political party, the ethnic party acts in the political sphere of the state. As an ethnic or minority organization, its sphere of action is the ethnic or national and political subculture.

The DAHR:<sup>11</sup> One of the starting points of our analysis is the fact that the DAHR is a party organized on an ethnic basis. The DAHR as a social organization makes efforts to organize the civilian (non-governmental) sphere (or what is regarded as such) of the Hungarian community in Romania. To this end it strengthens various organizations and institutions, not entirely without the intention of maintaining or perhaps expanding its voting base. The DAHR, formed in December 1989, considers itself, and is considered by the other actors in Romanian politics, as the sole representative of Hungarians in Romania.<sup>12</sup> As an ethnic party, it acts in the Romanian political sphere, and is organized and functions as any other party. In the political arena, the party participates in elections, takes part in parliamentary life either as part of the government, or in opposition. As is characteristic of any ethnic party, the DAHR also fulfils a double function. On the one hand, as a political party, it participates in Romanian political life, while, on the other, it carries out tasks of organizing the society. In the focus of the program and the political activities of such parties stands the representation of the interests and values of the relevant national/ethnic group/community. Like other parties, the DAHR also behaves as a party and its leaders also have their own particular interests, which do not always coincide with the interests of the group represented.

On the one hand, DAHR's goals on the state level can be summarized as follows: it strives for the creation of smaller units within the state, by advocating administrative decentralization, federalism and territorial autonomy, in order to create structures in which the Hungarian minority would be in a relative majority



10 I use this concept to imply that Hungarian civil society in Romania cannot be interpreted as a civil society of a state, but, being organised on an ethnic basis, the concept ethno-civil society suggest better the nature of that particular society.

11 Democratic Alliance of Hungarians in Romania

12 The DAHR defines itself as follows: "The DAHR is the community of the autonomous territorial, political, social and cultural organisations of Hungarians in Romania. Its main objective is to protect the interests and rights of the Hungarian minority. The DAHR fulfils the task of representation of the Hungarian population both at local and national levels," (The programme of the DAHR).

in order to influence the decision-making process. On the other hand, it attempts to create separate ethnically-based institutions, in which the minority decides over salient issues. These together signify the creation of a Hungarian parallel society, the institutionalization of the Hungarian “sphere” in Romania. The final goal is to create a parallel society.<sup>13</sup> Basically, this is what I call minority nation-building. Minority nation-building can also be described as the creation of a parallel society on an ethnic basis.

#### KIN-STATE NATIONALISM. THE HUNGARIAN STATE.

The external national homeland, in our case Hungary, supports this process with political and financial resources. At the same time, it also influences the self-perception of the members of the national minority and plays an important role in the power relations within the national minority. After 1989, Hungary openly expressed its concern about the fate of the Hungarian minorities abroad. In the Hungarian constitution a paragraph was introduced, stating Hungary’s responsibility regarding the Hungarians living abroad.<sup>14</sup> On the basis of this constitutional and “ethnocultural” responsibility, the Hungarian governments established several governmental institutions and foundations to support Hungarian institutions in the neighboring countries.

The Hungarian state influences the nationalizing process of the Hungarian minority in Romania, and, as such, one may analyze it as an external factor. I analyze only one aspect of this relationship – the law concerning the Hungarians living in neighboring states. Hungary, as a state concerned with the fate of Hungarians living abroad, considers it a political and moral duty to help Hungarians, especially those who live in the bordering countries. Until recently, the Hungarian state supported principally the institutions of the national minorities.

In 1997 Hungary became a member of NATO, and in 2004 it became a member of the European Union. In this connection, Hungary will also join the Schengen agreement, which means that it will have to introduce visa requirements for non-EU citizens. At present, it is obvious that Romania and Croatia will join soon, while Yugoslavia and Ukraine will join the EU at a considerably latter stage.<sup>15</sup>



13 In opposition to many views, this does not involve territorial separation. Hungarians in Romania, especially after 1945, have accepted the state of affairs and have promoted a policy that searches for solutions within the framework of the Romanian state.

14 Constitution of the Republic of Hungary. Article 6(3): “The Republic of Hungary acknowledges its responsibility for the fate of Hungarians living outside of its borders and shall promote the fostering of their links with Hungary.” See *A Magyar Köztársaság Alkotmánya* (Constitution of the Republic of Hungary) (Budapest: Korona, 1998), p. 14.

15 Slovakia and Slovenia joined the EU simultaneously with Hungary.

As a consequence, many Hungarians living in these states will find it hard to travel to Hungary. This poses the fear that a new “Iron Curtain” will separate the Hungarians from the above-mentioned countries and their homeland.

In 2001 the then conservative Hungarian government proposed a Law Regarding Hungarians Living in neighboring countries.<sup>16</sup> Political and scientific discourse refers to it as the “Status Law”. The government considered that the existence of such a law, and the facilities offered, encourages the Hungarians to refrain from emigration, and could moderate the process of assimilation.

The intention of the Hungarian government and of the elites of the ethnic parties was to strengthen the minority societies and, by this, the nationalizing process. On a theoretical level, two aspects are important. The first one is that this law defines a relationship between the Hungarian individual and the Hungarian state. The second one is that it redefines, and re-institutionalizes, the Hungarian conception of the nation. The expressed goal of the law is explained as follows:

While promoting the national identity of Hungarians living in neighboring countries, the Law obviously ensures prosperity and staying within the home country. According to the scope of the Law, the codifier applies different provisions to encourage living within the home country and does not support resettling to Hungary. Most forms of assistance will be applied within the home countries of Hungarians living in neighboring countries; the institutional structure needed for any assistance for the Hungarian minorities in the neighboring countries is established through this legal norm.<sup>17</sup>

The debate on the objective and subjective criteria of belonging to the Hungarian nation brought into light an old, and irresolvable, dispute about the definition of the nation. While the opposition would accept only self-definition (self-identification) regarding Hungarianness, the governmental parties argued that it is necessary to include “objective criteria”.

Starting from an ethno-cultural redefinition of the nation, Hungary also plays an important role in the redefinition of the Hungarian national minorities. The Hungarian national minorities in the neighboring countries are involved in nationalizing processes within the framework of their respective states. The “Status Law” strengthens the symbolic boundaries of Hungary and the national minorities living in bordering countries. The theoretical question is whether there are many parallel processes of Hungarian nation-building, or only one. The



<sup>16</sup> Adopted by the Hungarian Parliament on 19 June 2001. Available from <http://www.htmh.hu/law.htm>; Internet; accessed 5 August 2001.

<sup>17</sup> Information on the *Law on Hungarians Living in Neighboring Countries* (Act T/4070).



situation existing prior to the “Status Law” suggests the former, the post-“Status Law” situation the latter. The “Status Law” binds all the members of the Hungarian ethno-cultural nation (living in the neighboring states) together. In this respect, it has a decisive influence on the politics of the national minorities. Throughout the past decade, Hungary has been supporting most of the important cultural institutions, but from now on, it will also have a decisive role in the life-strategies of Hungarian individuals living in the bordering countries. Hungarian political elites and intellectuals will be even more dependent on Hungary, and Budapest is meant to become the focal point for every Hungarian. However, this connection is mediated by Hungarian organizations in the neighboring countries, and through this mediation, using Hungarian financial resources, they can realize their nation-building project.

Besides the benefits and facilities accorded for the Hungarians abroad by the status law, it also plays a major role in strengthening the boundaries of the Hungarian minority groups. Realizing this aspect of the law, the Romanian government asked the Council of Europe to analyze the law.<sup>18</sup> After recommendations of the Venice Commission,<sup>19</sup> the prime ministers of the two states signed an agreement,<sup>20</sup> in which Romania gave its consent for the application of the law in Romania, but asked that non-Hungarian spouses of Hungarians in Romania should not get a “spouse card”.<sup>21</sup>

This program reinforces Hungary’s special relationship with the Hungarian minorities in the neighboring countries, but emphasizes the importance of settling this relationship within the legislative framework. In addition, for the first time it is expressed that, similar to the accession to the EU, the *organic ties* of the Hungarian communities and Hungary are of primary importance. The official argument for framing the *Law on Hungarians Living in Neighboring Countries* is:



18 21 June 2001, Romania’s Prime Minister, Mr. A. Năstase, requested the Venice Commission to examine the compatibility of the Act on Hungarians living in neighbouring countries, adopted by the Hungarian Parliament on 19 June 2001, with the European standards and the norms and principles of contemporary public international law.

19 European Commission for Democracy Through Law (Venice Commission), “Report on the Preferential Treatment of National Minorities by their Kin-State,” adopted by the Venice Commission at its 48th Plenary Meeting, (Venice, 19-20 October 2001).

20 Memorandum of Understanding between the Government of the Republic of Hungary and the Government of Romania concerning the Law on Hungarians Living in Neighbouring Countries and issues of bilateral co-operation. Budapest, 22 December, 2001.

21 Only some months after the agreement Adrian Năstase, the prime minister of Romania edited a book that basically attacks the status law: Adrian Năstase – Raluca Miga – Beșteleiu – Bogdan Aurescu – Irina Donciu: *Protecting Minorities in the Future Europe*. Bucuresti: Monitorul Oficial, 2002.

The main aim of this Law is to ensure special relations of the Hungarians living in neighboring countries to their kin state, the promotion and preservation of their national identity and well-being within their home country; therefore to contribute to the political and economic stability of the region, and through this to contribute to the Euro-Atlantic integration process of Hungary in particular and the Central and Eastern European region in general. In this context the Law promotes the preservation of the cultural and social cohesion as well as the economic consolidation of Hungarian communities abroad.<sup>22</sup>

The central scope of the law is to ensure the special relations of the Hungarians living in the region, despite their state-allegiances, and to convince the Hungarians living in neighboring countries to remain in their home country. Besides the initial idea that the “Status Law” will serve as a basis for according preferential national visas to the possessors of the “Hungarian Identification Document,” the public debate focused on the effect of this law on the emigration of the Hungarians from the neighboring countries.

#### THEORETICAL PROBLEMS REGARDING THE STATUS LAW

Laws similar to the Hungarian status law rest on two widely shared assumptions: 1. The conception of the nation in ethnocultural terms, assuming that a group of people, which had already become a nation and developed a strong sense of national identity, – regardless of the borders that separate them at present – have something in common, which is salient for those persons. 2. The perception that the home state does not sufficiently protect and promote the rights of the national minorities, moreover – especially in East-Central-Europe – it usually seeks to assimilate them.

Consequently, a perception prevails that it is a legitimate right of kin-states to award special attention, institutionalized by laws, to their kin-minorities. While the practices of kin-states differ substantially, the underlying assumptions have the same roots. The only possible explanation for this is that the national boundaries (the ethnoculturally understood nation) are perceived – both by the kin-state and the kin-minority – as being stronger as other types of bonds (i.e. citizenship, or the “political nation”).

Laws like the Hungarian Status Law must be analyzed in a larger context. One must analyze the domestic and the international context in order to see how a particular idea becomes a law, and how this law institutionalizes the conception



22 Information on the *Law on Hungarians Living in Neighboring Countries* (Act T/4070).

of the nation. What is of extreme interest is the underlying principle of such laws: the assumed, but rarely explicit nationalism.

Scholars may employ several theoretical frameworks<sup>23</sup> in order to understand the status law syndrome, such as the status laws placed in the framework of nationalism. Nationalism can be observed a value free concept and denotes a process: a process of institutionalizing societies on a national basis. The works of Zsuzsa Csergő and James Goldgeier, János Kis, and George Schöpflin approach the status law syndrome through nationalism.<sup>24</sup>

The nationalisms we encounter are multiplayer games of institutionalizing and defining the nation. The political interests, the ideologies, and the vision of the future Europe each contribute to shaping a “legitimate” conception on the nation.

Nationalism, as a perpetual, multiplayer, institutionalizes the polity invoking the nation, and involves a permanent definition and redefinition of boundaries. Since modernity, societies are institutionalized on national basis valid for both majorities and minorities. In Europe arguably everyone is nationalized.

The redefinition and re-institutionalization of the nation and the reconfiguration of the state usually accompanied breakdown of regimes, revolutions and transitions. As Irina Culic states: “State building and nation building in CEE are also part of a larger process re-institutionalizing and re-organizing political space and political phenomena. Both their innovative concepts and legislation are constitutive to these processes.” (Culic 2003) Culic brilliantly demonstrates the centrality of the ethnocultural definition of the polity for the 27 ECE states: “In the preambles of the constitutions, as well as public, political, and cultural discourses and in the substance of other state policies, the most salient and powerful arguments are the evidence and elements of the historical existence and continuity of a Nation state and the need to emphasize its nationhood by promoting its language, traditions, cultural inheritance, heroic history and territory.” (Culic 2003)

Laws on education, culture, local administration, language are also further proof of the nationalizing politics of particular states. From our perspective two types of law are of central interest: laws on citizenship and the so-called “Status Laws”. Both types of laws imply a definition of who is eligible to acquire citizen-



23 Other legitimate interpretive frameworks can and were set, such as: approaches focusing on citizenship (fuzzy citizenship - Brigid Fowler), on minority protection (legitimate and illegitimate kin-protection - Halász-Majtényi-Vizi, János Kis, etc.), on transnationalism (Michael Stewart), on ideological clashes (Osama Ieda), etc. See articles in Zoltán Kántor and others (eds.): *The Hungarian Status Law: New Nation Building and/or Minority Protection*. SRC Hokkaido University, 2004. [http://src-h.slav.hokudai.ac.jp/coe21/publish/no4\\_ses/contents.html](http://src-h.slav.hokudai.ac.jp/coe21/publish/no4_ses/contents.html).

24 See the studies in Kántor et al., *ibid*.

ship and hence, special favors or benefits. These laws, however, are not framed in a vacuum. Several actors in these political debates influence the framing of a law. These debates take place in at least three arenas: domestically involving the political parties and intellectuals, bilaterally, at times involving the kin-minority living in the host-state with the states whose citizens are affected, and internationally.

## TWO WAVES OF NATIONAL REDEFINITION

Analyzing the issue of the nation in the ECE states, we may observe that there are two periods when politics deal with the issue of the nation. In the first period, shortly after the breakdown of authoritarian/totalitarian regimes, debates concerning the constitution and laws on citizenship are accompanied with definitions of the nation. In Culic' words: "... new states were set as states of and for a nation, and thus state building was conceived as vigorous nation building. Constitutions and citizenship policies - which have a constitutive worth as acts whereby the body politic of the state is set and which are expressive of the nature of the state, followed the national principle. All related legislation was shaped according to remedial and assertive nationalism," (Culic 2003). Later, when the regimes may be considered more or less consolidated (democracies), states *refine* their nation politics. As Halász, Majtényi, and Vizi note: "It is an established practice in Europe that the various national legal systems offer preferences to their co-nationals living outside the borders as compared to other foreigners. Following political transition in Central and Eastern Europe, the regulation of support for these ethnic groups has become a characteristic feature of constitutional legislation," (Halász - Majtényi - Vizi 2004).

Two interlinked processes must be distinguished. The first concerns the status of ethnic/national minorities living in a particular state. Their demands, backed by the kin-state (external national homeland) and by certain European institutions, become partially satisfied - at least formally, by the governments of the home-states. I shall not enter into the details of such cases, I only wish to stress one facet of this process: *nation-states* recognized that they are *multinational/multiethnic states*. The second concerns the so-called "status laws". These laws, often parallel with the modification of the law on citizenship, aim to settle the status of kin-minorities, or co-nationals living abroad. Again, I stress the fact that the kin-state legalizes the link between the state and the groups and/or individuals living abroad, perceived as kin. Those states that have co-nationals (kin-minorities) in other states have adopted a policy that supports financially, culturally, or even politically, their kin-minorities. Support of kin-minorities is based on the idea of the nation as an ethno-cultural entity, not on the political conception of the nation.

Explicitly or implicitly all those involved (the political parties in Hungary, the Hungarian state, governments of the neighboring states, and international organizations) operate with conceptions of the nation. These conceptions usually do not match, leading to misunderstandings and different approaches to the politics of kin-states, especially in regards to kin-minorities. To put it simply, one may say that the debates center upon who owns the “official” definition of the nation. Hence, the vision, the project of the future of Europe is up for debate. Do we move toward a Europe of states or to one of nations?

#### USES AND MISUSES OF THE CONCEPT OF NATION

The nation can be defined in many ways. One may distinguish between definitions that emphasize objective elements, and those that emphasize subjective elements. Since Ernest Renan’s famous article, literature on nationalism greatly fueled the debates on this subject. And, attempts to refine the definition can be traced back to Friedrich Meinecke. Perhaps these clarified the picture, or the adjective, but not the concept of nation itself. Rogers Brubaker, recently showed that such typologies do not help much in the analysis of phenomena linked to the nation (Brubaker 1999). Furthermore, as already mentioned, scholars argue that western nationalisms differ from eastern ones.

The Hungarian Status Law has drawn attention to the issue of how a nation is defined. While the framers of the law conceived it on the basis of an ethnocultural definition of the nation, the domestic opposition and, to some extent, international organizations (represented in particular by Günther Verheugen and Eric Jürgens) emphasized the political conception of the nation.

Social scientists, the state, the “members of the nation”, and the international institutions/organizations define the nation. As is well known, no one definition is accepted unanimously. Nevertheless, social sciences operate with definitions and typologies. The distinctions between political and ethnic nations utilized in politics are usually exemplified by the French and the German nations. In addition, it seems that only European politicians consider *the political nation as the official definition*.<sup>25</sup> If one encounters the approach of European states towards the minority issue in the states of ECE, one may immediately observe that the legitimate definition is that of the political nation, even if in practice this is not always



25 The status law raised the question on the European level of the definition of the nation. As we have encountered, the ethnocultural definitions of the status laws are in strong opposition with the political definitions of the nation that is the official nation-conception of European institutions. Opposite to social science, political institutions (domestic and European) begin their definition from perceived interests. The major interest in the case at point is peace and stability. The idea is that peace and stability can be attained only if a territorial claim or extraterritorial legislation is not made.

true. When this approach became a political norm, it became highly problematic, as it does not always reflect the state of affairs. It is a normative approach based on the idea that stability and peace can be secured only in such a way.

The contest between the two conceptions, the ethnocultural and political, or in George Schöpflin's terms, the particularistic and universalistic conceptions, has surfaced on the European agenda as a result of the Hungarian Status Law (Schöpflin 2004).

Yet, at this moment, two problems remain clear. First, European organizations define the concept of nation as coterminous with that of the state, or with citizenship (especially regarding ECE). Such a definition has nothing to do with scientific ones (Connor 1994). Second, one must ask whether focusing on the concept of nation as an analysis of processes is possible. As we have seen (more exactly, we will see), European organizations (PACE, HCNM, EU – G. Verheugen) operate with the concept of nation, and consider every ethnic, or ethnocultural definition as dangerous, and conflict-prone. Our question is whether such a definition, or politics based on one or another definition, is proper for social scientific analysis? We should not think of nations as really existing and definable groups, rather of politics, and institutionalization that rely on one or the other conception of the nation. Furthermore, we should take into consideration that in practice all nation politics operate simultaneously with both concepts, however, only one – the political or the ethnocultural – can prevail.

In conclusion we should not consider the nation as a central category. One should focus on nationalism, on nation building, or on nation policy. In this framework, one may interpret processes, politics that invoke one or another definition of the nation. By definition, status laws operate with the ethnocultural conception. They extend the borders of the nation beyond the borders of the state.

#### WHO BELONGS TO THE NATION? THE NATION DEFINED AS A CONGLOMERATE OF GROUPS OR AN INDIVIDUAL LINKED TO THE STATE?

The ECE status laws differ in many respects regarding how they define the targeted subjects. The subject may be a vaguely defined group or a clear definition of individuals who belong to the nation. As Halász, Majtényi, and Vizi observe, "the Romanian and the Slovenian laws status laws differ from other similar regulations inasmuch they focus on supporting communities, while (e.g.) the Slovak and Hungarian laws take an individualistic approach," (Halász et al. 2004).

From a theoretical point of view, the most debated issue concerned who is a Hungarian.<sup>26</sup> The debate focused on both the definition of a Hungarian in the enumerated states in the law, and which nation-definition should the Hungarian state adopt for its foreign policy, especially policy concerning Hungarians abroad.<sup>27</sup>

Like the Hungarian law, the Slovenian law employs an ethno-territorial applicability, targeting “autochthonous minorities”. Both laws specify the territories wherein the law is applicable. Without regard to the definition of nation, it basically applies to the persons who live in the “historical” regions of the *core-state (titular-state)*. If we equate applicability with the definition of the nation, we find that the laws are not meant explicitly to define the nation, they do so implicitly.

The Slovak and the Romanian status laws apply to every non-citizen, foreign Slovak or Romanian. In this respect these laws are more universalistic, and the ethnic (ethnocultural) element is stronger. The Romanian law, however, emphasizes both the individual and communities: “the Romanian law that it treats the Romanian communities beyond the borders as subjects of the collective rights provided to them by the status law” (Halász et al. 2004).

The issue of the nation may be analyzed on three levels. The first is the level of domestic politics wherein different parties and ideologies struggle for the legitimate definition of the nation, on which basis they may institutionalize politics regarding individuals or groups from abroad. The second is the bilateral level involving the kin-state and the states to which the law applies. The third level, that of international relation, concerns the involved states and the European institutions that deal with similar issues (Venice Commission, HCNM, PACE, etc.).

### THREE LEVELS OF COMPETING DEFINITIONS

#### DOMESTIC LEVEL

In Hungary – since József Antall announced his soul-felt position as Prime Minister of 15 million Hungarians – every Prime Minister, in his first official speech, positions his government’s relation to the issue of the nation. The conceptual and practical changes in policy toward Hungarians abroad are described in the articles of Nándor Bárdi (2004) and Osamu Ieda (2004).



26 See the contributions of Ieda, Schöpflin, Kántor, Kis, Csergő-Goldgeier. For the debate in Hungary, see in the bibliography the books edited on the status law in Hungarian language by the author of the article.

27 One has to add, that in terms of nation-definition – if laws are framed in ethnocultural terms, ethnic and national minorities in Hungary would not belong to the Hungarian nation. Obviously, the law does not regard Hungarian citizens, regardless of their ethnic origins, such an institutionalization on an ethnocultural basis may be seen as offensive for non-ethnocultural Hungarian citizens.



#### THE BILATERAL LEVEL

The neighboring states immediately realized that the Hungarian status law fostered the nation building (nationalization process) of the Hungarian minorities. Romania and Slovakia expressed strong reserves, and opposed the applicability of the law. Both states have laws that extend the boundaries of their nations, but this did not hamper them from questioning the right of Hungary for framing a similar law.<sup>28</sup> Both states perceived the Hungarian status law as impeding their homogenization politics. The Hungarian law attacked exactly the core of the foundation of the two states (as reflected in their constitution and political practice): the national state principle.

#### THE INTERNATIONAL LEVEL

After the law was framed in 2001, Romania and Slovenia expressed their concern that the status law might present a problem on the international level. I will focus only on the aspects of their concerns that directly address the issue of the nation.

1. The first international body to issue a statement on the status law syndrome was the Venice Commission. Their most important conclusions were: "Preferential treatment may be granted to persons belonging to kin-minorities in the fields of education and culture, insofar as it pursues the legitimate aim of fostering cultural links and is proportionate to that aim."<sup>29</sup>

The Venice Commission recognized the right of kin-states to support their co-nationals living in other states. This was a novelty in international minority protection. While this declaration has become a contentious issue, an international recommendation has been put forth for its consideration. The recommendation proves that the Venice Commission implicitly acknowledges special bonds between a state and its kin-minorities. Moreover, they constitute *recognition of the nation conceived in ethnocultural terms*.

2. Rolf Ekeus, OSCE High Commissioner for National Minorities, made a statement a week after the report issued by the Venice Commission. The statement, formulated in general terms, concerns the Hungarian Status Law. The text of the statement highlights the difference between the boundaries of the state and those of the nation, and recognizes the 'interest in persons of the same ethnicity living



28 The Parliament of Slovakia passed a similar law in 1997, while the Romanian Parliament in 1998.

29 European Commission for Democracy Through Law (Venice Commission), 'Report on the Preferential Treatment of National Minorities by their Kin-State,' adopted by the Venice Commission at its 48th Plenary Meeting, (Venice, 19-20 October 2001).

abroad': "National and state boundaries seldom overlap; in fact there are few pure 'nation states'. Borders therefore often divide national groups. ... Although a state with a titular majority population may have an interest in persons of the same ethnicity living abroad ..." <sup>30</sup>

3. The European Parliament appointed Eric Jürgens as the rapporteur on the Hungarian Status Law and other similar laws in Europe. Jürgens used a very one-sided approach to the concept of the nation, interpreting it only in the sense of the *political nation*. Eric Jürgens presented several drafts of the report, which was finally accepted by the Parliamentary Assembly of the Council of Europe on 25 June 2003. The endorsement procedure, with respect to the report, again highlighted the issue of the nation. In the explanatory memorandum Jürgens stated, "The definition of the concept 'nation' in the preamble to the law is too broad and could be interpreted as non-acceptance of the state borders which divide the members of the 'nation'." <sup>31</sup> As the report fundamentally rested on the political conception of the nation, it developed an astonishing distinction between Hungarians and Magyars. In the terms of the report, Hungarians constitute citizens of Hungary, while the Magyars constitute Hungarians living abroad. <sup>32</sup> All Hungarians, in Hungary as well as in the neighboring states, refer to themselves as 'Magyar'. In the Hungarian language, no other word designates those who belong to the Hungarian nation. Hungarian is the term used in English. Romanians use both words, Hungarians (*unguri*) and Magyars (*maghiari*), but there is no systematic distinction between Hungarians living in Hungary and Hungarians living in Romania. In the same logic, German citizens would be *Germans*, while Germans living in other states; i.e. Belgium, Hungary; Romania, etc. would be *Deutsch*.

4. During the debate surrounding the Status Law, Günter Verheugen wrote a letter to the prime minister of Hungary, Péter Medgyessy, in which he focused on the issue of the nation: "[T]here is a feeling that the definition of the concept 'nation' in the preamble of the law could under certain circumstances be interpreted - though this interpretation is not correct - as non-acceptance of the state borders which divide the members of the 'nation', notwithstanding the fact that Hungary ratified several multi- and bilateral instruments containing the principle of respect



30 'Sovereignty, Responsibility, and National Minorities,' Statement by Rolf Ekeus, OSCE High Commissioner on National Minorities, in The Hague, 26 October 2001.

31 Erik Jürgens, 'Explanatory Memorandum,' Cf Erik Jürgens, 'Preferential treatment of national minorities by their kin-states: the case of the Hungarian Status Law of 19 June 2001,' (draft report) Council of Europe Parliamentary Assembly.

32 Magyars: people of Hungarian identity (i.e. citizens of the countries concerned who consider themselves as persons belonging to the Hungarian 'national' cultural and linguistic community).

for territorial integrity of a state, in particular the basic treaties entered into force between Hungary and Romania and Slovakia.”<sup>33</sup>

Verheugen’s letter stated that the phrase ‘Hungarian nation as a whole’ could be understood to indicate that Hungary was striving to establish special political links with the minorities in neighboring states. Therefore, he recommended that this phrase should be replaced with more culturally oriented ones.

Following the electoral victory in May 2002, based especially on the recommendations and critiques of international organizations, the new government decided to modify the Status Law. Of the major changes, two are relevant for the purposes of this paper. The first regards the use of the term ‘nation’. The original law defines its goals as follows: ‘to ensure that Hungarians living in neighboring countries form part of the *Hungarian nation as a whole*<sup>34</sup> and to promote and preserve their well-being and awareness of national identity within their home country’ (author’s italics). The amended law defines the goal as: “to ensure the well-being of Hungarians living in neighboring states in their home-state, to promote their ties to Hungary, to support their Hungarian identity and their *links to the Hungarian cultural heritage as an expression of their belonging to the Hungarian nation*” (author’s italics). The modified law thus refrained from using the terminology ‘Hungarian nation as a whole’, and formulated it in terms of sharing the Hungarian cultural heritage.

## DUAL CITIZENSHIP

The offer of dual citizenship to Hungarians from abroad was first formulated in 1996. None of the political parties supported the claim made by the World Federation of Hungarians. The status law was framed partially as a response to this claim. The issue became central again after the amendment of the status law, culminating with the submission of more than 300 000 signatures supporting a call for referendum on the issue of dual citizenship for the Hungarians living abroad. The referendum took place in the 5<sup>th</sup> of December 2004, where the ‘yes’-votes won a slight majority (the referendum was not valid, as less people expressed their opinion as required by the law).

The issue of dual citizenship is a continuation of the status law, but with a stronger emphasis on the political links between the Hungarian state and the Hungarians from abroad. The referendum failed, but one legitimately can expect



33 Günter Verheugen’s letter to Hungarian Prime Minister Péter Medgyessy, dated 5 December 2002.

34 ‘Unitary Hungarian nation’ would have been a more appropriate translation.

that this was not the last scene in this theater piece; however, this is the topic of a new study.

## CONCLUSIONS

The status law syndrome is post-communist nation building. It is the institutionalization or re-institutionalization of societies on a national basis. The Hungarian case may have put this question on the table for Europe, however, this type of law is not novel. The status laws show that the nationality principle underlies the principles of ECE states, and that all ECE states employ the ethnocultural definition and institutionalization of their societies. Status laws extend the borders of the nation, and thus, the imagined community of the nation does not take into account the political borders of the states.

Apart from the domestic and international political implications, the Hungarian status law has drawn attention to the issue of the nation definition. While the framers of the law conceived the law based on the ethnocultural definition of the nation, the domestic opposition and, to some extent, international organizations emphasized the political conception of the nation. The modified law shifted from an ethnocultural to a political conception of the nation.

In the foreseeable future the nation, as a central value, will not lose its significance, and the politics of the nationalizing state and of the nationalizing minorities will determine the political agenda in East-Central Europe. Therefore, I consider that only such a model can help us understand the national politics in our region.

The policy of the nationalizing state, in our case Romania, exactly questions the claims that are considered by the Hungarian elite as being essential for its nationalizing process: the decentralization of power and the establishment of institutions that reproduce the Hungarian elite. The external national homeland, in our case Hungary, strongly supports this nationalizing process with political and financial resources. At the same time, it influences the self-perception of the members of the national minority and plays an important role in the power-relations within the national minority.

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