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# **MINORITIES RESEARCH 11**

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## What is the Challenge?

The concept of secure communities living within well-defined territories and enjoying all the celebrated liberties of civil societies is now seriously at odds with the profound restructuring of political identities and transnational practices of securitisation that we see today. CHALLENGE (“The Changing Landscape of European Liberty and Security”) is a European Commission-founded project (2004-2009) that seeks to facilitate a more responsive and responsible assessment of the rules and practices of security. It examines the implications of these practices for civil liberties, human rights and social cohesion in an enlarged Europe. The project analysis the illiberal practices of liberal regimes and challenges their justification on grounds of emergency and necessity.

The objectives of this project in 6<sup>th</sup> Framework Programme is:

- to understand the merging between internal and external security and evaluate the changing relationship between liberty and security in Europe;
- to analyse the role of the different institutions in charge of security and their current transformations;
- to facilitate and enhance a new interdisciplinary network of scholars who have been influential in the re-conceptualising and analysis of many of the theoretical, sociological, legal and policy implications of new forms of violence and political identity;
- to bring together an integrated analysis on the state of exception (Exceptionalism) as enacted through illiberal practices and forms of resistance to it.

The network comprises 23 universities and research institutes selected from across the EU (King’s College London, University of Keele, Copenhagen, Leeds, Genoa, Barcelona, Szeged, Rouen, Athens, Utrecht, Nijmegen, Malta, Cologne, Centre for European Policy

Studies, Fondation Nationale des Sciences Politiques, European Association for the Research on Transformation, Groups de sociologie des religions et de la laïcité, Stefan Batori Foundation, London School of Economics, Centre d'Etudes sur les Conflicts, International Peace Research Institute). The project is organised around four types of issues:

- Conceptual. An investigation of the ways in which the contemporary re-articulation and disaggregation of borders imply an increase in exceptionalism practices. It covers on changing relationship between new forms of war and defence, new procedures for policing and governance, threats to civil liberties and social cohesion.
- Empirical. Mapping the merging between internal and external security issues and their transnational relation to national life, analysing new vulnerabilities (targeted others, critical infrastructures) and social in-cohesion (such as the perception of other religious groups, etc).
- Governance, polity and legality. An examination of threats to liberty and the use of violence, when the state no longer has the last word on the legitimate use of force.
- Policy. An examination of the implications of the dispersal of Exceptionalism for the changing relationships between government departments concerned with security, justice and home affairs; the securing of state borders and the policing of foreign interventions.

The Challenge project operates a database in order to follow in details the changes that are occurring to the concept of security and the relationship between danger and freedom. This Observatory traces the major transformations of institutions, internal and external security, policy and military functions. The resulting database of thousands of articles, documents, reviews and literature is fully accessible to all actors involved in the area of freedom, security and justice. To keep up to date with the network's activities, you can visit the [www.libertysecurity.org](http://www.libertysecurity.org) homepage.

This volume is supported by the Challenge Project contains some of the recent articles on its Working Package dealing with enlargement, democratic changes and newborn rule of law.

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## National and EU law and jurisdiction in Central and Eastern Europe

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*János Sallai*

## **Integrated Border Management from the perspective of Hungary**

### **Abstract**

*The changes: accession to the European Union, the application of the Schengen acquis invoiced changes in the Hungarian border management too. The events on the various sections of the Hungarian borders are different depending of the status of the neighbouring country. The paper describes the types of events and their treatment.*

### **1. The Unification of the Police and the Border Guards**

After accession to the EU in 2004, Hungary was preparing for the complete application of the Schengen acquis. Since 21<sup>st</sup> 2007 December, it has been the member of the Schengen zone on land. In parallel with it, the main border policing and controlling body, the Hungarian Border Guard Service was “integrated” into the Police on 1<sup>st</sup> January 2008. According to the experiences of the past ten months, the elements of the earlier formed Integrated Border Management, after having created a border control system suitable for the Schengen acquis, lost their function from a certain point of view since the disbanding of the independent Border Guard Service. Therefore, the stop checking in the territory of the country that should be done by police departments is hardly realised.<sup>1</sup>

As earlier predictions established, it was expected that Hungary, due to its EU and Schengen membership, would become a migration target country. This presumption was supported by local experiences in Ukraine: it became widely known among refugees and illegal

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<sup>1</sup> According to own field research (24-28<sup>th</sup> October 2008)

border crossers residing there that human rights are respected in Hungary. Therefore, their purpose is to cross the Ukrainian-Hungarian border. The statistic data of the past ten months all support this conjecture. The entrance activity of Bangladeshi, Pakistani and Somali citizens has especially increased. In the Ukrainian and Russian refugee camps they often get “instructions” that having left the camp how they should travel in the direction of Hungary. From the south-eastern direction it is Moldavian citizens who participate in illegal border crossing most frequently. They wish to enter the EU in organised groups, in order to be employed.

Independently of organisational changes, the positive effects of the development of border areas and cross-border cooperation systems have become observable on the economy only very slowly. On the short run, it largely influences the behaviour of the inhabitants of border areas that the rates of unemployment are very high. Therefore, they attempt to obtain some income from “business”, and smuggling of goods and refugees are operating along the Ukrainian-Hungarian and Serbian-Hungarian border.

## 2. General Experiences along the Seven Borderlines<sup>2</sup>

### 2.1. Croatia

The sphere of authority of the police departments operating in the Counties of Zala, Somogy and Baranya is the border between Croatia and Hungary. Here the alleviation of border crossing (acceptance of identity card together with supplementary notice instead of passport) remained. This caused no problem in the Schengen area. Here the danger rates of illegal migration have been low for years. Since the complete application of the Schengen acquis, only 4 cases of man-smuggling, 24 cases of public document forgery, 24 offences connected to alien policing and one single forbidden border crossing have occurred. In the control of border traffic, it is the summer dumping of traffic that means the main challenge, similar to the previous year. There were 179 cases of Croatian border crossers refused entry to Hungary, and it means 88 % increase, but it is not very considerable comparing to the normally present big volume of border traffic. However, it

<sup>2</sup> Background material to the Government Session, HQP 2008.

is prominent that the number of hits in the SIS alert system was 175. This means 8 % of the nationwide data. There were 165 persons, Croatian citizens who, based on § 96 SchVE, were forbidden to travel in. Based on the expatriation contract, one person was readmitted by Croatia, and it is a nearly negligible figure.

### 2.2. Serbia

The sphere of authority of the police departments operation in the Counties of Bács-Kiskin and Csongrád is the border between Serbia and Hungary, one of the external borderlines of the EU. The visa obligation of the EU has made it more difficult for citizens living in Serbia to cross the border. It may contribute to the increase in the number of offences and crimes. Comparing to a similar period of 2007, 68 % more, 681 actions of illegal migration have been detected in 2008. This is 23 % of the nationwide rates. The main reason for the increase of actions of illegal migration is that more and more Serbian and Kosovian citizens attempt to cross the border illegally, mainly along the green border. The experiences of the previous years seem to support by examining goods and man-smuggling channels.

Illegal actions of migration along these borderlines:

- 68 % of them were illegal border crossings in the direction of Hungary (407 persons: 342 Serbians, 17 Albanians, 12 Georgians)
- 23 % of them were offences connected to alien policing (82 persons), 69 % of the perpetrators were Serbians, 12 % Croatian and 5 % Macedonian
- 6 % of them were forgeries of official documents, 5 % were committed by Serbian, 11 % by Macedonian, 8 % by Hungarian citizens.

As a result of the activity supporting the criminal investigations, penal procedures were initiated against 31 persons in the period evaluated (2007: 12 persons). 41 % of man-smugglers were Hungarian, 40 % Serbian, 7 % German and 7 % Austrian citizens. The citizenship of man-smugglers marks that unemployment and difficulties of existence motivate many local inhabitants to contribute in man-smuggling activities.

Only 1 Austrian and 1 Serbian citizen committed forbidden border crossing at Tompa road border crossing point. They were readmitted by the Serbian authorities. Furthermore, 5 Serbian, 2 Czech, 1 Turkish and 1 Macedonian citizens were arrested for the attempt of illegal border crossing. In Hungary, 11 illegal border crossers were not arrested, but 10 persons were noticed by a border guard patrol vehicle equipped with an infra camera while attempting illegal border crossing, in the sphere of authority of the border police department of Szeged. However, the border police did not manage to arrest the illegal border crossers.

Hungarian law enforcement bodies, within the simplified procedure of the Serbian-Hungarian readmission agreement in 2008, readmitted 73 persons to the Serbian authorities (63 Serbian, 5 Macedonian, 4 Albanian and 1 Russian citizens). However, the Serbian authorities, referring to different reasons, denied taking over 22 persons (14 Kosovian and 8 Serbian citizens). In the case of 3 Serbian citizens, the competent authorities transported the illegal border crossers.

### 2.3. Romania

Along the Romanian-Hungarian border (the sphere of authorities of the county police departments of the Counties of Csongrád, Békés, Hajdú-Bihar and Szabolcs-Szatmár-Bereg), in comparison to the similar period of 2007, 64 % more, 794 actions of illegal migration occurred. This is 28% of nationwide rates. The increase of actions of illegal migration is caused by the migration pressure from the part of Moldavian and Turkish citizens, and the increase of official document forgeries committed by Romanian citizens.

Along this border, the rate of actions of illegal migration is the following: 48 % (386 persons) is official document forgeries, 28 % is forbidden border crossings inwards. The majority of public document forgeries (41 %) are committed by Moldavian (using up Romanian identity cards), Turkish (using up Bulgarian identity cards) and Romanian citizens.

Public document forgeries detected on the part of Romanian citizens increasingly represent forgeries discovered in registration books of vehicles from EU-member states (mainly from Italy and France). In the period evaluated, penal procedures were initiated against 104

Romanian citizens for official document forgeries, 55 % of this were forgeries detected (in the majority of cases, connected to the entry certifying the validity of the engineering documents) in the registration books of vehicles.

55% of the illegal border crossing committed into Hungary was committed by Moldavian (121 persons), 12 % of them by Turkish (24 persons), 6 % of them by Serbian and 6 % of them by Romanian citizens. In these cases, alien policing procedures were initiated. In 5 cases of the illegal border crossings detected, there were groups of about 10 persons arrested who attempted to enter the country hidden in a lorry.

For the violation of entering and residence permit, legal procedures were initiated against 31 persons (70 % of them are Moldavian, 10 % of them are Turkish, and 10 % of them are Serbian citizens), while in 97 cases, offence procedures were initiated against the perpetrators. (46 % of them are Moldavian, 21 % of them are Romanian, 12 % of them are Turkish, and 4 % of them are Albanian citizens.) For man-smuggling, 37 persons were arrested, 44 % of the perpetrators are Romanian, 11 % of them are German, 8 % of them are Hungarian and Romanian, 6 % of them are Dutch and 6 % of them are Lithuanian citizens.

From the number of illegal border crossers, the Moldavian dominance becomes clear, and it must be expected also in the future. Knowing the social and economic situation of Moldavia, this will not change very quickly; therefore, even in the case of the full Schengen membership of Romania, illegal Moldavian border crossers can appear along these borderlines.

Based on the Hungarian-Romanian readmission agreement, Hungarian law enforcement bodies forwarded 91 people (51 Moldavian, 28 Romanian, 14 unknown, 3 Ukrainian and 2 Russian citizens) to the Romanian authority, and one Romanian citizen was transported by the competent authorities. Due to the lack of identification (?), one Mauritanian citizen was not admitted by the Romanian authority.

### 2.4. Ukraine

The Ukrainian-Hungarian external borders are 136.7 km long. (It is the sphere of authority of the county police department of the County



of Szabolcs-Szatmár-Bereg.). In comparison to the similar period in 2007, 12 % more, 838 actions of illegal migration occurred. This is 30 % of the nationwide rates.

In the Ukrainian context, illegal border crossings in the direction of Hungary are characteristic. Due to these actions, 470 persons were arrested in the period evaluated. 41 % of the persons in concern are Pakistani (193 persons), 19 % of them are Somali (91 persons), 9 % of them are Bangladeshi (40 persons), 8 % of them (39 persons) are Iraqi, 6 % of them (29 persons) are Georgian, and 2-2 % of them are Ukrainian and Palestine citizens. 80 % of the persons arrested applied for refugee status during the alien policing procedures; therefore, they are impossible to be forwarded according to the readmission agreements. Compared to the previous year, the number of illegal border crossings and border crossers have increased along the border, and, in my opinion, it has the following reasons:

- The line of cameras set along the neighbouring Slovakian-Ukrainian border divert man-smugglers to the Hungarian borders.
- From the refugee camps in Ukraine, refugees are often inspired (e.g. by poor accommodation conditions) or instructed to travel to Hungary, mainly Pakistani and Bangladeshi citizens.
- Man-smugglers have supposedly been informed about the discontinuation of the border surveillance investigative service within the police units.
- In the region, due to the high rates of unemployment, the local population help illegal border crossers, in some cases participating in human smuggling.

Due to official document forgery, 148 persons were arrested, 75 of them (111 persons) were Ukrainian, 19% (28 persons) were Moldavians who forged the visa seals of Schengen visa format in their private passports or used Romanian identity cards. It is a new phenomenon on the part of Ukrainian citizens that they want to cross the border with forged homecoming documents. This method is applied by Ukrainians residing illegally in Western Europe and trying to return home in order to be exempted from the sanction of illegal residence.

Due to the violation of entering or residence constraints, legal procedures were initiated against 42 persons (85 % Ukrainian, 5-5 % Georgian and Iraqi citizens), one Ukrainian citizen was arrested for

man-smuggling, while 174 persons were placed under legal procedures for offences connected to alien policing (90 % Ukrainian, 3,5-3,5 % of them are Moldavian and Belorussian, and 3 % Russian citizens).

In the period evaluated, within the frameworks of the Ukrainian-Hungarian readmission agreement, the Hungarian law enforcement bodies forwarded 190 persons to the Ukrainian authority in simplified procedures (according to nationality: 86 Ukrainian, 34 Moldavian, 29 Pakistani, 12 Bangladeshi, 6 Georgian, 6 Iraqi, 9 Somali and 8 other citizens. In 2007 the total number was 102 persons). The Ukrainian authorities denied accepting 2 Georgian citizens of the persons readmitted and expelled 2 Hungarian citizens for other reasons from Ukraine.

It is characteristic of the Ukrainian-Hungarian border region that tobacco and man-smuggling activities are continuing. At the same time, the considerable increase of petrol prices in Ukraine stopped petrol smuggling.<sup>3</sup> Today mainly Ukrainian citizens participate in the border transport – mainly as local border traffic. Based on my local experiences, the unification of the Border Guards with Police had a negative effect on the quality of border crossing monitoring. The number of human forces and equipments involved in border control also decreased. The vacancy created by officers who have retired from

<sup>3</sup> Excerpt from an interview with an officer of the police department of Szabolcs-Szatmár-Bereg county: “The smuggling of goods and humans is an evergreen topic. Since the borders with Ukraine are already also borders of the Schengen Zone, can we observe any change in tendencies?” “In the previous year, along the Ukrainian-Hungarian borderlines, 294 forbidden border crossings were registered. The increase is caused by migrants having arrived from Africa and Far East since October 2007. Comparing: while until the end of August 2007, only 73 persons committed illegal border crossing, in the same period of 2008 593 persons were registered; that is, it means a huge increase. As for the nationality of illegal border crossers, the proportion of Pakistani, Somali, Palestine, Afghan, Bangladeshi, Georgian and Iraqi citizens is the largest. According to our experience, man-smugglers escort the migrants to the Ukrainian-Hungarian borderlines where the migrants are shown in which direction to go ahead, but the smugglers themselves do not cross the borders. Due to the stricter Schengen border control, persons attempting to cross the green borders are easy to arrest.” “What about the smuggling of hit products like petrol, tobacco, alcohol?” “The control of revenue products is not the sphere of authority of the police, yet until the end of August more than 200 persons committed crimes connected to revenue products – 663,598 boxes of tobacco the value of which is 353.4 million HUF have been confiscated. Furthermore, 470 litres of petrol product were also confiscated along the border stations. We can see that the rates of smuggling of goods and human-beings is continuously increasing, the perpetrators try new techniques, but we also react successfully to these attempts with the wide application of personal and material conditions. The application of modern equipments can lead to successful prevention. (György Dunda, Kárpáti Igaz Szó, 20<sup>th</sup> September 2008.)

executive service have not been filled. A certain part of the equipment bough from the earlier Schengen Foundation is not operating (for example, petrol is too expensive, infra cameras are not repaired, etc.). As a “result” of this unification, the Police rearranged the old border guard vehicles to the public safety and criminal investigative fields. Therefore, the second step of the Integrated Border Management is not operating effectively enough.

### 2.5. Austria

Along the Austrian border, in comparison to the similar period of 2007, 87 % less, only 178 actions of illegal migration were detected. In 2008, up to the time of this analysis only 127 persons committed or attempted to commit illegal border crossing out of Hungary. Penal procedures were initiated against 9 persons for man-smuggling, 2 persons for official document forgery, 3 persons for violation of entering and residence constraint, and against 34 persons for offences connected to alien policing.

The Hungarian law enforcement bodies, based on the Hungarian-Austrian readmission agreement, readmitted one Albanian citizen into Austrian authority. At the same time, the Hungarian authority took over 16 persons (7 Serbian, 3 Ukrainian, 3 Angolan, 1-1 Egyptian, Moldavian and Vietnamese citizens), but in the case of 2 Serbian and one Romanian citizen, the readmission was denied. 72 people (49 Romanian, 17 Serbian and 6 Ukrainian citizens) were transported by the authority (along Austrian-Romanian and Austrian-Ukrainian itineraries).

For the period of the European Football Championship organised by Austria and Switzerland, Austria reintroduced border control (from 12 a. m. 2<sup>nd</sup> June 2008. to 12 a. m. 1<sup>st</sup> July 2008.). This time 4 Serbian citizens were readmitted. Although it was denied in public (for example, on the 25<sup>th</sup> September 2008 by a military leader at the international law enforcement conference held in Keszthely), the Federal Army of Austria is still present along the common border fulfilling patrol missions.

Since the enlargement of the Schengen zone, the Hungarian-Austrian state borders are in the centre of professional and political interests, since the cessation of the control of border traffic has caused serious objections from the part of several Austrian politicians

and citizens living in Burgenland province. According to the present situation, the soldiers of the Federal Army of Austria are supposed to stay in the region and fulfil patrol missions along the common border. *“The plan of the order about this was handed in by Defence Minister Norbert Darabos and Minister of Internal Affairs Maria Fekter at the government session on Wednesday. They justified their proposals with the demand of security of the population living in the eastern part of the country. The decision, that is criticised by the opposition Green Party and certain constitutional judges, will be revised next summer.”*<sup>4</sup>

### 2.6. Slovenia

Along the Slovenian-Hungarian border, compared to the similar period of 2007, 46 % less, 68 actions of illegal migration were detected. 52 persons committed or attempted to commit illegal border crossing. From the 52 persons, 15 Moldavian citizens were apprehended by the mobile patrol team of the Zalaegerszeg Custom Guards Department within the area of the public border station at Rédics, in the cargo bay of a Romanian vehicle. Penal procedures were initiated against 6 persons for man-smuggling and 10 persons for official document forgery.

In alien policing procedures, based on the Slovenian-Hungarian readmission agreement, the Hungarian authorities took over 28 persons from the Slovenian law enforcement bodies (12 of them Georgian, 7 Ukrainian, 2 Russian, 1-1 Chinese and Moroccan citizens). The Hungarian law enforcement readmitted one Moldavian citizen to the Slovenian authority. Furthermore, the Hungarian law enforcement denied the readmission of 3 Georgian, 2 Ukrainian and one Russian citizen.

### 2.7. Slovakia

Along the Slovakian-Hungarian border compared to the similar period of 2007, 78 % less, only 110 illegal actions of migration were detected. 2 persons committed forbidden border crossing, penal procedures were initiated against 1 Chinese citizen for the violation of constraints of entering and residence, and against 107 persons for offences connected to alien policing.

<sup>4</sup> MTI News, Wednesday 12<sup>th</sup> November 2008.

In the period evaluated, within simplified alien policing procedures based on the readmission agreement, 2 Serbian and one Macedonian citizens (2007: none) were readmitted, and 4 persons were transported by the authorities.

Slovakian experiences are similar to the Hungarian ones. While in the first half of last year 690 people attempted to cross the Slovakian borders from the direction of Ukraine, since the beginning of this year the number of illegal border crossers showed 33 % of decrease. The Slovakian police also experienced decrease of the number of illegal border crossers along other borders, the only exception was the Polish-Slovakian border. Mainly Moldavian citizens (162 persons) attempted to illegally enter Slovakia from the direction of Ukraine, they were followed by Pakistani citizens (72 illegal border crossers), and Georgian citizens are at the third place – 53 persons attempted illegal border crossing.

### 2.8. International airports

It was only Ferihegy Airport where illegal actions of migration were detected, 65 of which (56 persons) were official document forgeries. In 25 % of the cases, the citizenship of the perpetrators was impossible to establish since they had no documents that could have proven their identity. 35 % of the persons using false travel documents arrived from one of the Arabian countries. Legal procedures were initiated against one person for man-smuggling, and against 29 persons for offences connected to alien policing.

Via airplane, 18 persons (13 Moldavian, 3 Serbian, one person from Code' Ivory and one Albanian citizens were readmitted by the Hungarian authorities, and 3 Hungarian and one Columbian citizens were taken over. However, they denied the readmission of 2 Georgian, one stateless and one Ukrainian citizens. In 246 cases, perpetrators were deported via airplane.

### 3. Applicability of SISoneforAll

Since enlargement of the Schengen zone, the control of entering and residence conditions became much more complex, and the SIS alert system has made a large contribution to this control. At the same time, both technical and legal problems arose during the application. These problems are the following:

- According to the experiences in Ukraine, the system stops operating several times a week, thus controlling becomes more difficult in these periods.
- As for the accreditation of travel documents, there is no uniform regulation within the EU; therefore, the acceptance of travel documents issued by third countries can differ in member states.
- The financial conditions of travelling differ in member states.
- There are many types of permit of residence issued by the member states, and all member states have to be with all these types.
- In some cases, it is the EU law that provides the possibility for member states to decide on visa regulations on their national legislative level; consequently there can be big differences in the national regulations of member states.

Table 1: Hits in the SIS system at border stations

Borderline	Hits btw 1 <sup>st</sup> Januar-1 <sup>st</sup> July 2008.
Austrian	0
Croatian	175
Romanian	815
Serbian	918
Slovakian	0
Ukrainian	96
Budapest Airport	171
	Altogether: 2175

### 4. Other Characteristics of Border Traffic

The border traffic along the internal EU borders, operates without problems after the cessation of control. The only difference was the re-introduction of border control during the European Football Championship along the Austrian borders. At the same time the volume of light traffic has shown a considerable increase during the holidays in Hungary and neighbouring countries until September 2008.

Along the external EU borders, in Ukrainian-Hungarian context<sup>5</sup>, there was no increase, because the introduction of the small border traffic permit counter-balanced the restrictions of visa requirements. There is no more free visa in Ukraine, but the uniform Schengen visa fees are substituted by cheaper small border traffic permits.

Table 2: Changes in the traffic along the Ukrainian and Romanian borders

Borderline	Jan-Sept. 2007		Jan-Sept. 2008	
	Persons	Vehicles	Persons	Vehicles
Romanian	1 558 503	692 313	1 619 421	696 989
Ukrainian	3 009 201	1 645 262	2 916 058	1 604 266
<b>Altogether</b>	<b>4 567 704</b>	<b>2 337 575</b>	<b>4 535 479</b>	<b>2 301 255</b>

Source: Data Base of Szabolcs-Szatmár-Bereg County Police Department

The possessor of a small border traffic permit is enabled to enter Hungary visa-free several times within six months and reside in the border regions for three months at most. The aim of the entry can especially be social, cultural, family or economic residence. The document is issued by the Head Consulate of the Hungarian Republic in Uzhhorod or the Consulate in Berehove. The permit can be granted to persons who are Ukraine citizens and their close family members (spouse, minor and dependent children) who live at one of the settlements defined in the convention signed with Ukraine, have a valid passport and have a permanent address at least for three years before the solicitation for the document. The spouse and the minor or adult child (including adopted or foster children) of the entitled can also be granted the small border traffic permit if they have had a permanent address along the borders for less than 3 years. The solicitation for the permit is judged within 30 days after the date of submitting it. The validity of the permit cannot reach the expiry date of the passport and can be granted for 5 years at most. The minimal

<sup>5</sup> There are five border stations: Záhony-Chop international railway, light traffic and heavy traffic (no pedestrian traffic); Lónya-Dzinkove morning light traffic (also pedestrian) open from 7 a. m. to 7 p. m.; Barabás-Koson morning light traffic (also pedestrian) open from 7 a. m. to 4 p. m.; Beregsurány-Asztej international light traffic (also pedestrian) open all day; Tiszabecs-Vilok international light traffic (also pedestrian) open all day.

validity of the permit is one year. The fee for the small border traffic permit is 20 €. Retired persons, minors, dependent children younger than 21 years and disabled persons can obtain the document free of charge. Since the permit is only valid for the 244 settlements listed, it is forbidden to enter other settlements in possession of the small border traffic permit without visa. The stop checking is the assignment of the police, in order that the possessors of small border traffic permits should not leave the border zone or be employed, and they should abide the rules valid for the period of residence. This means much extra work for the police. In case of abusing the small border traffic permit, against the perpetrator the following sanctions are to be applied: the perpetrator is obliged to leave Hungary, is expelled from Hungary within the framework of alien policing procedure, and is forbidden to return to Hungary. The prohibition of entering and residence can also entail that the applicant cannot enter Hungary even in possession of a visa. That is, the abuse of small border traffic permit can entail the refusal of visa applications.

About 30-35 % of Ukrainian citizens entering Hungary cross the borders with small border traffic permits. This proportion is changing at different border stations. For example, at Lónya this proportion is 90 %, at Barabás 70 %, but also at Tiszabecs more than 50 % of the border crossers enter with such a document. Nevertheless, no abuse of small border traffic permit, for example, official document forgery has been detected. The constant stop checking is concentrated at crossing points, highways and transport itineraries important from the point of view of migration and areas outside the small border control agreement. Apart from the control of public roads, railway traffic is also controlled along the Záhony-Kisvárd-Nyíregyháza line, at these railway stations and in their neighbourhood. For example, during stop checking crimes and offences connected to public road traffic are usually detected, but also wanted criminals, illegal border crossers and perpetrators of custom offences has also been arrested. *“It is agreeable that within the sphere of authority of our police department there has been no Ukrainian citizen who would have violate the constraint defined in the small border traffic agreement arrested.”*<sup>6</sup>

<sup>6</sup> Lieutenant-Colonel Csaba Fenyőfalvi, the neighbouring Police Department of Szabolcs-Szatmár-Bereg county, Kárpáti Igaz Szó, 20<sup>th</sup> September 2008.

Along the Serbian-Hungarian border, the border traffic has not essentially changed. The signing of the small border traffic agreement in the autumn of 2008 and the drafting of the new international border traffic contract is still being prepared.

Along the Romanian-Hungarian borders, the citizens coming from Romania are pleased with the simpler border control system due to the EU membership, since travellers have to stop only once to be checked. It seems to be a good solution.

The length of the external EU borders is 1103,5 km, while the internal borders are 1139 km. The main direction of the migration is the Ukrainian-Hungarian border – Budapest – Austrian-Hungarian border route. Border policing assignments were organised within the police according to the legal character of the borders (external or internal), independently of the fact that Romania is not yet part of the Schengen zone and the number of illegal actions shows significant differences along different borders. The system is divided into 3 parts:

- central: Department of Operation of the National Police Directorate (HQ),
- county: operational services of the police departments
- local level: border police stations

Consequently, the Integrated Border Management system focuses on the local border police stations in the Hungarian practice, while on the second and third level it centres around criminal and public safety conditions (central competence).

In the meantime, the Ministerial Conference on the Challenges of the EU External Border Management<sup>7</sup> is pursuing a long debate about the realization of the proposals of the Commission concerning borders. The following three proposals would be implemented as new measures between 2012 and 2015.

- The first proposal, which is the most ambitious one of the three, contains an innovative «set of measures», using new technologies, which Europe needs to implement in order to bring its border management strategy into the 21st century (entry-exit system, the registered traveller programme and the electronic authorisation system);

<sup>7</sup> Brdo (Slovenia), 12 March 2008

- The second proposal examines the parameters within which a European Border Surveillance System (EUROSUR) could be developed.
- The third proposal focuses on a review of the tasks of Frontex (revision of the mandate of Frontex).

According to the Commission, new approaches are necessary, because the changing and increasing dangers of security deriving from globalisation and increasing mobility must be treated effectively: *“We need to be one step ahead of the increasingly better organized networks of terrorists and criminals who have discovered the lucrative traffic in human beings, drugs and weapons. Innovative and effective border controls have to strike a difficult balance between ensuring the free movement of a growing number of people across borders and guaranteeing greater security for Europe’s citizens. Border controls therefore have to focus more on potential challenges, be flexible enough to adapt to unexpected circumstances and be easy to operate by border guards. [...] This does not mean turning Europe into a fortress. It simply means streamlining border controls for bona fide travellers while making the lives of human traffickers, drug smugglers and terrorists much more difficult.”*<sup>8</sup> It is possible that the reorganised Police (and the integrated Border Guard Service) will not have the time to evaluate their own experiences, compensate deficiencies and improve their own organisational system via the modernisation of their own training system. It is namely the field of migration of border control where a new era is to begin: the Union continues to focus on developing a common legislative framework, putting common large-scale IT systems in place, and cultivating practical cooperation between Member States (e.g. improving coordination on border management with Frontex, enhancing cooperation with countries such as the Western Balkans, European Neighbourhood Policy countries).

<sup>8</sup> Franco Frattini. Providing Europe with the tools to bring its border management into the 21st century, 31 March 2008

## 5. Conclusions

It seems that it was an unfortunate decision to integrate the Border Guard Service into the Police especially at the time when Hungary introduced the complete application of the Schengen acquis. Fearing the uncertain future, the Police lost many border guards trained especially for border, document and vehicle control, because several officers left the organisation. Those who remained in the service of the Police did not obtain appropriate assignments unconditionally. This means serious consequences for the effective application of the IBM. It was an especially premature step to dissolve squads of criminal investigation and the integration of border guard officers knowing the local population and circumstances into the general criminal investigative directorates of the Police.

Hungary is supposed to have external EU (Schengen) borders for a long time in the future, and it will be responsible for the effective control for the sake of common security, while on the long run it is a must to consider illegal migration especially along these borders. Border defence and the quality of border policing have an effect on the channels and directions of migration; therefore, it is indispensable to permanently cooperate with the border policing bodies of the neighbouring countries. For example, sharing control experiences and data obtained in the field of small border traffic is one of such topics – if small border traffic is established between Romania, Serbia and Bulgaria. As the Bulgarian Minister of the Interior Mihail Mikov declared, according to the plans the representatives of the three countries will sign the convention on visa-free border traffic in the autumn of 2008, and it will concern 20-km frontier zone.<sup>9</sup> Or, it will be similar to the Slovakian authorities, since the Slovakian-Ukrainian small border traffic convention has been established, and this convention defines the validity of permits within the 50-km frontier zone and citizens living within this border zone can solicit for a document entitling them to cross the border visa-free, paying a fee of 20-euro.<sup>10</sup>

In 2008, a relevant change was noticeable in the proportion of the nationality of persons committing actions of illegal migrations. Along

the Romanian borders, instead of Romanian citizens Moldavians were in majority. Along the Ukrainian borders migrants coming from the countries of Africa or the Near East outnumbered Georgian citizens the major migrants in earlier periods..

On the part of the Commission, the realisation of the migration proposed package demands new legislative, cooperative, training and organisational work from the Hungarian law enforcement bodies too, as long as the conditions of stable operation of high quality remain partially missing.

<sup>9</sup> Világgazdaság, 22 July 2008.

<sup>10</sup> Kárpátalja, 20 July 2008.

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Anitta M. Orzan<sup>1</sup>

## **The Europeanization of the Judiciary in Eastern Europe**

### **A comparative case study of Romania and Hungary**

#### **Abstract**

*Almost two decades after the fall of the Berlin Wall, Central and Eastern Europe (hereinafter: CEE) finally received through the European Union (EU) membership the official recognition of being a part of the European family. The ‘return home’ of several countries – mostly from the former Eastern bloc – began in March 2004 when ten CEE countries (hereinafter: the CEEs: Poland, Hungary, the Czech Republic, Slovakia, Slovenia, Estonia, Latvia, Lithuania, Cyprus and Malta) joined the EU. The process was completed in January 2007 with the EU membership of Romania and Bulgaria. The paper analyses the development of Judiciary in Hungary and Romania as a special aspect of complying with UE norms.*

The Eastern European enlargement represented a completely new experience both for the EU and for the CEEs even though at the time of the regime changes in the CEEs the EU was in need of a strategic and a comprehensive vision about the promotion of democracy in the new member-states. The EU finally decided to assume a responsibility apart from the already existing economic as well as political dimensions. The decision of actively contributing to the transformation of autocratic regimes into democracy led to the elaboration of strategies, instruments and mechanisms that were meant to strengthen the new-born democracies.

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The CEEs, on the other hand, after experiencing almost 50 years of communism set foot on the path of a new orientation directly under EU guidance. As presumed, the road to the EU membership implied for both EU and the CEEs a constant ‘learning by doing’ process with many unknown variables. The legitimate fear of the acceding countries was overcome because the post communist political elites agreed that the possibility of accession to the EU will represent a winning situation in every CEE country. In the speeches of the European officials the enlargement process was seen “both as a historic necessity and a historic achievement - for newcomers and old member-states alike.”<sup>2</sup> For the former communist countries the accession process represented not only the hope for welfare, security and peace, but also the recognition of belonging to the same community with shared values, identity, history and beliefs. The belief that the countries will benefit by joining the EU increased the support of the population and elites for the cooperation with the EU.<sup>3</sup> However, the initial euphoria began to fade along the years.

The year 2008 brought about changes in the pro-European propaganda of the post communist elites and the promoting speeches switched to a point of view that became more and more nationalistic. At the same time, the critical voices became virulent towards the enlargement policy from within the EU. Moreover, the lack of an internal EU-institutional reform haunted the Community through the mourning of the Irish “No”<sup>4</sup> and the 2007 Lisbon Treaty was facing legitimacy crisis. The Western Balkans and Turkey are still waiting in the enlargement queue but at the moment the EU Commissioner Rehn announced a stop to further enlargements.<sup>5</sup> The international financial crisis which affects the EU since early October 2008 challenges the EU stability and the democratic consolidation of the CEEs even more.

<sup>2</sup> [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/EN/discours/86895.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/EN/discours/86895.pdf) (17.10.2008).

<sup>3</sup> According to Gallup, 61% of the candidate countries in CEE think that the EU integration will bring benefits. ([http://www.gallup.ro/romana/poll\\_ro/releases\\_ro/pr021119\\_ro/pr021119\\_ro.htm](http://www.gallup.ro/romana/poll_ro/releases_ro/pr021119_ro/pr021119_ro.htm))

<sup>4</sup> On 12<sup>th</sup> of June 2008 Ireland rejected the ratification of the European Union reform treaty in a referendum. This was the second time when Ireland showed its lack of confidence in the EU policies as in 2001 the Irish voters rejected the Nice treaty. It was only passed in a second vote. (<http://news.bbc.co.uk/1/hi/world/europe/7452171.stm> (4.11.2008))

<sup>5</sup> <http://news.bbc.co.uk/1/hi/world/europe/7452171.stm> (3.11.2008).

These recent developments offer a perfect occasion to reflect on the EU impact on the democratic consolidation in CEE and to evaluate how efficient the EU strategies and mechanisms were. Critics argue that the lack of legitimacy the EU faces led to distrust in democracy (democratic deficit) instead of consolidation, especially in CEE where the institutional framework is still facing problems.

### Methodology

This article will argue that the EU had a positive impact in helping the CEEs to transform. Which EU mechanisms and strategies functioned and what challenges the transformation process had to face in Eastern Europe remains to be analysed in the following comparative case study on the justice reform in Romania and Hungary. The reform of the judicial system will be the major focus of the article hence a Judiciary as a functional and independent branch of government represents the core of the democratic consolidation, and, furthermore, institutional change could be easily detected and tracked in its framework than transformation in other areas in this respect, e.g. civil society.

The use of comparative analysis will provide for a better differentiation of the inputs and outcomes in the reform of the justice system. Therefore the major focus of this article is the reform of the judicial system in Hungary, which responded very well to the EU promotion mechanisms, and in Romania, one of the acceding countries with deficits in the field of justice. In the past years an increased debate arose in the pace-setting literature concerning the explanation of the EU impact on Eastern Europe, and the theories emerging were dominated by the following paradigms:

- (i) a top down approach, which evaluates the EU impact and the domestic changes and considers the EU an independent variable; and
- (ii) a bottom-up approach, which explores the relationship between the EU and the member-state by focusing on the process itself, instead of analysing just the inputs and outcomes of the EU strategies

To grasp the essence of the interdependence between the EU and the acceding countries both perspectives should be taken into consideration, as the success of the reform depends on the extent of



the EU-input as well as on the political will of the national actors to implement the laws necessary to facilitate transition (i.e. lustration laws). Based on above reasons, this article analyses the EU impact on the reform of the justice system in Romania and Hungary from a top-down perspective.

The examination of the interdependence between the EU and the acceding countries is constructed as set out below, taking the following variables into consideration:

- (i) The EU represents the independent variable;
- (ii) The reform of the justice system is the dependent variable;
- (iii) The intervening variables will comprise factors of the political elites; while
- (iv) The international environment and the existing national patterns, as well as the timetable for the changes are construed as contextual variables.

The article follows the structure set out below, based on the variables presented above:

- (i) The concept of Europeanization and the main EU instruments serving the promotion of democracy will be presented with regard to CEE in the first part, also discussing the relation of Europeanization to the concept of rule of law.
- (ii) The second part of the article will discuss the effect of the contextual variables: the international and national circumstances before the fall of the Berlin Wall, as I consider that the existence of different interfering variables might play a quintessential role in explaining the outcomes of the different reactions in Romania and Hungary.
- (iii) The third part of the article will evaluate the EU strategies and mechanisms of promoting democracy and the reactions of the political elites to these strategies.

The main thesis of this article being that EU strategies need to be backed by the domestic actors otherwise the only short term changes could be reached as an outcome scrutinizes the political will that exists in favour of the transformation of the justice system. Moreover, it is also important to reflect on the political attitude towards change. If the reform process is imposed by the EU and is deemed as a mere 'To Do List' on the part of the candidate country, the outcome of the EU impact will be weakened. On the contrary, if the political elites

consider the reform process necessary to facilitate the adherence to the Community and eventually initiate it without being pressured, the outcome can reveal long-lasting structures as a result of an autonomously commenced transition.

The above methodology will be further applied to seek answer to two basic questions:

- (i) How, if at all, the different stimuli used and offered by the EU have been adapted to the national institutional frameworks?
- (ii) How did the political elites react to the EU political conditionality in Romania and Hungary?

### Prerequisites of Rule of Law and Europeanization in CEE

The transformation process in Romania and Hungary was very different from other 'conventional' democratization processes in Western Europe as the countries had to abate a double challenge, i.e. the simultaneous transformation of the political and the economic system. This is the phenomenon the literature refers to as the "Dilemma der Gleichzeitigkeit."<sup>6</sup>

According to Schmitter's phase-division the post-communist countries experienced three phases:

- (i) *Liberalization*. A process whereby the new elites allow a few political organizations and different interest groups to organize themselves but there is a significant remainder of power to interfere in their hands; or in other words "the process of making effective certain rights that protect both the individuals and social groups from arbitrary or illegal acts committed by the state or third parties."<sup>7</sup>
- (ii) *Democratization*. A process representing the initiation of the democratic institutions "whereby the rules and procedures of citizenship are either applied to political institutions [...] or extended to include persons not previously enjoying such rights and obligations."<sup>8</sup>
- (iii) *Consolidation*. A process of democracies that involves the assumption that the rules initiated in the second phase are

<sup>6</sup> Offe 1994.

<sup>7</sup> O'Donnell/Schmitter/Whitehead 1986: 6.

<sup>8</sup> Idem.

accepted by all political actors and the democracy becomes “the only game in town”.<sup>9</sup>

The reform of the justice system should take into consideration the patterns of change from the first phase of liberalization to the consolidation phase. The structural changes brought along new perspectives both for the old political elites as well as for persons who were previously excluded from the political arena during the communist regime. Therefore it does not seem surprising that this context also represented a decisive struggle between the new and old elites over decisional power.

I argue that in the post-communist context the competition took place over two important areas: the economy and the judiciary. Both areas were crucial for the political elites especially regarding the perspective of joining the EU. At the beginning of the 1990s, decisional power in economy was equal with the chance to explore new business ideas within a poor legislative framework, which granted the liberty of playing by one’s own rules.

On this account, judicial decisional power became very attractive on the grounds of an ‘economic freedom’ of certain political elites and corporative groups who were not defending the idea of legal restrictions. Secondly, bearing in mind the remnants of the communist past, it could be declared no official lustration process took place neither in Romania nor in Hungary; therefore a elite change did not occur practically. At the same time there was an obvious perspective present, that of the EU membership. To achieve accession the elites had to prove a need for legitimacy towards the EU and towards the elites’ own electorates which should have been convinced that after 50 years of state-party reigning, a real regime change guarantees to force the old elites to redefine themselves. For the ‘new old’ political elites a dilemma arose from the challenge they faced in establishing functional justice systems.

On the one hand the protection of certain interest groups should have had remained guaranteed, on the other hand democracy was supposed to “become the only game in town” as it was asserted before. Latter requirement constituted a condition which obliged political elites not only to create rules for the game but to simultaneously respect them

<sup>9</sup> Przeworski 1986: 26.

at all times. Therefore any attempt to build a consolidated democracy must rely on the rule of law.

Definitions of rule of law may vary on a wide range, but almost all definitions agree upon the idea of the importance of law as a governing system in limiting the exercise of both private and state power.<sup>10</sup> The principle of rule of law comprises written laws that are “prospective, clear, and openly accessible, [and] non-contradictory, [...] independent and impartial judiciary and [...] honest and apolitical law enforcement.”<sup>11</sup> The definition presented tries to give a comprehensive outlook of the content of the rule of law, i.e. legal order. Though, distinction must be made in connection with formal and material aspects of rule of law.

Contradictory to the totalitarian state, in democracy, the power of the state is bound by law to provide *Rechtssicherheit* (‘legal security’, a concept similar in scope to the Anglo-Saxon rule of law; a major requirement of CEE constitutional states) and all state measures could be subject to judicial review before independent courts (formal rule of law).<sup>12</sup> The judicial bond of the state assumes the existence of a concord between the constitution and the legislation because in order to provide the citizen a solid opportunity to the access to justice and to defend his/her rights granted by the paramount law of his/her country, the judicial system shall be independent, transparent and stable (material rule of law).

Assessing these requirements I conclude that the concept of rule of law shall include first of all the primacy of the (primarily statutory, codified) law, protection of fundamental rights, separation (and/or distribution) of powers, constitutionality and legitimacy and in addition the independence and efficiency of the Judiciary. The concept of rule of law is anchored and promoted in every Eastern European constitution; however the norm implementation remains a challenge in many states. The configuration of authentic and constitutional principles was even more difficult to achieve when a confrontation with the communist past did not occur as the ‘new old’ political elites even remained in power after the regimes have ‘changed’ on paper. In this context, lustration laws which did not find political support

<sup>10</sup> Altman 1990.

<sup>11</sup> Krygier 1990: 646.

<sup>12</sup> Denninger 1993: 8-15.

neither in Romania nor in Hungary would have meant a clean slate, a fresh start for these new-born democracies.

In my point of view, a democratically consolidated country must fulfil the following rule of law criteria:

- (i) The justice system must be independent
- (ii) The legal procedure must represent the central fundament of all conflicts and must be perceived by all the actors as such
- (iii) All political institutions must be subscribed to the principles of the rule of law.<sup>13</sup> Especially in new-born democracies where the justice system is not constantly efficient, evidencing the fulfilment of the minimum rule of law criteria is indeed a challenge. This refers particularly to the situation when the political power tries to protect its interests by politically pressuring the justice system.<sup>14</sup>
- (iv) The separation of powers as stated by Montesquieu is not an implicit feature of the new-born democracies, especially if we consider that the law is made by the Legislative, which also defines the rules of settlement of constitutional courts and the terms of the legal status of judges.

Different types of judicial independence can be derived from the research conducted, such as: collective and individual; structural and personal; or decision-making (substantive) independence etc. I agree with Bobek<sup>15</sup> by arguing that it is important to consider the personal (internal) independence of the judges a decisive factor of an independent Judiciary.<sup>16</sup> Moreover, a connection between the structural, institutional and personal independence might help obtaining a sharper image on the rule of law in Romania and Hungary. It is indispensable for a consolidated democratic state to have a solid structural independence of the Judiciary.

<sup>13</sup> Hofmann 1996: 37.

<sup>14</sup> Ahrens/Nolte 1999.

<sup>15</sup> Bobek 2008.

<sup>16</sup> It shall be clarified that personal independence shall mean the independence and inviolability of the internal conviction of the judge. Judges shall only be subject of their own moral convictions within the legal framework (statutory acts) of the State and shall not be subject to any other influence.

The structural independence requires:

- (i) Independence in administrative matters: administrative matters shall be dealt with exclusively within the Judiciary, both in terms of central judicial administration and also on the lower level (county, municipal) judicial administration. Also the principal responsibility for the court administration including appointment, supervision and disciplinary control of administrative personnel and support staff must be vested in the Judiciary, or in its independent and autonomous representative body.
- (ii) Independence in financial matters: the Executive and Legislative shall have control over the budget that is why it is compulsory to have a judicial council controlling decision-making regarding the financial background of the Judiciary.
- (iii) Independence of the decision-making and the authority of the judiciary: the governments as well as other state institutions are under obligation to respect the independence of the Judiciary. Political arguments on the quality of judicial decisions have a negative impact on the legitimacy of the system. Respect of the Judiciary also relates to the bar of interference from political role-players.

The formal aspect of rule of law is embodied in the process of reform implementation carried out by the judges therefore personal independence represents an important variable in the evaluation of the reform process of the Judiciary. Bobek distinguishes four types of personal independence: courage, morality, knowledge and accountability.<sup>17</sup> Critics argue that values such as courage, morality and knowledge were especially inhibited through a highly bureaucratic and hierarchic Judiciary. The accountability represents the bond between the structural and personal independence and the intern and extern accountability dimension of a judicial system could also be determined according to its type. The main question is, based on a belief or assertion that it is a 'less dangerous branch', if the Judiciary should be completely autonomous and completely insulated from external pressures. The tensions between independence and accountability of the Judiciary stem from the argument that "the privilege

<sup>17</sup> Bobek 2008: 108.

of judicial irresponsibility cannot be the price which the collective is asked to pay for judicial independence".<sup>18</sup>

Where are the limits of accountability and which risks are related to the judicial self-purging capacity? According to Mauro Cappelletti, the absence of such capacity leads to two kinds of degeneration of the disciplinary liability of judges: (i) they become an easy target for the political pressure from the Executive and (ii) the liability becomes controlled solely by the Judiciary as "a pure instrument of corporate control".<sup>19</sup> Problems of legitimacy of the Judiciary arise mostly from the lack of balancing the external and internal judicial accountability. Further it shall be discussed through which mechanisms the EU can influence the independence of the judiciary and contribute to the consolidation of the Judiciary.

### The concept of Europeanization

As a theoretical concept, 'Europeanization' was formed by political scientists in the mid-1990s, when the evidence of a clear commitment by the post-communist elites to follow the EU's political conditionality could not be ignored anymore. The influence of external actors in promoting democracy was therefore recognized and the main task was not anymore to analyse "whether Europe matters but how it matters, to what degree, in what direction, at what pace and at what point."<sup>20</sup> More and more researchers were interested in explaining what kind of impact the European Union had on the domestic politics and policies of Eastern Europe. Methodologically the study of the EU impact on national structures increased and split among scholars who emphasize interest-based rationality, institutional path-dependencies, social constructions as well as ideas and discourse.<sup>21</sup>

Europeanization refers to the transfer of national sovereignty to the EU level, it is a process which causes a stronger interdependence and bindings of the national politics to the politics at an EU level. Olsen distinguishes between four possible scopes of Europeanization such as:

- (i) Basis for changes in external territorial boundaries,
- (ii) Basis for the development of governing institutions at the European level,
- (iii) Basis for the central penetration of national and sub-national systems of governance, as exporting forms of political organization and governance that are typical and distinct for Europe beyond the European territory;
- (iv) Basis for a political project aimed to create a unified and politically stronger Europe.<sup>22</sup>

Radaelli provides a more comprehensive definition of Europeanization. According to him, Europeanization consists of processes of (i) construction, (ii) diffusion and (iii) institutionalization of formal and informal rules, procedures, policy paradigms, styles, 'ways of doing things' and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated in the logic of domestic (national and subnational) discourse, political structures and public policies.<sup>23</sup> This definition stresses the complex process of change especially regarding the political behaviour of the elites and the importance of the soft transfer as 'ways of doing things'.<sup>24</sup>

It is noteworthy that the interests of elites matter enormously since the policy changes depend on how sincere the actors are in assuming their role towards reform. Scholars chose to use in this context a rational choice model, which focuses on the individual's utility maximization.<sup>25</sup> A rational actor accepts change only as long as his interests are also satisfied. The actor's benefits in this case must be higher than his/her costs of adaptation to the pressures and processes of learning. An example for the change of attitude of political elites could be easily detected in their speeches. At the beginning of the accession process in the 1990s many stump-speeches were very pro-European, while after joining the EU it could be argued from a rational choice point of view that the interests of the actors were not satisfied anymore as their attitude swiftly turned to nationalistic and EU critical.

<sup>18</sup> Cappelletti 1983: 15.

<sup>19</sup> Idem: 48.

<sup>20</sup> Börzel/Risse 2000: 4.

<sup>21</sup> Schmidt/ Radaelli 2004.

<sup>22</sup> Olsen 2002.

<sup>23</sup> Radaelli 2004: 29.

<sup>24</sup> Grabbe 2002: 7.

<sup>25</sup> Elster 1986.

The Europeanization literature refers to the ‘goodness of fit’ between the international demands and the long-standing national policy legacies.<sup>26</sup> The idea of this concept is: the better the national policies fit with the EU requirements the more likely changes will be accepted and the necessary laws be implemented. In this context the political elite will have fewer problems in complying with the political conditionality.

The process of joining the EU involves processes that have an impact on the national structures. Grabbe divided the strategies and mechanisms the EU used to promote transformation in CEE in five categories:

- (i) Models-provision of legislative and institutional templates: every candidate country is obliged to adopt EU laws and norms included in the *acquis*. The critical aspects of this procedure refer to the fact that the acceding countries do not have a consolidated institutional structure and that through the accession process their institutional system was rather jeopardized. Another critical aspect is that a process of reflection for the adjustment to the EU policies did not exist in Romania and Hungary as both countries tended to adopt each proposal coming from the EU without a strong critical evaluation.
- (ii) Money – aid and technical assistance: the EU is the largest external source of aid for CEE providing funds and also bilateral programs from individual member states.
- (iii) Benchmarking and monitoring: the EU can influence the institutional development through ranking the applicants, benchmarking in particular policy areas and providing examples of good practice. Monitoring is also seen as one of the strongest EU weapons and a key instrument of the political conditionality. Each candidate country is monitored in its efforts to reform by the European Commission, which published its first Regular Report in 1998. (The monitoring report sets the priorities and steps the candidate country needs to fulfil for the following year.)
- (iv) Advisory system and twinning: the twinning programs have their focus on the implementation of the reforms and

<sup>26</sup> Héritier 2001.

provide, through expert teams from member states, advice and expertise in areas of difficulty. An evaluation of the twinning programs shows that it could be essential which member state wins the competition in providing the acceding country with its expertise.

- (v) Gate-keeping – the control of access to negotiations: this is considered to be one of the EU’s most powerful conditionality weapon and it has been already successfully used in Romania in 2006 when the reform of the justice system was being threatened.<sup>27</sup>

As the EU did not have a specific strategy how to reform the countries after the Fall of the communism, in time it became evident that EU was facing the same ‘learning by doing’ process as the candidate states were. The first strategy developed by the EU came about only in 1993 by setting out the so-called “Copenhagen Criteria”, which stated the conditions a candidate country needed to comply with in order to become a member-state. These are<sup>28</sup>:

- (i) stable institutions that guarantee democracy, the rule of law, human rights and respect for and protection of minorities;
- (ii) a functioning market economy, as well as the ability to cope with the pressure of competition and the market forces at work inside the Union;
- (iii) ability to assume the obligations of membership, in particular adherence to the objectives of political, economic and monetary union

The Copenhagen Criteria set out the principles of a consolidated democracy as compulsory for the EU accession. The EU improved its mechanisms and strategies with each accession; factors such as the context of the enlargement also played an important role in the development of these principles. The euphoria, which characterized the first eastern accession, was completely missing during Romania’s accession process as the member-states claimed ‘enlargement tiredness’.

<sup>27</sup> Grabbe 2002: 7-11.

<sup>28</sup> [http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index\\_en.htm](http://ec.europa.eu/enlargement/the-policy/conditions-for-enlargement/index_en.htm) (17.10.2008).

### Evaluation of the National and International Contexts of the Regime Changes

The nature of communism has a very important role in analyzing the first attempts to reform the system in Hungary and Romania. While Romania was facing the most aggressive form of communism, Hungary was one of the most liberal communist countries from Eastern Europe.

Nicolae Ceausescu had his own vision about the independence of the country from external factors, aspects which led to a very strict economical policy based on the idea that the country should not have any debts, which could affect its independence. Ceausescu abused the Judiciary as an instrument of punishment therefore the political opponents had no chance of a fair trial. The judges were considered servants of the system. The so-called 'phone justice' was a special feature of the communist period and still functions in Romania. This aggressive form of communism was expressed in December 1989, during the Romanian Revolution. The communist party resisted despite the international feeling of change in the neighbour countries until the very end. Romania was to country with the "bloodiest revolution" in Eastern Europe, which ended in capturing the dictator and executing him, along with his family.

Until today the origins of the revolt which began in Timisoara are not completely elucidated, but political analysts argue that this "fake revolution" was actually organized by the second line of the party against the first one. The 'new old' elite which emerged in 1989 and won the elections in the 1990s, was led by Ion Iliescu, a former communist which was supported by the army and the secret service. The national context is deemed – as stated in the introduction of the methodology – as a contextual variable, which can explain why Romania has experienced the "slowest political swing towards democracy in the region".<sup>29</sup>

While Romania was practically isolated both in economic and geographic terms, Hungary profited from a very good geographic position next to the Western countries and from a very liberal economy. The Hungarian economy was led by a totally different policy, which unlike the 'Romanian way' indebted the country, but at the same

<sup>29</sup> <http://www.freedomhouse.org/template.cfm?page=47&nit=341&year=2004> (12.11.2008).

time helped Hungary in building a high economical standard. In this context the national context has been determined by a liberal political regime, led by János Kádár, who tolerated demonstrations and criticism against the state-party. In the late 1980s, three contextual variables assured the regime change in Hungary:

- (i) the activists within the communist party supported by the intelligentsia in Budapest began to pressure Kádár to surrender the power;
- (ii) the decreasing economic standards made the population supporting a regime change;
- (iii) Kádár's illness made him resign in 1988 his leading position of the Hungarian Communist Party.

The opposition won the elections and cried for, unlike in Romania, a change of elite. Among the most prominent opposition groups – as the members of a body referred to as the '(National) Opposition Roundtable' – were the FIDESZ (Association of Young Democrats) student movement, the Hungarian Democratic Forum, and the Liberal Alliance of Free Democrats. This national context is one of the intervening variables explaining why Hungary's transition from the communist dictatorship to democracy was one of the most successful among the former Soviet-bloc countries.

### The Reform of the Judiciary and the Impact of the EU in Romania and Hungary

With the collapse of the communist regime in Eastern Europe, right at the beginning of the 1990s the opportunity presented itself for the first reforms on the constitutional level. In Romania, after FSN (National Salvation Front) took power, the first reform plans began to be drawn up and coordinated. A symbolic schism with the old leadership could be seen in the abolishment of the communist symbols on the national flag and national coat of arms as well as the change of the 'Social Republic of Romania' into Romania. The new government worked on a so-called 10 Point Program which focused on the separation of powers and the establishment of a pluralistic party system, yet this program could not be materialized in that form.<sup>30</sup> Neverthe-

<sup>30</sup> Gabanyi 1994: 137-138.

less the parliament adopted a new constitution in November 1991 which stated the importance of the rule of law and democratic principles. The constitution has been strongly inspired by the French and Belgian constitutional models. The Romanian Constitution was amended in 2003.

Hungary represents a very special case in Eastern Europe as it is the only country which did not adopt a new constitution after the regime change. Thus before 1990 during the round table negotiations it became evident that the Hungarian opposition was fighting in adopting a completely new constitution. The Constitution Hungary adopted on 20 August 1949 was based on the 1936 Soviet fundamental law and was the country's first permanent written constitution. The main fear of the new elite was that the communist elite could win the elections and for this reasons they tried to abolish every element of the constitution, which might have been helpful in gaining power in the favour of the old elite. The old constitution was accepted – as heavily amended – by the National Assembly on 23 October 1989. The constitutional reform (Act XXXI of 1989) had a pioneer character as it was the first one of this kind in Eastern Europe and according to Ágh the Hungarian constitution “has the long lasting impact of the negotiated transition.”<sup>31</sup> In 1990 several acts<sup>32</sup> amended the constitution again and formed the framework for a democratic Hungary with pluralistic principles. The constitutional amendments represented one of the most important legislative changes in Hungary which safeguarded the rule of law.

There has been a lot of criticism regarding the fact that the constitution remained the same, old one from 1949, though only in its reference by number. Our effective Constitution is still the Act XX of 1949; however, apart from “The capital of Hungary is Budapest”<sup>33</sup> everything was changed or abolished based on the reasons presented above.

Especially by looking at the process how the constitutions of these two new-born democracies emerged as foreigner experts consulted both countries in drafting their constitution we can observe the soft side of ‘ways of doing things’ (expression used by Radaelli). Romania

<sup>31</sup> Ágh 2008: 312.

<sup>32</sup> Act XVI, Act XXIX, Act XL Act XLIV, Act LIV of 1990

<sup>33</sup> www.servat.unibe.ch/icl/hu\_\_indx.html (7.11.2008).

relied on its traditional amicable relationship to France and Hungary relied on its historic symbiosis with Austria suggesting that way that structural accommodation to the EU constitutionally was politically driven and represented a sort of “anticipative Europeanization.”<sup>34</sup>

### First Steps Towards Judiciary Consolidation

The presence of EU conditionality in Romania and Hungary gradually began with the appearance of advisory and aid programs. The most important instruments were the financial aid through PHARE, SAPARD and ISPA and the twinning mechanism which gave Hungary and Romania foreign expertise. The PHARE program, which was initially created as an “accession-driven” program for Hungary and Poland, allocated 1.030 € million to Hungary for institution building programs during the period 1990-1999.<sup>35</sup> In its first regular report on the progress made by Hungary the Commission concluded that “developments in Hungary confirm that Hungary fulfils the political Copenhagen Criteria. Hungary's institutions continue to function smoothly.”

Hungary was one of the few countries in CEE that started to reform the judicial system with no constraints from the EU. This means that political will to reform came from inside of the ruling elite and not as a result of the conditionality instruments used by the EU. Mezei argues that before 1997 there have already been two attempts that have failed to strengthen the independence of the Judiciary.<sup>36</sup> The first attempt was initiated by Justice Minister Kulcsár (during 1989-1990), who considered that the judicial administration should be in the hands of a “National Temporary Judicial Committee”<sup>37</sup>, yet his proposal did not find the support of the political parties of the Transition. The second attempt failed after the enactment of the Act LXVIII of 1991 as a result of which the Supreme Court remained independent while the Ministry of Justice remained the body responsible for the overview of the court system. The third attempt in building an independent judicial council, in charge of the administration of the

<sup>34</sup> Ágh 2008: 313.

<sup>35</sup> Hungary- Regular Report- 13/10/99.

<sup>36</sup> Mezei 2007: 127.

<sup>37</sup> Idem: 128-129.

Judiciary was eventually successful through the so-called “Judicial Reform Act”, the Act LXVI of 1997 on the Organisation and Administration of the Courts.

The main incentive of the justice reform was to

- (i) achieve the independence of the judicial system;
- (ii) increase the prestige of judicial career,
- (iii) create a new remuneration system for judges and
- (iv) reduce the overwhelming workload of the local courts.<sup>38</sup>

Ad (i) Creating the pivotal judicial independence in a constitutional state (in a system of rule of law) happened through establishing safeguards that guarantee the separation from the Executive. An independent self-governing body was set up: the National Council of Justice (OIT). During communism the justice system was controlled by the Executive. Apart from the president of the Supreme Court, who was elected by the Parliament, any other rights regarding the justice field – as to the control and administration of the county and local courts – belonged to the Ministry of Justice.<sup>39</sup> The external control of the executive over the Judiciary was ended with the establishment of a National Council of Judiciary (OIT), being a self-governing body consisting of 15 members: nine judges, the minister in charge of the judicial system, the President of the Hungarian Bar Association, one Member of Parliament appointed by the Constitutional and Justice Committee, and one by the Budget and Finance Committee. The Ministry of Justice had to transfer all its administrative rights over the courts to the OIT, which was assigned with “enforcing the impartiality of judges, functioning as the central administrative body of the courts and supervising the administrative activities of the president judges of the high courts of appeal and the county courts.”<sup>40</sup> The independence of the judges is also guaranteed as “their primary responsibility is the application of law in line with their conviction”.<sup>41</sup>

Ad (ii)-(iii) Especially during communism, a career within the judiciary was not considered attractive by the law students because of the

<sup>38</sup> I want to thank Prof. Zoltán Fleck, Eötvös Loránd University and Szonja Navratil, Eötvös Károly Institute Budapest for valuable insights over the reform of the Judiciary.

<sup>39</sup> www.lbu.hu (15.11.2008).

<sup>40</sup> Act LXVI of 1997 on Organisation and Administration of the Courts, Chapter IV.

<sup>41</sup> Act LXVI of 1997 on Organisation and Administration of the Courts, Chapter I. see the arguments presented in the explication of personal independence.

low wages. The status the Judiciary enjoyed during the communism could be easily detected just by looking at the offices of the Ministry of Justice, which were placed in common office buildings. According to Fleck the “revolution of the judiciary” started due to an initiative of a group of young, reform orientated judges, who were unsatisfied with the working conditions and low wages. The aim of an increased prestige of the judiciary was accomplished through stricter requirements to be fulfilled in order to become a judge and higher wages.

Ad (iv) In order to soften the workload, a fourth level of courts was established, a system of high courts of justice inserted between the regional courts and the Supreme Court, which hears appeals in cases against decisions of the local (municipal) or regional courts.

The reform of the judiciary continued and prescribed in 2001 the requirement of asset declarations for judges and in 2002 through an Act on the Budget of Courts and Judges, which entitles the OIT to submit its budget proposal directly to the Parliament.

The reform of the judicial system was carried out totally in conformity with the European standards, which leads to the conclusion that the EU served as a model of legislation. Due to the high commitment of the political elite to transform the system we can observe a rather weak EU political conditionality. The reform steps began even before 1990s and were the result of inner politics. According to Hack, fear represented the heart of the reform. The Roundtable negotiations<sup>42</sup> revealed certain insecurity about the communist past of the new and old elite. None of the two groups trusted each other on “honest methods” of dealing with lustration as no group wanted to take the risk of having its past revealed, in case their opposition got to govern, there has been a tacit agreement and support of an independent justice system not instrumentalised by the ruling elite.

The first EU monitoring report on Hungary’s progress towards accession was submitted in October 1998. Besides monitoring, other instruments such as twinning have been activated. Considerable investments in the field of the Court Information System in form of financial aid also encouraged the reform process. The accession negotiations with Hungary were successfully concluded on 13 December 2002. Hungary was presented by the EU Commission as an example of

<sup>42</sup> (National) Opposition Roundtable.



successful transformation as the formal and structural prerequisites for a consolidated judicial system have been accomplished through the early reform steps. Yet the emphasis of this success by the EU officials and Hungarian ruling elite focused mostly on the structural independence of the system, not taking into account personal independence.

According to Fleck and other legal scholars the Hungarian judicial system is far from being perfect. Fleck is arguing that the judicial system received too early too much independence which encouraged rather corporative interests and a lack of accountability. It seems that the Hungarian judicial system grew so strong that few dare to criticise the system, fearing that they will be accused of interference in administrative matters of the system.

The notion of independence became so efficiently assimilated by the judges, that according to the President of the Constitutional Court, Péter Paczolay<sup>43</sup>, it became an act of provocation to justify even the lack of internal communication with judicial independence. Hungary has no tradition of self-restraint therefore Fleck considers that the lack of strong institutional checks and balance encourages deficiencies such as low efficiency and no transparency. The former court presidents, who had close relations with the county Communist Party Committee remained in power despite the reforms. They remained in key positions during the transition and fought continuously for the independence of the system, in their interest.

The material aspect of the rule of law, which reveals how the process of reform implementation takes place, reveals vague criteria of selecting and promoting judges. The lack of transparency and the broad discretion left to officials involved in the process encourage arbitrariness. The reform orientated young judges have disappeared as the system does not allow critical voices from within. Critical points of view scrutinize the OIT's activity sceptically. The OIT should be independent, but conflicts of interests could arise due to the Council's membership, since the county presidents, most of them also members of the OIT, have the task to "reform" themselves. Due to the different conflicts of the counties, a struggle for influence and alliances are paralyzing the system. The lack of any objective meas-

<sup>43</sup> Interview with Dr. Péter Paczolay (5.11.2008).

urement of the judicial activity reveals the weakness of the system where, according to Fleck, there are no consequences of inefficiency. He considers changing the OIT's membership rules as the only solution for a truly consolidated judicial system.

These problems reveal the fact that a complete evaluation of the system has to take into account both the external and internal independence of the system. The European Union had at that time no instrument and solid mechanism to influence a reform profoundly and after the accession of Hungary to the EU in May 2004, the EU's influence became much weaker. The changing paradigm of the international context, which substituted the initial euphoria of the EU's Eastern Enlargement in 2004 and the 'learning by doing' process the EU experienced through the accession process of the ten CEE countries led to an 'improved' mechanisms and strategies.

After the 'Big Bang' enlargement it became clear that the EU does not have the total support for other Eastern enlargements. However, the literature tends to neglect the fact that Romania and Bulgaria do not represent a new Eastern European Enlargement but rather the second phase of the first Eastern Enlargement as the Helsinki European Council decided on the accession of twelve new countries, including Romania and Bulgaria.

Romania was the first CEE country to establish official relations with the European Community in 1974. The European Agreement has been signed in 1990, yet the official start of the negotiations began only in February 2000. It was clear that Romania's road map to accession would be a difficult one; therefore the accession date has been seen as more realistic if set on the 1<sup>st</sup> of January 2007. The negotiations started with the so-called "easy chapters" leaving the difficult chapter 'Justice' for the end of the negotiations. This 'strategy' of the Romanian elite proved to be similar to "building a house with no fundament"<sup>44</sup> and at the same time meant a wrong start in consolidating democracy. Romania, even more than Hungary has been confronted with the so called "Dilemma der Gleichzeitigkeit", which stipulated that all the economical and political reforms had to be passed and implemented at the same time. The Romanian ruling elite was committed to fulfil the Copenhagen Criteria and

<sup>44</sup> Interview with Codru Vrabie, TI executive board, Romanian political expert (7.10.2008).

above all the independence of the justice system has been declared as a priority for the government. The government speeches were backed up by an incredible law making process. For instance the Law on the Organization of the Judiciary (Lo. 92 of 1992) has been amended twelve times since its republication in 1997. According to Tapalaga<sup>45</sup> these excessive reform processes as well as the national strategies to strengthen the Judiciary were not genuine, but rather a modality to convince both the electorate and the EU, that a new era of modernization was beginning.

In reality a genuine adaptation process to the EU norms and mechanisms would have meant a much higher cost for the Romanian political elite that would have not been compatible with its own intern norms and rules. The Romanian political elite was as well as the Hungarian a rational actor, however, due to different national variables the Romanian elite had to play according to different rules than the Hungarian. Nevertheless, the first EU monitoring report in 1998 concluded: “despite the positive measures, overall the Romanian judicial system remains weak.”<sup>46</sup>

In Romania, the reform of the Judiciary began initially with the structural aspects of independence. The courts were strongly tied in the transition period both financially and regarding the appointment of judges by the Ministry of Justice and therefore exposed to political influence. The Romanian Judiciary has four levels of courts: local courts, tribunals (at the county level), courts of appeal, and the High Court of Cassation and Justice (formerly the Supreme Court of Justice). The Constitutional Court has a two-fold jurisdiction: the examination of laws before their promulgation by the President, and the examination of laws already in force when their constitutionality is challenged before ordinary courts.<sup>47</sup>

The 1991 Constitution has been revised in 2003 and for the first time the independence and impartiality of the justice and judges was formally stated. However, the process of law making continued to lack independence and impartiality. The government constantly committed itself to reform, yet they were just cosmetic changes.

<sup>45</sup> Interview with Dan Tapalaga, Romanian Journalist (17.10.2008).

<sup>46</sup> Romania\_Regular Report 1999.

<sup>47</sup> [http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/2004/rr\\_ro\\_2004\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2004/rr_ro_2004_en.pdf) (3.11.2008).

An independent Minister of Justice was appointed in 2004 as a fresh breeze of change. I argue that the political elite remained loyal to its rational device in designating, Monica Macovei as the new Minister of Justice (2004-2007), a legal expert, who had no political record and was supported by the Romanian NGOs and media. However, I have no doubt that Macovei was genuine in joining all the forces to transform the Judiciary. As a matter of fact, she knew how to use the political conditionality of the EU against the ruling elite, forcing the government to pass the laws on justice reform. The political conditionality increased gradually and by 2004, one year before the negotiation chapters had to be closed, other strategies such as gate-keeping and safeguard-clauses have been activated. In June 2004 the EU enacted a safeguard clause that would allow the accession process to be postponed by one year, if Romania would not take the reform of the Judiciary seriously. Macovei used the political conditionality of the EU to push the reform process. The reform of the judiciary came through in 2004 with the enactment of the Law on the Superior Council of the Magistracy (CSM); the Law on the Organization of the Judiciary; and the Law on Magistrates which passed in June 2004 and otherwise would never have gained sufficient support of the Parliament.

Similarly as in Hungary, the aim of the reform was to strengthen the independence of the CSM an independent body consisting of 19 members: 9 judges and 5 public prosecutors appointed in the general meetings of the magistrates forming the two sections of the Council, one for judges and one for prosecutors, 2 representatives of civil society, appointed by the Senate, the minister of justice, the president of the High Court of Cassation and Justice and the general prosecutor of the Prosecution Office working with the High Court of Cassation and Justice. The duration of the mandate of the members appointed by the CSM is 6 years, without the possibility to be reinvested.<sup>48</sup>

The new legislation stipulated that the right of courts administration and promotion or sanctioning of the judges shall be transferred from the Minister of Justice to the CSM. However, while the Ministry of Justice can no longer appoint judges directly, it still has the right

<sup>48</sup> Law no. 304/2004 regarding judicial organization.

to appoint judicial assistants and Court Presidents, who can influence the decision process in the administration of the CSM.

However, political pressure on the Judiciary was still an existing issue, as an official survey revealed in 2004, it was a common practice for the Executive to propose individuals for important positions within the judiciary, e.g. the appointment of a former political advisor of President Iliescu, who had no practical experience as a judge, but he was appointed President of the High Court.<sup>49</sup> According to Danilet, a Romanian judge, political pressure remained perceptible, as “there are magistrates who are convinced that their phone calls are listened into, that their offices are ‘bugged’; [...] there are magistrates who have been threatened by the parties involved in a lawsuit, outside the court building, inside the court building or even in the court room; [...] there are magistrates who have been removed from a leading office because they dared to deliver decisions which obliged the Ministry to pay remuneration debts.”<sup>50</sup> Danilet adds that it is still common practice that certain inspector judges on the authority of the Ministry of Justice “look into the manner of judgement” especially related to high profile cases.

The so-called “Romania Watergate” scandal provides an even clearer image of the politization of the judicial system. During a meeting of the Social-Democratic Party (PSD) transcripts of the meeting in 2003 and 2004 leaked to the press. Rodica Stanoiu, Minister of Justice under Iliescu’s presidency was quoted as saying how she screened investigations of corruption in favour of the party’s members. The former Minister of Finance and deputy governor of the Central Bank, Florin Georgescu, was also one of the main actors: “Mr. President, I beg you to talk to Mr. Şaguna [the head of the Audit Court] on behalf of the party, he doesn’t listen to me anymore. He should stop all those files and investigations. Only God knows how many telephone calls I have to make to his subordinates... Especially, Mr. President, remember that tomorrow – tomorrow! – all these files leave the Audit Court to the ordinary courts. And if a crazy auditor writes something on paper, that file is not going to stay at the Audit Court, where we have our people at the top, I can make some tele-

<sup>49</sup> [http://ec.europa.eu/enlargement/archives/pdf/key\\_documents/2004/rr\\_ro\\_2004\\_en.pdf](http://ec.europa.eu/enlargement/archives/pdf/key_documents/2004/rr_ro_2004_en.pdf) (11.11.2008).

<sup>50</sup> [www.sojust.ro](http://www.sojust.ro) (12.11.2008).

phone calls and have the case closed properly. No, it is going to reach ... a territorial court among divorces or petty thefts, and it will leak to the media instantly.”<sup>51</sup>

Monica Macovei fought hard against judges and magistrates who were supporters of parties. She succeeded in making important steps in reforming the Judiciary, even though her methods of dealing with the old elite, infiltrated in the system, were not considered democratic. Her obvious aim was to dispose of the old judges and transform the system by eliminating the hierarchical structures of the CSM but she couldn’t accomplish any long-lasting results as she did not have the political support necessary. Critics underlined that Macovei was very appreciated in Brussels but not in Romania, as she was a ‘constant irritation’ in the eyes of the politicians.

The chapter on Justice was signed by the end of the negotiations under the condition that the EU preserves its right to activate the safeguard-clause. The accession negotiations with Romania were successfully concluded on 14 December 2004, nevertheless, the EU did not stop its conditionality. A new mechanism of verification and cooperation has been activated and a new set of benchmarks for enhancing the judicial reform. In its final monitoring report on the 26th of September 2006, the Commission approved Romania’s accession in 2007, but insisted on further reforms: “Should [Romania] fail to address the benchmarks adequately, the Commission will apply the safeguard measures of the Accession Treaty. They lead to the suspension of the current Member States’ obligation to recognise those judgements and execute warrants issued by either country’s courts or prosecutors falling under the principle of mutual recognition.”<sup>52</sup> Macovei proved to be useful in fulfilling the purpose of the Romanian accession to the EU; however, only one month after Romania officially became a member-state she was dismissed from the seat of the Minister of Justice.

<sup>51</sup> <http://www.sar.org.ro/Policy%20memo12-en.pdf> (09.11.2008).

<sup>52</sup> [http://ec.europa.eu/enlargement/pdf/key\\_documents/2006/sept/report\\_bg\\_ro\\_2006\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2006/sept/report_bg_ro_2006_en.pdf) (3.11.2008).

## Conclusions

The accession process reveals the fact that neither the EU nor the acceding countries knew from the beginning how the process would evolve. The EU has learned from the first Eastern European enlargement that the strategies and mechanisms need to be further elaborated. This enlargement policy led to the assumption that Romania and Bulgaria were considered to be 'second class' candidates, as they faced, according to Romanian political experts, a far more severe conditionality than the other CEEs. The post accession developments reveal though, that also Hungary faces serious problems in its Judiciary. Critics consider that the EU has overrated Hungary's reforms, which did not develop any verifying mechanism after the accession in May 2004.

In Hungary's case the EU has played an important role by offering a model of legislation, in Radaelli's words a model of "ways of doing things", financial aid and know-how. However the implementation of the reform lies in the hands of the ruling elite. Hungary presented the EU a consolidated justice, a success story which pleased EU officials. Hungary's accession was furthermore very much supported by the euphoria of the first EU Eastern Enlargement. This international variable, otherwise as in the Romanian case, did not contribute to the creation of further control and verifying mechanisms. I argue that these mechanisms would have been indispensable also in the Hungarian case. Even though superficial problems were eliminated, and the system redefined itself 'from scratch'; the problem of personal independence remains pressing. It seems that Hungary had to pay a high price for the independence of justice, as even though the political pressure is eliminated due to a clear separation of powers. The problem of the increased internal independency from within the Judiciary reveals the other extremity of the reform.

In contrast to Hungary, Romania began the genuine reform in 2004, only one year before the accession. An aspect which reveals, that if there is no political will, in spite of a strong EU political conditionality, strategies and reforms proposed by the government, are just 'cosmetic surgical' intents to present the EU officials that at least 'something has been done'. Judge Danilet doubts that foreign experts did not know the realities of the Romanian judicial system, but I assume, they were satisfied with the results presented.

The EU impact over the Judiciary in Romania does not find homogenous recognition amongst the Romanian elite: while some argue that Romania "sold itself under its value", others argue that Romania needed more than ever a strong hand from Brussels and a call for the activation of the safeguard-clause. The latter group underlines that the EU lost its authority by allowing the dismissal of Minister of Justice Macovei in 2007 just one month after Romania officially joined the EU. The civil society and the media reacted promptly by saying that with Romania's accession to the EU the reform of the Judiciary has been completed, but only on paper. Despite all the progress Romania made, it seems that the conditions set by the EU have rather been deemed a mere 'check list.'

I argue that the EU mechanisms and strategies set a good purpose to reform Romania, however they omitted to focus on the double challenge the country had to face through the phase of liberalization and democratization. Also the mechanisms and strategies were still undeveloped and insufficiently adapted to the economic and political realities of Romania. The country received financial aid to strengthen its Judiciary; however, a model of "ways of doing things" has not been presented as it happened in the case of Hungary. It seems that the gate-keeping mechanism has played an important role in 2004 as the political elite was practically cornered into passing the laws necessary for the transformation of the Judiciary. However, the dismissal of Justice Minister Macovei in 2007 reveals the fact that Romania still 'has a house built on a precarious base.'

The political elite as a rational actor managed to reform the system according to its own rules; they have created their set of rules for democracy, as their "only game in town". The Europeanization as a model of diffusion functioned just as long as the political elite agreed on implement the laws. The total transformation of the judicial system has not yet been accomplished in Romania or in Hungary. Albeit it is a difficult process in itself it suffers from hindrances constituted by the heritage of the political past: self-purging as tradition is missing in both countries, as well as from the lack of Brussels' strong commitment to exercise conditionality even after the enlargement.

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## **Roma migration in Europe**

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*Judit Tóth*<sup>1</sup>

## **Irregular Migrants in Europe: Roma People and Returnees**

### **Abstract**

*The author intends to describe two overlapping categories of irregular migrants in contemporary Europe. While Roma people in most European states are facing exclusion and discrimination to different extent in various levels of social, economic and cultural life, as migrants and (forcibly) returned migrants together with stateless persons from ex-Yugoslavia they also have to buffet existential shortages and marginalisation that may push them further to (irregular) migration internally or among states. The Parliamentary Assembly of the Council of Europe makes clear distinction between irregularity and illegality of migratory movements urging a common pan-European approach to protect irregular migrants in need. Despite of a lot of adopted legal and political documents on migration, the human rights of returnees and Roma integration programmes, the stigmatisation of Roma (migrants) is growing in connection to numerous legal techniques attempting at the limitation of lawful migration. Due to lack of efforts for durable solutions in the integration of Roma - irregular migration and increasing violation of human rights is predictable in the near future.*

### **1. Deplorable facts on exclusion**

In Europe the number of Roma is estimated at 8 to 12 million, their greatest number lives in Central-Eastern Europe (in particular in Romania, Slovakia, Bulgaria, Hungary and former Yugoslavia). There

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are numerous factors of segregation and non-inclusion of Roma<sup>2</sup>, such as in the labour market (e.g. the unemployment rate in Slovakia is 70 percent, in Czech Republic 85 percent) as well as in housing conditions (for instance, half of Roma in Slovakia is living in exclusively Roma neighbourhoods and 50,000 in 281 segregated settlements, many of which lack water and electricity, or the appearance of loan-sharking frequently ends in loss of housing and usury in Slovakia and Hungary). There are many evidence on unequal access to public education, for instance, half of the Roma population in Romania was illiterate in 2001, 90 percent of Roma in Bulgaria do not have an elementary school education, or more than 52 percent of Roma children in schooling age (7-16) are out of public education<sup>3</sup>. For this reason in 1998 UN CERD carried out observations in the Czech Republic and *de facto* segregation in education was ascertained (Art. 5 of ICERD).<sup>4</sup> Due to unregistered birth or persons without identity cards, or any kind of personal documents there are many in fragile legal status including citizenship law (e.g. in 1993 in Czech Republic) that through *de facto* discrimination most Roma were in the position of aliens. Moreover, these inequalities are accompanied with limited civil rights protection by the police and justice, especially if Roma are the victims of racial violence. Although racially-motivated violence including serious actions of police brutality is observed in Slovakia or Hungary, *efficient and retentive sanctions are not implied by courts against racism*, even if there are some accurate investigations and well-founded prosecution of abuse, attack or misused power. For instance, in Bulgaria (13/14 Aug 2007, Sofia, Krasna Poljana district) after a hard skinhead attack against Roma neither ethnic, nor racist motivation was charged by the court, only an array and disturbance of peace.<sup>5</sup> In Hungary, too, (22 January 2008, Szigetvar) when 5 masked youngsters were beating two Roma women in a park in late evening, the judgement refers to array and attempt of body harm that means 8-12 months imprisonment in suspension or probation period

<sup>2</sup> Taner, A.: The Roma of Eastern Europe: Still Searching for Inclusion. Migration Policy Institute, Washington DC, May 2005,

<sup>3</sup> www.dnes.dir.bg/2007/04/15/news

<sup>4</sup> See further data in Jan Jarab, Czech Human Rights Commissioner's report, 20 May 2004 (Asylum policy, education of Roma is still problematic)

<sup>5</sup> Blagovest, Nyjagulov: Roma people in Bulgaria as social and minority issue. Edited by A. Seres, 2008. www.romarights.com

of 1-3 years.<sup>6</sup> ECRI also calls for a full, transparent and impartial investigation into the recent allegations concerning (forced) sterilisations of Roma women without their full and informed consent in Czech Republic. In the communities visited by the OSCE in Romania, Roma reported that they had been victimized without any possibility of access to justice in their situation, contributing to their negative feelings towards the justice system and police institutions (e.g. an elderly woman, wounded by a rubber bullet, required further medical care but there was no attention taken to this problem by the relevant authorities in the institution which caused the injury). According to the prefect the police action was legitimate and lawful, there were no complaints received from collateral victims who had suffered wounds caused by gun injury nor that such persons were refused medical care, and the regrettable case in question was an exceptional one.<sup>7</sup> Hungary had to pay 1.5 million HUF in compensation for the violation of Art 3 of ECHR because the investigation in the police brutality case against a Roma man was inadequate, legal remedy and right to legal protection was ineffective<sup>8</sup>.

The European Court of Human Rights (ECtHR) jurisprudence (in Buckley/Chapman/Connors case) the Court ruled that there is "a positive obligation imposed on the Contracting States ... to facilitate the Gypsy way of life". Some discussion of this often-neglected strand of ECtHR jurisprudence might be warranted in this context. Persons has been forced to be nomadic through extreme social exclusion combined with repeated forced expulsion from (usually shanty/informal) housing (Greece, Turkey, France, others).<sup>9</sup> In its decision on Roma housing in Greece, the European Committee of Social Rights used the following formulation: "the insufficient number of stopping places for Roma who choose to follow an itinerant lifestyle or who are forced to do so"<sup>10</sup>

<sup>6</sup> www.stop.hu – 27 Nov 2008

<sup>7</sup> Office for Democratic Institutions and Human Rights. Field Visit on Police and Roma Relations, Romania (12-15 November 2007) led by Mirga, A., Senior Adviser on Roma and Sinti, ODIHR CPRSI, pp.9

<sup>8</sup> Kmetty v. Hungary, judgement of ECtHR (16 December 2003). It is cited in Ombudsman Report on missing guarantees in Roma and Police relations and protection of minority rights (No. K2464/2008, Budapest)

<sup>9</sup> Cahn, Claude - OSCE HCNM/Council of Europe CHR Meeting on Roma Migration in Europe (9 September 2008, Budapest)

<sup>10</sup> Decision 2004, ERRC v. Greece, collective complaint 15/2003



Without justification on the model of “push and pull factors of migration” – Roma communities and individuals can easily be excluded from mainstream society both in sending and destination countries.

## 2. Irregularity of migration

Although the term of “irregular migrant” is wide spread internationally, there have not been generally adopted definitions that clearly differentiate from or overlap with illegal, unlawful, undocumented, undeclared, overstayed and/or clandestine migrants. Reading the documents of international protection of migrants in the EU and Council of Europe,<sup>11</sup> the major components of irregularity can be summed up in three points:

- a. *Migrant remains in the territory of the state and it is not possible to return him/her forcibly or voluntarily to own country of origin (e.g. victims of trafficking);*
- b. *s/he is tolerated but without decisive legal status; and*
- c. *this pending position would have strong effect on shadow (and formal) economy, employment, regular migratory movements and authority measures (attempt for expulsion/deportation, resettlement or voluntary return), legislation (e.g. limitation with reference to public order, including regularisation), legal practice, chance of his/her integration, trafficking of human beings and further non-regular movements. However, these side-effects of “non-status policy” are under- or over-valued depending on political discourses on prohibition, punishment, deterrent or pacification of migrants.*

The above mentioned social and economic facts of exclusion are surrounded by a complexity of migration policy including visa

<sup>11</sup> For instance, PACE Recommendation 1633 (2003) on forced return of Roma from the former Federal Republic of Yugoslavia, including Kosovo, to Serbia and Montenegro, from COE member states, Committee of the Ministers of COE on 20 guidelines on forced return- first priority is the voluntary return – May 2005, PACE Resolution 1509 (2006) on minimal human rights of irregular migrants that shall be provided until regularisation or return, PACE Recommendation 1807 (2007) on regularisation programmes for irregular migrants, PACE Resolution 1568 (2007) on regularisation programmes for irregular migrants, 2001/40/EC Directive on the mutual recognition of decisions on the expulsion of third country nationals, readmission agreements and others.

system, border controls, labour demands of certain industries that form a comprehensive relationship with employment and migration regulation. This regulation is rather right-based, normative in major destination states in which public order, security, penalising, sanctions, control and policing is more emphasized formally, suppressing the needs of economic and labour market. Irregular migration and irregular employment is in interplay, thus the demand for law skilled workers, cost of transaction of authorisation of entry, residence and migrant labour, permitted move between jobs without applying for a separate job-related work permit, reducing the cost of regular labour in order to make irregular employment less attractive shall be taken into account in its entirety<sup>12</sup>. Furthermore, the one-sided public order approach neglects the differences in various countries depending on the size of informal economy and labour migration.

## 3. Roma migration

Roma migration is *allegedly distinctive in a number of respects*. Firstly, Roma tend to migrate in groups using family, kin, clan or community networks, rather than following the more ‘individual’ patterns of other migrants. Secondly, Roma migration is claimed to be ‘irregular’, often accompanied by significant acts of discrimination or particular hostility.<sup>13</sup> Thirdly, there are less and less legal means of entering the EU including lawful ways for family reunification, highly skilled or professional labour, temporary workers and asylum seekers. Consequently, Roma migrants have recently been left limited regular options, especially as third country nationals (stateless aliens), in the EU or in destinations of forced migration. Since at least the early 1990s, the two primary means available for Roma have been the last two, with asylum an increasingly untenable option. Moreover, a limited number of Roma have used the asylum system supposedly as a means to gaining temporary social assistance,

<sup>12</sup> Andreas, B.- Hancilova, B. – Wickramasekara, P.: Irregular Employment of Migrants: an ILO Perspective. In *Addressing the Irregular Employment of Immigrants in the European Union - Between Sanctions and Rights*. Edited by Kupiszewski, M. and Mattila, H. July 2008, IOM, p. 297-317

<sup>13</sup> Alexieva, P.: Roma Migration Inequalities in Modern Europe. Department of Anthropology, CSULA <http://repositories.cdlib.org/cgirs/mgi/mgi-11>

applying simultaneously or sequentially to several countries and withdrawing their applications just before decision.<sup>14</sup> Finally, specificity is added to external factors triggering Roma migration, including claims of organized and repeated hostilities against Roma, human rights violations, single acts of violence or a change in their status due to the emergence of new states and/or new citizenship provisions.

However, these features raise the question of the applicability of standard push-pull models of international migration. It is more relevant, how these presumptions and faiths would contribute to the disproportionate attention of the media, the hostility and prejudices toward Roma that their movements spark in host countries. In the absence of ethnic data collection (of migrants) and systematic research on Roma and irregular migration, these assumed features contribute significantly to the *political and symbolic visibility* of Roma migration in contemporary Europe.

*What are the major categories of Roma migration?* Although data of ethnic origin of applicants, entering migrants or returned persons are not available in a standardized way, through some statistical fragments, daily news and academic papers, the following subgroups can be identified.

- (a) *Asylum seeking.* Roma suffering from open discrimination, racial violence inflicted by government officials including the police are seeking asylum, international protection and refugee recognition. As a temporary strategy they are seeking to improve their economic situation, and a combination of security with better life standards is also detected. However, the most impoverished, illiterate and uneducated Roma do not have the means to leave their countries. Because of these difficulties the total number of Roma asylum seekers from Central Europe is estimated only 12 to 15.000 between 1997 and 2005.<sup>15</sup>
- (b) *Migration related to enlargement of the EU and accession.* The movements of new EU citizens were treated as danger,

<sup>14</sup> Kováts, A.: The Opinion of the Hungarian Population on Roma Migration. In: *Roma Migration*. Edited by Kováts, A., Hungarian Academy of Sciences, Budapest, 2002, 138-145.

<sup>15</sup> Migration News, October 2008, Vol.14.No.4, *Roma Migration*. Edited by Kováts, A., Hungarian Academy of Sciences, Budapest, 2002, OSCE HCNM/Council of Europe CHR Meeting on Roma Migration in Europe (9 September 2008, Budapest)

likened to a Roma tsunami in certain member states., e.g. in headlines: e.g. “1.6 million Gypsies are ready to flow in” from Eastern Europe.<sup>16</sup> At the same time the Czech embassy in London rejected reports of ‘Roma siege’, and many Czech Roma were able to apply for asylum in Great Britain before 1st May 2004; they had been looking for jobs in vain and requested help at the embassy to obtain or to be renewed travel documents and to be able to get back to Czech Republic (reasons given were e.g.: they had no money, they had been robbed).<sup>17</sup> There were similar stories about Roma from Hungary<sup>18</sup>: e.g. between 1994 and 2000 about 3.800 persons submitted refugee application in Canada despite of low recognition rate (e.g. 153 applications were considered as well-founded in 1998, 74 in 1999 and 343 in 2000).<sup>19</sup> Preventing a new outflow of Roma without proper information on entry, employment and residence in another states (outside the EU), the Ombudsman responsible for minority rights distributed a leaflet on how to obtain relevant information and advice for Roma before they would give up their fragile existence before departure<sup>20</sup>.

- (c) *Internal migration:* Due to the tradition of mobility, migration between the Czech Republic and Slovakia was continuous, even after the break up of Czechoslovakia. This form of migration has been a significant migration flow since 1945. It was initially a form of chain migration, with continuous flow that resulted in the creation of linked networks of relatives in both the source and target countries. The migration bridge serves a two-way flow of Roma short-term and long-term migration.<sup>21</sup> In addition to this example there are other patterns of inland Roma migration in other states.

<sup>16</sup> 20 January 2004, Daily Express

<sup>17</sup> 20 May 2004, Mlada Fronta Dnes

<sup>18</sup> Hajnal, L.E.: The Roma in Canada: Emigration from Hungary from the Second Half of the 1990s. . In: *Roma Migration*. Edited by Kováts, A., Hungarian Academy of Sciences, Budapest, 2002, 42-68.

<sup>19</sup> Kováts, A: Migration among the Roma Population in Hungary. In: *Roma Migration*. Edited by Kováts, A., Hungarian Academy of Sciences, Budapest, 2002, p.17.

<sup>20</sup> A nemzeti és etnikai kisebbségi jogok országgyűlési biztosa tájékoztatója és tanácsai a kivándorolni szándékozókknak (June 2008, Budapest)

<sup>21</sup> Uherek, Z.: Roma Migration from Slovakia in the Context of European Migration Trends. *Czech Sociological Review*, 2007/4: 747-774.

- (d) *Returnees/displaced persons from ex-Yugoslavia and citizens of CEE*. Due to gradual pacification in the Balkans and limited migratory movements, there are a lot of formally voluntary or forced migrants in Europe returning to the place of origin, often without genuine contacts and chance to settle down.
- (e) *Other (temporary) migration*, especially as third country nationals' movement, such as visiting family, beggars, seasonal workers, entertainers or prostitutes shall be mentioned.

#### 4. Limits for irregular (Roma) migration

Major destination and transit states (inside and out of the EU) jointly have introduced numerous legal techniques how to hinder short-term, temporary migration because it is considered to be irregular, relating to poor, segregated, unskilled persons possibly endangering public order. For this reason these measures are applicable against Roma migration, too.

- (a) *In asylum*: Roma applicants have to face the safe/third country principle as ground for more stringent procedure and refuse of asylum application. Newly introduced means to deterring economic asylum applications are to replace social benefits (particularly cash benefits) by an in-kind system, while members of kin-group applicants for asylum are separated and accommodated in various places. These changes may dissuade applicants from authority and urge their return or withdrawal of formal claims.
- (b) *Strengthening of border control and public order*: in particular carrier sanctions and external border control have been jointly implemented together with common visa policy or at least by introducing visa restrictions, tighter expulsion procedures and readmission agreements to sieve irregular and illegal migrants<sup>22</sup>. One of the most effective, fast and sensitive measures which does not require major policy or procedural shifts is the imposition of visas against countries of origin with high numbers of asylum seekers. For instance, in 1997 some 4.000

<sup>22</sup> Judit Tóth: Relations of Kin-state and Kin-minorities in the Shadow of the Schengen Regime. *Regio*, 2006/9: 18-46.

Roma arrived in Canada and applied for asylum, prompting the Canadian government to impose visa requirements on Czechs. Canada removed visa requirements for Czechs in October 2007. However, when hundred Czechs applied for asylum per month in late 2007, Canada said it would re-examine the visa free policy, while about half of the asylum applicants have been recognised as refugees.<sup>23</sup> The imposition of visa requirements on the Slovak Republic (1998-2000) by a number of Western European states was very effective in significantly curtailing the number of Roma asylum applications<sup>24</sup>. Roma from Romania have been migrating in increasing numbers to Italy (in 30-35.000 persons) approximately over the past ten years. The lifting of the visa regime in 2002 and the January 2007 accession of Romania and Bulgaria to the EU means that an increasing number of Roma are exercising their right to freedom of movement within the Union. In 2006-2007 Romanian Roma were publicly accused of two fatal crimes which called forth an uproar of "All Gypsies must go"<sup>25</sup> and resulted in discriminating legislation (emergency measures against nomads, extraordinary powers given to officials), practice to conduct censuses in Romani camps, including fingerprinting the inhabitants, physical violence by police officers, expulsion of EU citizens on public security grounds, extreme violence by civil perpetrators (e.g. throwing Molotov cocktails to Romani camp) possible by the failure on the part of state authorities to take any action to protect members of the community or to punish the perpetrators of crimes against Roma.<sup>26</sup> After his Italian visit the Commissioner for Human Rights in Council of Europe summarised his legal opinion and

<sup>23</sup> Czech Asylum not a Problem Says Canadian Governor General in Prague. Rosie Johnston, 1 December 2008, [www.romove.radio.cz](http://www.romove.radio.cz)

<sup>24</sup> Belgium (13 April – 31 July 2000; 5 September 2000), Denmark (30 November 1999), Finland (7 July – 6 November 1999; 15 January 2000 – 15 July 2000), Ireland (19 October 1998), Luxembourg (20 April – 16 May 2000), Norway (27 July – 6 November 1999; 7 December 1999 – 15 August 2000), UK (7 October 1998) Source: ICMPD 2001

<sup>25</sup> Davide Boni, a Northern League representative of the Lombardy Regional Government, 24 May 2008

<sup>26</sup> Security a la Italiana: Fingerprinting, Extreme Violence and Harassment of Roma in Italy. ERCC - Romani CRISS – RCR – COHRE - OSI joint project. [www.soros.org/initiatives/brussels/articles\\_publications/publications/fingerprinting\\_20080715](http://www.soros.org/initiatives/brussels/articles_publications/publications/fingerprinting_20080715)

recommendations in 100 points about how to stop ineffective legal protection against arbitrary interference by authorities and how to respect personal data rights and protection in conformity with the norms adopted by the Council of Europe and EU.<sup>27</sup> However, Mr. Hammarberg noted that the impact of restrictive legislative and other measures on irregular migration is much debated, with some experts arguing that in effect they rather ignite irregular migration. For instance, the introduction in 1990 and 1991 of visa requirements for Maghrebis by Spain and Italy has reportedly resulted in the end of the free seasonal and circular labour migration and ignited the irregular migration of these people to Europe.<sup>28</sup>

- (c) *Labour and social protection of nationals, regular labour forces in destination country* is often supported in (tacit) consent with social partners, such as social allowances provided for workers (not for job-seekers) in order to stop “welfare shopping”, or temporary measures in labour market for A12 workers and a strict family unification practice. These measures may keep away potential (irregular) migrants, too.
- (d) *Enlargement: stick and carrots policy*. Accession criteria include minority issues and non-discrimination provisions, moreover, financial supports to Roma integration programmes have been provided to candidates. On the other hand, the enlarged EU has been reluctant to engage directly in the issue of minority rights and protections<sup>29</sup>, thus indirect (regional, cohesion, non-discrimination and social inclusion, language, diversity<sup>30</sup>) policies have developed instead. But these supporting and pilot programmes to improve Roma inclusion are without institutional, financial sustainability and stronger political commitments on the side of the polit-

<sup>27</sup> Memorandum by Thomas Hammarberg Commissioner for Human Rights of the Council of Europe following his visit to Italy on 19-20 June 2008. Strasbourg, 28 July 2008

<sup>28</sup> De Haas, H.: Irregular Migration from West Africa to the Maghreb and the European Union: An Overview of Recent Trends. IOM, Geneva, 2008.p.32.

<sup>29</sup> Halász, I.: National and Ethnic Minorities and Minority Laws in Central Europe, *Minority Research*, 2008/10:131-147.

<sup>30</sup> Palermo, F.: Linguistic Diversity within the Integrated Constitutional Space, *Minority Research*, 2008/10:69-108; Vizi, B.: Introduction to the International Protection of Minority Language Rights in Europe, *Minority Research*, 2008/10:149-164

ical elite and have served basically enlargement and external policy purposes. Due to the disintegration process of Roma communities and not to organic, coherent development strategies, during the accession process these financial supports contribute to the strengthening of prejudices towards Roma through the myths of their being “over-supported”.

- (e) *Regularisation actions intend to diminish irregular migrants* through changing their legal status, the recognition of their status and the documents issued to them. The wider evaluation on how this change would establish chances for integration, lawful employment without exploitation as well as debating over regularisation methods is supposed to become a pulling effect for further irregular migration, thus there has been an ambivalent approach to regularisation. In 1982-2007 there were at least 20 regularisation programmes for 4 million irregular migrants including temporary or standard residence and work permits, humanitarian supports for special groups in the EU. These actions mean a legal chance for participation in lawful economy, taxation, social contribution, being paid and furnished with documents may reduce insecurity of migrants.

## 5. Returnees

Returning migrants can be divided into two major groups on the ground of legal and social positions and combination of disadvantages:

- (a) voluntary or forcibly returned nationals to a consolidated segregation environment. Although voluntary travel is not logical, in legal practice, uninformed, unskilled or poor persons can easily be convinced to move either for self-interest or for some benefit (e.g. support, promised financial allowance). Rejected (illegal) migrants must not re-enter the territory of the state for some years, and fear from consequences of expulsion would induce better informed migrants to leave voluntarily. When Roma return voluntarily or semi-voluntarily to their country of origin prejudices and segregation continues when they try accessing housing, employment, goods and services,

as a result of the interplay of entrenched poverty, racism and discrimination. The investigations of civil organisations conclude that Roma from Central-Eastern Europe are not aware how to obtain legal help and protection against discrimination. E.g.<sup>31</sup>, free legal aid, forum of racial equality in Romania (National Council for Combating Discrimination or Bulgarian Protection Act Against Discrimination (2004) are not known. Due to shortage in trained legal advisers in Slovakia Roma are not clients in discrimination forums, only in some court cases.<sup>32</sup> Consequently, their return shall be accompanied with specific social and legal service for communities in need. Complaint from a returnee family from Canada to the Ombudsman in Hungary may represent this continuation of exclusion: „for unemployment and homelessness I need assistance but the local self-government and all the other authorities are totally passive. I have to go away again...”<sup>33</sup>

- (b) voluntary but rather forced, (*de jure* or *de facto*) stateless Roma migrants to territories after the war. There has been about 500 000 displaced persons in Serbia, Montenegro and Kosovo (2003), and Roma constitute a particularly vulnerable displaced population. Security, social stability and economic conditions, living conditions are lamentable, they face discrimination and have no permanent status. The majority lives in Germany (25-30 000), the Netherlands (12 000), Belgium, Switzerland and Luxemburg (3-3000). The forced returns of Roma to Serbia started after the democratic changes in Serbia, in September 2000, on the basis of bilateral agreements between Serbia and European states. According to the Report of the Committee on Migration, Refugees and Population (Council of Europe, October 31, 2003): at that time around 1,000 Roma were returned to Serbia, and it was estimated that there was the return of 50-100 000 Roma pending who were awaiting return to Serbia and Montenegro from various member states of the Council of Europe.

<sup>31</sup> Traveller and Roma Action for the Implementation of Legal and Equality Rights. *TRAILER Project*, 2004-2006. Final Report, European Dialogue, November 2006

<sup>32</sup> www.poradna-prava.sk (see Manual for lawyers on anti-discrimination rules and cases)

<sup>33</sup> Case No. OBH 1147/2005 - Ombudsman Yearly Report, 2007, Budapest

The Ecumenical Humanitarian Organisation reported violation of the rights of Roma who returned to Serbia under readmission agreements (2007). Their return was forced by violation or by pressure instead of voluntarily return, expulsion or other form of removal has been executed form of degrading treatment, and when reaching their homeland there is no assistance by national or local institutions. In this way, unemployment, discrimination, no access to education of child, homelessness or inhuman housing conditions are receiving them. Furthermore, there have been provided neither the *publicity of violation of their human rights since removal, nor systematic data collection* or organized approach to the returnees.<sup>34</sup> United Nations Committee on Economic, Social and Cultural Rights, and in its session (April and May 2005), the Committee considered the initial report of Serbia and Montenegro on the application of the International Covenant on Economic, Social and Cultural Rights: "The Committee expresses its deep concern about the uncertain residence status and the limited access by [...] returnees from third countries [...] to *personal identification documents* which are a requirement for numerous entitlements, such as eligibility to work, to apply for unemployment and other social security benefits, or to register for school."

The first concrete step in assisting returnees was when the Readmission Office was opened at the Belgrade airport in February 2006, as a project of the Ministry of Human and Minority Rights. Initially the aim of the Readmission Office was to offer legal and urgent humanitarian aid to returnees (3-4 staff members). The Centre for the Integration of Returnees has also been launched in mid-2006, as a project of the Agency for Human and Minority Rights, 64 supported by the Organization for European Security and Cooperation (OSCE) and financed by the European Agency for Reconstruction (EAR). The Centre works jointly with institutions on resolving the issues that affect returnees and protects their rights in a strategic manner, and it also interviews returnees individually. European Roma Rights Centre, Minority Rights Centre collected numerous complaints, cases

<sup>34</sup> Ecumenical Humanitarian Organization (EHO): Violations of the Rights of Roma Returned to Serbia under Readmission Agreements (Novi Sad, April 2007) www.ehons.org

in 2002-2007.<sup>35</sup> These field reports prove how many problems there are and why urgent actions are necessary:

- legitimacy of expulsion is uncertain (involuntary, judicial review against decision, reasoning of decision, legal representative of migrant is not provided, ban from entering the country must be proportional and individually necessary);
- conditions in which forced returns take place are doubtful or in numerous cases are inhuman (e.g. its immediate enforcement means a degrading treatment, no documentation of identity for person to be removed are supplied, advisory and financial support is not ensured, no individual decision, time spent in the country has not been taken into account, tricky expulsion/deportation practice, appropriate time to leave the country is not provided);
- situation in which forcibly returned Roma find themselves after their return is not projected and calculated in the removal order;
- absence of monitoring system on return and persons in concern should be remedied;
- access to asylum process and fair procedure is uncertain (e.g. the situation of Kosovo Roma deserves special attention according to the UNHCR);
- documentation of birth and identity of (returned) migrants is totally neglected by removal and receiving authorities, however, its absence excludes access to public education, health care, housing, social or family allowances and other administration at local governments;
- readmission agreements do not clearly define the meaning of voluntary return, conditions for the reception of returned persons and do not put responsibility on the receiving state with regard to the reintegration of returnees. For this reason, a well established co-operation among all the responsible ministries, local authorities and NGOs would be necessary in order to reintegrate returned children to school, to prevent violation of ethnic and human rights, statelessness. Naturally, additional

<sup>35</sup> See more details on homepage of European Roma Rights Centre [www.errc.org](http://www.errc.org)

- financial supports from COE funds, World Bank support or other organisations are required; and
- publicity of respected or violated human rights is a necessity, conditions of repatriation/return would be monitored and published in order to prevent possible reasons of re-migratory movements.

## 6. Proposals as summary

Settled Roma form the overwhelming majority of Roma communities in Europe but today they are considered an important part of irregular migrants due to expulsion and public order actions hindering free movements of European citizens. At the same time, Roma returnees to Kosovo, Serbia and Montenegro including stateless, unregistered children born abroad are also related to public security policy<sup>36</sup>, while proper conditions of human life are available neither for voluntarily, nor forcibly returned Roma. Inclusion and non-discrimination strategy shall be supported and required in each Roma community and settlement in European states in order to diminish the chance of subsequent or unprotected irregular Roma migrants seeking their only alternative for survival in migration.<sup>37</sup> What would be the most important means?

- (a) Analysis, data collection and research of experiences of past regulations in member states and at European level shall be organized involving Roma rights organisations, NGOs, trade unions. It must cover information on the living conditions of irregular migrants, how the change of status and stability of migrants' residence would influence their living standards. This monitoring and regular publicity would be based on experiences of COE, OSCE and FRA in coordination.
- (b) There is no co-operation among pro-Roma and integration-based programmes and policies at regional, national and European level, therefore it is necessary to eliminate the

<sup>36</sup> Judit Tóth: Towards a Joint Sweeper of Illegal Migrants. *Central European Political Science Review*, 2005:19; 89-98

<sup>37</sup> Migration in an Expanding Europe: EU Enlargement and the Roma Case. Preliminary Draft by Wilkens, E. and Orenstein, M. - Maxwell School, Syracuse University – Prepared for the Conference on *Immigration in a Cross-National Context: What are the Implications for Europe?* July 16-18, 2003, Luxembourg

- isolation policy of employment, facilitate public education and migrants' integration as well as improve housing conditions.
- (c) Roma and police relations should be based on confidence, seek protection of rights and respect for minority rights. In order to prevent police abuse and violence against Roma people, some special measures shall be introduced, such as recruitment Roma into police staff and ensure proper development of their carriers, independent review mechanism for investigation regarding into police matters and the ombudsman's office has to be more active at looking into police interventions.
  - (d) Common European approach is required on irregular migration, regulation including the shift of irregular employment to regular status, return, and informing neighbours/stakeholders on planned regulation. The ILO<sup>38</sup> refers to it by the non-building principles and guidelines for a rights-based approach to labour migration. Accordingly, the human rights of all migrant workers should be promoted and respected regardless of their status. Governments and social partners should formulate and implement measures to prevent and eliminate abusive migration conditions, including irregular labour migration, smuggling and trafficking in persons and other abusive practices (e.g. failure to lifting up annual inspection rate of 10 percent of all enterprises has to be evaluated by setting up necessary infrastructure on regular control mechanism).
  - (e) Programmes and guidelines to support Returnees shall be prepared at European level. Besides existing legal documents and manuals on (irregular, illegal) returnees of Roma to the Balkan states and irregular migrants in general, generally accepted and applicable guidelines would be necessary for expelled or voluntarily returned Roma to their country of nationality or habitual residence.
  - (f) Stop double standard within the Union, namely a decisive minority protection for external purposes (in external relations and enlargement, accession criterion) and a soft minority protection for internal purposes. There are two general possibilities for post -EU enlargement when choosing

<sup>38</sup> Multiannual Framework on Labour Migration ILO, Geneva, 2006. Principle 8 and 11.

- a coherent policy: the *status quo* entailing fragmented, state by state initiatives; or increased EU-wide efforts to further *institutionalize multiculturalism*, including the recognition of Roma as a minority in each member state. Moreover, indirect (anti-discrimination, diversity and language) Union policy is outstanding for all vulnerable groups but is not specific for Roma returnees or irregular migrants.
- (g) Community-wide applicable readmission agreement has to regulate the return of persons from the European Union member states to Serbia. European Union expressed its willingness to financially support the returnee integration process, and after the agreement is signed Serbia will be able to access European Union funds earmarked for returnee integration. It shall replace the text and spirit of 12 bilateral readmission agreements with member states.
  - (h) Representatives gathered in Budapest in 2003 and began the initiative to declare the years between 2005-2015 as *The Decade of Roma Inclusion*.<sup>39</sup> Its Declaration of the Decade of Roma Inclusion was signed by the Prime Ministers of Romania, Bulgaria, Serbia, Montenegro, Slovakia, Macedonia, Croatia, and the Czech Republic in Sofia on February 2, 2005. The World Bank agreed to administer the Decade Trust Fund financed by the nine participating countries. But it will take the support and participation of the global community to resolve the global problem of the Gypsies. Besides the proper legislative measures, it would be necessary to revive the economy of the East European countries. Only then will it be possible to open new job opportunities for the Roma people in order to break the vicious circle of insufficient education, unemployment, poverty and crime. That will be the best prevention of the irregular migration flows.

Nevertheless, it will take decades for attitudes to change and for living standards to improve. In the near future as today there are Roma from eastern-central Europe migrating, trying to escape discrimination and seeking better opportunities.

<sup>39</sup> It is in harmony also with Decision No.6/08 of OSCE Ministerial Council (Helsinki, 2008) on enhancing OSCE efforts to implement the Action Plan on improving the situation of Roma and Sinti within the OSCE area

**The legal and cultural  
situation of minority  
Hungarian communities  
in the Carpathian Basin**



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*Iván Halász*

## **The boundaries of citizenship and communities in present-day Hungary**

### **Abstract**

*Historical changes had modified the concept of Hungarian citizenship. In modern times it could be politically or culturally defined. With the events at the turn of the millennium and Hungary's accession to the European Union it has become necessary to revise both the conditions of citizenship and the regulations of suffrage.*

### **Major tendencies and characteristics in the development of Hungarian citizenship**

The development of modern Hungarian citizenship can be dated from the time of the dualism, (since 1867 to the end of World War I.), though the concept of belonging to the country is much earlier. The membership of the Holy Crown defined the membership of the Hungarian political community before the bourgeois era. Hungarian citizenship as a status was first defined by Law 1879.I. that remained in power – with considerable modifications – till 1949.

Until then the Hungarian domiciliation was used in the function of citizenship. This could be obtained by being born in the country (by the principle of *ius sanguinis*), by naturalization and by the so-called implied/tacit way. Naturalization appeared first in Law 1542.L. in the Hungarian jurisdiction.<sup>1</sup> Though it was not a fundamental requirement of the foreign applicant to be a nobleman to become a member of the Hungarian Holy Crown, later practice and the existing lists of naturalized persons indicate that foreigners applying for *indegenatus*

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<sup>1</sup> Kisteleki Károly: Az állampolgárság a dualizmus idején. Állam- és Jogtudomány. XXXVIII. 1996-1997. p. 38. [citizenship in the time of dualism]

had been noblemen in their original country.<sup>2</sup> Later the process of naturalization was provided by several statutes and their modifications. Non-noble persons could become citizen/subjects by being patriots without nobility, This was the implicit/tacit way which could be realized by settling down in Hungary, or – by long term residence of undefined length in the country with being entered in the list of taxpayers of a town or township, or by holding a public office.<sup>3</sup>

The history of the documents proving citizenship in the bourgeois era started during the reform period diets when the question was discussed, however, nothing was approved. In 1853, after the Hungarian War of Independence, the regulations of the *Austrian Civil Code* concerning personal rights of citizenship were introduced in Hungary, too and it became of legal force. In 1868 Boldizsár Horváth minister of justice prepared a bill, however, it was never appeared on the agenda. In accordance with the general European trends the question became ready for regulation in 1879, at the time citizenship became settled by law in several countries.<sup>4</sup>

The first Hungarian law on citizenship was the result of long and eloquent debates with the participation of only a fraction of the members of the parliaments. The topic of the debate was the complicated relationship between Hungary and Austria as well as the clause of the law which ruled that ten years absence from the country would result in the loss of Hungarian citizenship.<sup>5</sup> The opposition of the period regarded the regulations as an open attack on the part of the government against the emigrants of 1848 and radically opposed the Act. Lajos Kossuth lost his Hungarian nationality ‘thanks’ to this clause.

The statute accepted treated citizenship in terms of public law, kept the principle of *ius sanguinis* and started out of the equality of nationality status. Foreigners could obtain citizenship through a nationalising process belonging to the discretion of the Hungarian authorities. Every citizen had to belong to the community of a settle-

<sup>2</sup> Ibid. p.38.

<sup>3</sup> Ibid. p.41.

<sup>4</sup> Ibid. p.43.

<sup>5</sup> As a prevention a declaration of legal reservation had to be made at a Austrian-Hungarian embassy; otherwise after returning to the country there was the possibility of re-nationalisation by gaining residence in a settlement.

ment independent of actual residence. This communal right of citizenship was of legal importance for every citizen’s status.

In regards of the political rights accompanying citizenship the equality of citizens was not realized, because suffrage in the time of dualism was attached to census. The statutes made certain difference between native and nationalized citizens. The latter could be voted into the Lower House only after ten years, into the Upper House by special act and could not become keepers of the crown. If the king nationalised someone for his merits by special deed he was immediately eligible to be voted in to the parliament.<sup>6</sup> There was one more restriction expressed in Statue 1874.xxxiii, i.e. the precondition of passive suffrage was the knowledge of the Hungarian language, as it stipulated that those could be voted for who could fulfil the requirement that specified that the language of jurisdiction is Hungarian. There was no such criterion in the case of active suffrage and apart from the above mentioned one there was no difference between native and naturalized citizens.

At the time Hungarian citizenship could be forfeited not only by permanent absence but also by entering service of another country without the permission of the Hungarian authorities and if the person was not ready to leave it in spite of official request. At the same time the law recognized dual or multiple citizenship. There are such restrictions occurring in some present effective nationality laws, too.

The nationality laws of the liberal dualist era differ in several aspects from present day democratic rulings in Hungary since 1989. One is that citizenship could be lost for several reasons, most importantly that it could be independent of the person’s own will; the possibility of dual nationality is an aspect shared by the two rulings.

The main problem is that between the two rulings there was the complicated 20<sup>th</sup> c. full of vicissitudes; there were several modifications of the nationality law and also a new one was also created. The common denominator of the 20<sup>th</sup> c. modifications is that political tendencies lay in the background. Károly Kisteleki, the expert of the topic has pointed out that the political measures were taken for two purposes – on the one hand discrimination against those opposing the

<sup>6</sup> Ibid. p.50.

system or indemnity as a counter measure on the other.<sup>7</sup> Indeed the Hungarian regulations were between these two angles. The restrictive and discriminative measures increased in the 1930s as part of the first discriminative, later annihilating policy especially against Jews. In the post 1945 years the system tried to use the nationality regulations for different aims but in a similar discriminative way.

The regulations after 1990 have introduced a new element that of *Hungarian descent* and persons with Hungarian ancestors were given preference. In the present nationality law Act 1993.LV that regulates the cases of the origin, acquisition and discontinuation of Hungarian citizenship, where the elements of cultural nation concept are described in the part regulating the preferential acquisition of citizenship. Legislation makes accessible preferential naturalisation for those too – among other cases – who claim to be Hungarian nationals, live in Hungary and have Hungarian ancestors.<sup>8</sup> The conditions are not operating either/or but are collectively compulsory requirements. It is therefore not enough to claim to be of Hungarian nationality but have to have Hungarian citizens among the ancestors.<sup>9</sup> On the hand the complex conditions work the other way round too. The descendants of past Hungarian citizens can ask for preferential naturalization claiming to be Hungarian. This is a step away from the law on citizenship of 1957 which was satisfied when the applicants had Hungarian citizens among their ancestors. It can be claimed that after 1993 the cultural – linguistic nation concept has been strengthened in the nationality law.

When it is about the cultural concept of the Hungarian nation it has to be clarified how the effective regulation define Hungarians. The practice developed during the 1990s and the relevant laws made after the turn of the millennium<sup>10</sup> have followed the liberal traditions

<sup>7</sup> Kisteleki, Károly: Magyar állampolgárság a XX. században. [Hungarian citizenship in the 20<sup>th</sup> c.] Állam- és Jogtudomány. XLI. évf. 2000. 57. o.

<sup>8</sup> Other European countries also use preferential treatment nationally., and sometimes go further than Hungary. In France those are preferred who belong to the French linguistic and cultural community if they are living in a country with French as the official language. Portugal secures preferred naturalisation not only to ex Portugal citizens but also their descendants, as well as those who live in communities with Portugal ancestors. www.eokik.hu

<sup>9</sup> The strict application of the rule allowing no exceptions would cause difficulties such communities – like the Csángó Hungarians – whose members were never Hungarian citizens formally, not in the last three-four hundred years.

<sup>10</sup> Laws 2001. LXII and 2005. II.

developed in the 19<sup>th</sup> c that being Hungarian is a question of pledge. Similar to the case of the minorities in Hungary, the regulation in effect operates with special, mainly linguistic restrictions in the free choice of identity on the part of Hungarians residing abroad. The so-called ‘status law’<sup>11</sup> refers to the Hungarians who live in the listed neighbouring countries and are not Hungarian citizens but claim to be Hungarian by nationality including their spouses and children raised in the common household, provided international agreements do not rule against it. Thus the Status law regards a person Hungarian who claims to be Hungarian, speaks the Hungarian language or is registered as such abroad where he plays an active part in the life of Hungarian communities and has a membership certificate to prove it. These are relatively open and liberal conditions which satisfy the so-called recipient Hungarian cultural nation concept<sup>12</sup> concentrating on linguistic and cultural attachment. It is interesting to note that because of certain maltreatments the Hungarian national and ethnic minority laws also introduced similar restrictions which are a step away from the earlier concept that was satisfied with a simple declaration of identity. All this, however, does not mean the victory of ethnicity within the cultural nation concept.<sup>13</sup>

This part of the effective nationality regulations can be regarded as measures of recompense originating in national solidarity. The notion can be noticed in common political debates, e.g. the one before the referendum on dual nationality that has not really been concluded. The problem is that in the concept of the Hungarian nation there is a strong mixture of political and cultural elements (see below). It is difficult to separate the question of citizenship from the problem of dominant cultural nation concept. The debates before the December 2004 referendum revealed that a part of the Hungarian public regards citizenship as a means of minority protection misguidedly.

<sup>11</sup> Law 2001. LXII on Hungarians officially living in the neighbouring countries.

<sup>12</sup> Unfortunately there were decades in the Hungarian history, e.g. the regulations against Jews during World War II., when the recipient approach was not enforced.

<sup>13</sup> The preambulum of the modified Satus Law tries to approach the essence of the Hungarian nation through the attachment to the Hungarian cultural heritage.

### The concept of nation in Hungarian history and jurisdiction

Since the regulation of Hungarian citizenship is dependent on the question of the concept of nation that has been permeating the entire jurisdiction it must briefly be treated. The concept of nation behind the regulation of citizenship has never been a simple question. The reason is that before 1918 Hungary was never an ethnically homogenous country, and before 1910 non-Hungarian citizens were in majority. Therefore the question of nationality became one of the most vital problems in contemporary Hungary. The situation was further complicated by the prevailing conception of national liberalism in 19<sup>th</sup> c. Hungarian public opinion that aimed at developing Hungary from a old fashioned feudal state into a modern constitutional nation state. At the mean time the actual ethnic composition of the country had to be taken account, as well as the interests of society, of the estates and minor nobility. It all created ambivalence especially in the period following 1867 when Hungarian liberals were in power for a long time. The best Hungarian politicians, e. Ferenc Deák, József Eötvös, etc. tried to create a Hungarian political nation concept based on personal rights that also considered the multi-linguistic character of the country. This was reflected in the preamble of the nationality law in 1868 and the various regulations of the statute. At the same time they did not want to allow for the division into national autonomies, or as they preferred to express the ‘federalization’ of the country on its way to modernization. The regulation of citizenship mirrored this approach.

Development, however, took a different turn in the 1870s, influenced by the processes characteristic of contemporary Europe, and the assimilation of the ethnic nationalities became the issue. It did not prove successful and together with other problems, led to the collapse of the state in 1918-1919. It must be added that in spite of Magyarization the Hungarian state in the time of dualism still kept close to the liberal minimums decreed earlier and on the level of jurisdiction and nationality there were no attempts at dealing with the question on ethnic level in spite of the already existing trends.<sup>14</sup>

<sup>14</sup> Gyurgyák János: Ezzé lett magyar hazátok. A magyar nemzeteszmé és nacionalizmus története. Osiris. Budapest, 2007. [the history of the Hungarian concept of nation and nacionalism].

The situation drastically changed after 1919 when the population and the political elite underwent traumas. After the two world wars, though gradually, but irresistibly began the change from the earlier open Hungarian concept of nation to an ethnic one. The strengthening of a cultural-linguistic nation concept instead of the earlier officially accepted concept of political nation-state was understandable in a country that had developed homogeneous in its language and culture and which had large kin-nations outside its borders. It would have been preferable if Hungarian nationalism had preserved the open nation concept that developed in earlier periods based on the acceptance of the Hungarian language and culture, partly to facilitate the assimilation of the masses of nationalities. In consequence of the historical cataclysms and domestic political debates the intransigent nationalism became more vigorous and left the standpoint of acceptance and moved toward exclusion. That was a long almost 25 year process that led to the tragedy of 1944-45. Exclusion was directed against the Jews first started at home but later expanded especially under the influence of German Nazism. Independently German inhabitants spontaneously following the German idea of *Volk* started a dissimilative process that strengthened in the 1940s. The first development led to the Holocaust, the second to the deportation of the Germans of Hungary.

In 1944 was culmination of the Hungarian ethnicist nation concept that in some of its manifestations was rassist at the same time and that had to be handled after World War II. The communist dictatorship definitely grabbing the power in 1949 did not choose to handle the problem but tried to shove it aside. Nation as a concept became taboo for a long time. It is true, geopolitical factors had a hand in it since Hungary became part of the Soviet block with fairly restricted room for manoeuvre. The officially internationalist Eastern European Socialist camp, in reality part of a Soviet empire, itself an ethnically multinational composition busy with its own functioning, allowed low-key manifestations of the national sentiment only.

Between 1949 and 1989 the cultural and political characteristics of the nation concept re-appeared. When considering the above mentioned geopolitical circumstances – the effects of the Holocaust, the deportation of Germans and the Hungarian – Slovakian population exchange – Hungary became such an ethnically homogeneous

country it had never been before. At the same time the preference of the concept of nation state was practical considering the Hungarians living in minority in the neighbouring countries, the aftermath of the tragedy of 1944 and it suited the Soviet expectations. This was reflected in the regulations of nationality mentioned above when the reason a person could be naturalized was not because s/he was a Hungarian national but because the ancestors were Hungarian citizens. The concepts began to converge resulting in – not always negative – consequences for present practices. Gradually, silently and in many respect not enough effectively the nation concept of combined jurisdiction has developed after 1989. After the change of system the careful, still legitimate strengthening of the cultural – linguistic concept could be observed especially in connection to the Hungarians outside the border and the national minorities within the country.

### The nation concept of the current Hungarian jurisdiction

The modern Hungarian democratic jurisdiction recognizes dual concepts of nation – political and cultural. The latter is only complementary in character and mainly functions externally, beyond the borders and for the Hungarian Diaspora;<sup>15</sup> within Hungary it has relevance only in connection to the national and ethnic minorities. The Hungarian state does not accept any other ‘cultural nation building’ tasks.<sup>16</sup> It is important to note that the cultural concept of nation is truly cultural and language based, therefore has become fairly open; it is a positive feature that should be stressed and preserved. As long as the bases remain so open and flexible it is morally justifiable. It is also important to point out that the two concepts should not be obfuscated in jurisdiction because that would seriously influence the operation of Hungarian jurisdiction and endanger democratic legitimacy. On the other hand it is undeniable that historical reality does

<sup>15</sup> Hornburg, Helge: A nemzet fogalma a magyar jogrendszerben, különös tekintettel a szomszédos államokban élő magyarokra. In: A magyar jogrendszer átalakulása 1985/1990-2005. II. kötet. Red. Jakab, András – Takács, Péter. Gondolat – ELTE ÁJK. Budapest, 971. p. és Majtényi Balázs: Hol húzódnak a kisebbségvédelem határai? REGIO 2004. č. 4. [the concept of Nation in the Hungarian jurisdiction especially concerning the Hungarians living in the neighbouring countries.]

<sup>16</sup> cf. Iván Halász’ intervention in *Fundamentum* 2006. 2. 65-73. p.

not allow for a watertight separation of the two concepts in the area of Central Europe.

The situation has been complicated after the turn of the millennium; there were hot debates about the considerable extension of citizenship for the members of the Hungarian cultural life living abroad; that meant a return back to the cultural nation concept. The debate reached its peak in the referendum in December 2004. During the debates over the ‘status law’ there were appeared ideas of *national reintegration*; Hungary is alone with the dilemma, it is enough to refer to the Italian model of citizenship or to the Portuguese attempts. It seems that the failure of the referendum over dual citizenship has halted the process in Hungary. In 2005 Prime Minister Ferenc Gyurcsány representing a section of the Hungarian political elite firmly stated that though he felt responsible for the Hungarians living in the neighbouring states and wished to help them in various ways, he did not want to mix up Hungarian political community with the reintegration of the Hungarian cultural nation. One of the most important documentation of this resolutions is the prime minister’s letter written to the political leaders of the Hungarians the neighbouring countries dated the 6<sup>th</sup> of January 2005.

In his letter the Prime Minister differentiated clearly between the responsibility of the Hungarian state toward the Hungarian citizens as the constituents of the *political nation of Hungary* and the *entirety of the Hungarian nation*. Both responsibilities are different in content and the government wants to preserve this difference in the future too. Moreover, the letter of the Prime Minister, which of course is not a jurisdictional document only a political one, expresses that citizenship assumes an active relationship between state and its citizens. According to the letter, in this relationship the key roles is played by the balance between rights and duties: participation in everyday life and public affairs, continuous residence in the country, tax paying, practicing public rights, etc. To practice the rights and fulfil the duties toward the country are concepts inseparable from one another. Thus it follows in his opinion that the extension of Hungarian citizenship is impossible without settling down in the country.<sup>17</sup> From this expo-

<sup>17</sup> Gyurcsány Ferenc miniszterelnök 2005. január 6-i levele a határon túli magyar politikai vezetőkhez. www.magyarorszag.hu [letter of Prime Minister Ferenc Gyurcsány to the leaders of Hungarians abroad].

sition it is unambiguous that without settling down in Hungary there is no possibility to get Hungarian citizenship. The above document regards the Hungarian nation as a cultural and historical category; at the same time as a community, too, that can call for the help and support of the mother country – especially in case of trouble.

### Citizenship and the Hungarian political community

When proceeding from the problem of the nation concept of the Hungarian constitution to the designation of the limits of the political community or ‘constitutional nation’ it has to be born in mind that these concepts need reassessment and adaptation to the challenges of the times. Defining *people/nation* or *political nation* the difficulty lies in the change of the composition of the nation compared to the situation before 1989. Before 1989 *nation* was the entirety of Hungarian citizens. In 1989 when the modified constitution gave all the power of the Hungarian Republic into the hands of the nation, the situation was already somewhat different. In earlier periods Hungarian citizens could only elected members of the parliament and municipality representatives and there were no minority elections at all. The 1989 amendment and the consecutive amendments of suffrage made possible that persons settled down in Hungary, immigrants or refugees and, after 2004, EU citizens living and domiciled in Hungary had the vote in municipal elections.

The concept of *people* has thus shifted away from the strict and clear basis of citizenship. At the national level most important for popular sovereignty it is still the adult Hungarian citizens who exercise power but at municipal level or at the EU elections “people” has received a wider meaning. At municipal level Article 42. of the constitution defines the subjects of municipal power: ‘The enfranchised citizens of the villages, towns, of the capital city and its districts, and of the counties are entitled to the right of local self-government. Local self-government means autonomous and democratic management of local affairs by the communities concerned and exercise of local public authority in the interest of the population.’<sup>18</sup> To clarify the concepts, according to the constitution the following political

<sup>18</sup> [mkab.hu/en/enpage5.htm](http://mkab.hu/en/enpage5.htm)

communities can be enumerated in the democratic Hungary of today: at national level the *people*, the possessor of all the power exercising sovereignty through elected representatives or directly (Constitution §2.2.), at the middle level the *county voter communities* and at the municipal level (villages, towns, capital city and its districts) the *local voter communities*.

The next important question is how to describe the present Hungarian political community, especially from the stand- point of citizenship and franchise. The following can be stated about the actual political legal content of the Hungarian citizenship: in the question of franchise there is a constraint to domicile in Hungary. At the same time and somewhat contradicting the statement before, the equality within the state of citizenship is consistently enforced, since the Hungarian regulation does not make any difference between native and naturalized citizens neither between single and dual citizenship holders in the definition of the conditions of public and administrative positions.<sup>19</sup> This is not the generally accepted, there are countries where dual citizenship holders are ruled out of certain positions and only native citizens can apply for the most important public positions (e.g. the president of the USA). According to the effective Hungarian constitution there are two important groups of subjects: 1. *every individual*, or *everybody* independent of nationality and domicile and 2. *Hungarian citizens*. In addition there is the group of non-Hungarian citizens who are persecuted in their native country or are in danger of being so and who can gain *refugee* status in Hungary. The statute also specifies the *citizens of other EU states with Hungarian domicile*, the *immigrants*, refugees and other *people settled in the country*. There is a section where the constitution specifies the group of *foreign nationals who are lawfully staying in the country*. These groups will be treated below especially in connection of their right to vote.

Most human and public right (right to human life and dignity, freedom and personal security, etc.) as well as liberty is everybody’s due. Hungarian citizens are especially entitled to political and participation rights. With the help of a word by word interpretation of the text of the constitution there can be two groups differentiated

<sup>19</sup> There is one difference: while native citizens cannot be deprived of their citizenships, naturalized ones can if they had obtained it by fraud.

within the community of Hungarian citizens: those with domicile in Hungary and other persons defined as Hungarian citizens without specification. To this group both citizens with or without Hungarian domicile can be included.

The constitution reserves all the political participation rights – franchise – for the first group, i.e. resident citizens, exclusively independent of its level of exercise. Even the right at the elections of EU representatives is bound to domicile for all Hungarian citizens.<sup>20</sup> The right to public office is bound to Hungarian citizenship i.e. domicile in the country is not a requirement.<sup>21</sup> Article A70/H 1. declares that ‘All citizens of the Republic of Hungary have the duty to defend the homeland’ but the next paragraph regulates that only national men of age with Hungarian domicile can be conscripted. Probably it has practical reasons, those living outside of the country could be called up with difficulty. There is no gender specification given at the obligation to civil and military work, the other conditions being the same. Payment of public dues is obligation of every natural person, corporation and unincorporated organizations, not only the duty of Hungarian citizens.

To return back to the Hungarian citizenship rights the regulations expressed in Article 69 of the Constitution has to be underlined. Together with the right of participation and the obligations of defence of the country this represents the expression of the essence of citizenship status. According to Article 69: ‘In the Republic of Hungary no one may be arbitrarily deprived of his or her Hungarian citizenship, nor may any Hungarian citizen be expelled from the territory of the Republic of Hungary; a Hungarian citizen may always come home from abroad; and during a legitimate stay abroad every Hungarian citizen is entitled to protection by the Republic of Hungary. These are all rights that are strictly reserved for Hungarian citizens that they can eventually assert against the state.

There are two more rights somewhat illogically bound to citizenship: according to Article 70/E.1. ‘Citizens of the Republic of Hungary have the right to social security. In case of old age, illness, disability, being widowed or orphaned, and in case of unemployment for no fault

<sup>20</sup> Cf. Article 70.4 of the Constitution.

<sup>21</sup> Cf. Article.70.6.

of their own, they are entitled to the provisions necessary for subsistence’; and Article 70/F.1. declares that ‘The Republic of Hungary ensures for its citizens the right to culture’, too.

Other rights bound to citizenship follow from further regulations of the constitution and other statutes. Thus e.g. such a person can be elected president of the republic who has the vote and turned 35 years of age till the day of the elections.

Judith Tóth has collected a concise and detailed identification of the titles bound to Hungarian citizenship and especially to domicile in Hungary.<sup>22</sup> The definitions of the right to citizenship bound to domicile in Hungary are not necessarily uniform, which Tóth explains by inaccurate and arbitrary dealing on the part of the legislators.<sup>23</sup> She has collected 44 items of public and official positions, rights and titles bound to Hungarian citizenship. Those relevant to the present paper are the assignments of the president of the republic, Constitutional Court judges, ombudsmen, leading statesmen (minister president, ministers, and secretaries of state), monetary council members, Hungarian National Bank supervisory board members, judges, attorneys, notaries, members of military and police forces, civil servants, as well as scrutineers inland and abroad.<sup>24</sup> There have been further 44 items collected of titles and possibilities connected to Hungarian citizenship and also require domicile in Hungary too. In some of these cases other persons share with Hungarian resident citizens. Such are e.g. municipality suffrage as it is not restricted to Hungarian citizens. In Hungary, similar to other modern democratic states, political communities can and must be divided into *several levels*. To put it in another way: Hungarian voters can participate in public matters in several different levels – as citizens of EU on *supranational level*, as Hungarian citizens with domicile in Hungary on *national level* and finally as county or settlement inhabitants on the so-called *subnational* (village, town or county) *level*.

The composition of the Hungarian political community assigned to the three levels has changed since 1989. Various voter groups belong to each of the levels. First of all it has to be described who are eligible to vote because the obvious answer that Hungarian citi-

<sup>22</sup> Tóth, Judit: *Státuszjogok*. Lucidus Kiadó, Budapest, 2004. 46-61. o. [Status rights]

<sup>23</sup> *Ibid.* p.46.

<sup>24</sup> *Ibid.* pp. 48-51.

zens could be misleading in certain cases. Independent of its level, the most important characteristic of the Hungarian voting system is the requirement of domicile in Hungary. It is true for the elections of the members of the parliament too, as according to Article 70.1. of the Constitution “All adult Hungarian citizens residing in the territory of the Republic of Hungary have the right to be elected and the right to vote in Parliamentary elections, local government elections or minority self-government elections, provided that they are present in the country on the day of the election or referendum.” No one else has such rights; the parliament embodying and executing the principle of popular sovereignty and thus the whole national level is exclusively reserved for the citizens resident in Hungary.

The European – supranational - level is different. Not only Hungarian citizens resident in Hungary can vote and be elected but the citizens of age of other EU states domiciled in Hungary too. There is no difference between them where active and passive suffrage is concerned in accordance with the concept of the citizenship within the Union.

The situation is most complicated on the subnational level, at the self-governments of settlements and counties. It means certain simplification that legislation does not distinguish between local and regional levels. The Constitution, too, simply regulates local self-governmental elections without any specification. Even the (municipal) elections themselves are held at the same time, at the same polling stations, before the same committee. In most of the European countries the practice is considerably different because the municipal and midlevel elections are usually strictly separated.

Municipal suffrage is regulated by Article 70.2. of the constitution: ‘every major Hungarian citizen domiciled on the territory of the Republic of Hungary and every major citizen of another Member State of the European Union who is domiciled on the territory of Republic of Hungary is entitled to the right to stand as a candidate and, if they stay on the territory of the Republic of Hungary on election day, to elect in the election of the representatives and mayors of local governments. However, citizens of other Member States of the European Union shall not be elected mayor or the mayor of the capital city. In order to define passive suffrage, the regulation of Article 71.2. of the Constitution is necessary: ‘The members of the local government representative

bodies of counties shall elect the president of the representative body by direct, secret ballot. The president must be a Hungarian citizen.’ What follows of the above quotations? There are three groups of voters to be differentiated at municipal elections. First those who have complete, unrestricted active and passive suffrage. This group consists of Hungarian citizens of age domiciled in Hungary, since only they can occupy any office such as mayor and president of county assembly. The second group contains the voters who can vote and are eligible to be voted for, but are excluded from the above offices. They are the citizens of the European Union domiciled in Hungary. The members of the third group are foreigners settled in or immigrated to Hungary and (officially accepted) refugees who have active suffrage at municipal elections only. The literature also refers to this category as citizens of a third country.

There are two important additional consequences of the constitutional regulations quoted above. On the one hand right to vote depends on being of age and legislation makes no difference between the conditions of active and passive suffrage. On the other hand municipal suffrage is valid only in the territory of the country. The text of the constitution stresses several times that the voters can participate at the elections only if they are in Hungary at the date of it. In the case of the parliamentary elections there is no such restriction, as the Constitution is ‘silent’ on this question.

In spite of the ‘silence’ the restriction of the right to vote, i.e. the voter had to be present at his domicile at the date of the elections, was taken so seriously for a long time that the voter with the right to vote, if abroad on the date of the elections, could not vote at all because it was not possible either at the foreign representations or by post or any other way. Since the 2006 elections the situation changed. In accordance with the Act C.1997 on the election procedures Hungarian voters can participate in the elections by giving their votes at the embassies after having been entered into an electoral list. This is not the special list for expatriots but a special list allowing the participation in the elections for such Hungarian citizens with domicile in Hungary who are abroad at the day of the elections. It is not specified whether the person on such lists is a member of the diplomatic corps or has any other official business abroad, is a tourist or is a permanent Hungarian inhabitant at a long term job abroad. The



only condition is to be a Hungarian citizen with registered domicile in Hungary and to announce the wish to vote at a foreign representation. This kind of voting is possible if the receiving country does not oppose it and there is at least one applicant. The votes are counted together with the ones in the constituency in Hungary where the voters in question have their registered domicile.

To sum up the relationship between citizenship and the Hungarian political community and regard it in the European context, it can be observed that the Hungarian regulations are fairly open especially at municipal level as it does not restrict suffrage to the citizens of the European Union but allows citizens of third countries too, provided they have the required status in Hungary. In addition the Hungarian electoral regulations strictly require domicile in Hungary, which follows from the actual concept of political community in Hungary. This latter is a question of an individual – logical and justifiable – choice of the legislators not dictated by any outside factors or actors.

*János Péntek*

## **Termini: the network of Hungarian linguistic research centres in the Carpathian Basin**

### **Abstract**

*The author – professor of linguistics in Kolozsvár – is one of the founders of the network of Hungarian linguistic research centres in 2001, which is organized by two institutes of the Hungarian Academy of Sciences in Hungary. The network has covered the whole area of the Carpathian Basin where Hungarians are living. The most important programs are as follows: the characteristics of the lexicon of the Hungarian language abroad; lexicological, lexicographical research: the enlargement of the word-list of the Hungarian language abroad (Termini network); corpus building programme, language planning and treatment of language problems, etc. The network realizes these goals both through research and by the publication of results and by organizing conferences.*

It is no wonder that *network* and *links* have become the key words of learning and research together with. It is obvious for those who previously had no means to join an institution – like the linguists of the areas around Hungary albeit the common interest in their subject would justify it; the subject being the observation and description how the Hungarian minorities use the Hungarian language, a body of speakers whose situation and station differ region by region, nevertheless share considerably similar characteristics and developments. Research alone would be possible independently if theoretic results were important only, but as the indirect aim is their application in Hungarian language planning, it would be insufficient to stop at partial planning. The language living in its variety and variability is universally present in the entire language area and its communities.

Language planning can thus only be effective if the same goals are aimed at. When someone clicks on *Termini* or the web page <http://ht.nytud.hu> they will be able to get acquainted with the network of continuously cooperating small virtual institutions.

Those working in the same field can get into personal contact. The initial cooperation started from contacts at conferences and through publications in the 1990s and later from teamwork. The institutional framework was offered by the *Institute of Linguistics* and the Research Institute of Ethnic and National Minorities of the Hungarian Academy of Sciences (HAS).

In spite of the debates, sometimes quite intensive, the connections have become firmer and the tendency suited the initiative of the HAS to form research centres of the Hungarian language subsidized by its grants. This was the case in 2001 in the most populous regions of the neighbouring countries around the borders of Hungary. *Magyar Nyelv* [Hungarian Language] (issues 2005/1:105-113, 2005/3:371-377) published reports on the foundation of research centres and their work in their first four years. Previously *Magyar Tudomány* [Hungarian Science] (2004/7) published the mutual statement on Hungarian language planning. The building of the network was already under way aided by summer seminars in Illyefalva (Transylvania, Ro) in 2003, 2004 and 2005 and the regularly held conferences on living speech. The present paper sums up the results, developments and events of another four years based on the answers the colleagues have given to our questions.<sup>1</sup>

### 1. What are the most important changes on the institutional or personal level?

In general the process of institutionalization has become steadier, the development of network activity more intensive. It meant more innovation in the small regions, less in the bigger ones. Three small regions: Croatia, Slovenia and Austria were earlier represented by individual researchers working in joint programmes. In practice it meant that colleagues living or researching in a region tried to connect to the tasks

<sup>1</sup> The reports of the regions were prepared by Attila Benő, István Cserniczkó, Anna Kolláth, Gizella Szabó Mihály and Szilvia Szoták respectively. Many thanks for their collaboration.

set by the larger research centres at local level; this way no region has been left out of joint research. Szilvia Szoták reports on the changes: 'in order to have institutional background in all three small regions we announced our plans of forming a language institute with Burgenland as its centre. After several months of intensive preparations the institute was officially opened for the local and more general public in the Old School of Alsóőr/Unterwart (Austria) on the 23. November 2007. The institute called **Imre Samu Nyelvi Intézet** (I. S. Language Institute, ISNYI) is a part of the Magyar Média és Információs Központ (Ungarisches Medien- und Informationszentrum [Hungarian Media and Information Centre] ([www.isnyi.org](http://www.isnyi.org)) and operates as its linguistic committee. The research is directed by Anna Kolláth regional vice-president, head of the Hungarian Department of Maribor University in the Mura region, by Orsolya Žagar-Szentesi regional vice-president in Croatia, by Szilvia Szoták, president of the institute in Austria. The regional vice-president László Kelemen contributes to the success of the research by his knowledge of informatics and economy and by his own network and experience. ISNYI not only helps regional research but through the network of linguistic centres participates in activities across borders and aims at the realisation of joint European projects. The scholarly work of the institute wants to draw attention to the interactive power of cultures and languages, to the preservation and maintenance of language varieties, to the values of cultural heritage of the area; the region's inhabitants are mutually responsible for the preservation of their language and identity. It is also necessary for the institute to take part in the life of the local communities and to offer consultation to bilingual education. Another aim is the documentation of the spoken language and the invitation of interested local members to participate in the research.' The contributors of Burgenland are Lívia Pathy, teacher of the Felsőőri Kétnyelvű Szövetségi Gimnázium (Zweisprachiges Bundesgymnasium Oberwart [bilingual federal secondary school Felsőőr]), Irisz Zsótér doctoral student of the Graduate School of Philosophy of Vienna University; Evelin Horvát, student of the Department of Trans-Cultural Communication of Vienna University, Katalin Dowas kindergarten teacher and Margit Wallner teacher. In institute has no permanent member.

On the 13. September 2008 the second event organized by the institute was in Alsóőr/Unterwart (Au): 'Of the Hungarians of Burgenland

for the Hungarians of Burgenland', with talks on various aspects of social sciences, but owing to the interest of the institute mainly on linguistic questions. The lecturers came from Hungary, Romania, Slovenia and Austria, the latter represented the Hungarian intelligentsia of the local area. The event – as suggested by the title – was mainly intended for local Hungarians. The main question was how to make use of the result of scholarship, how to make knowledge public, i.e. how to introduce scholarly experience to the community personally concerned about the research. The institute intends to continue following these lines. It is especially important in the life of a community where language switch is about to be complete, where the German language has replaced Hungarian in most levels of everyday communication.

According to Anna Kolláth the **Slovenian research centre** though part of the ISNYI still has preserved its affiliation to the Hungarian Department of Maribor University. The department offers not only professional background to the research but was the sole scene of activities up to November 2007. 'In the knowledge of the linguistic situation of small regions, our main goal for our events is to reach the language using public that the – often 'over researched' – small communities could receive information on the results and practical benefits of the research done with them, 'on them'. The group of the Mura region consists of two persons, the other one being Judit Gasparics II. year student at the graduate school of socio-linguistics of Eötvös Loránd University Budapest.

The **Hodinka Antal Intézet** [H.A. Institute] is seated in Beregszász, is part of the Ferenc Rákóczi II. Hungarian College of Subcarpathia and is sponsored by the College and HAS. It is named after Antal Hodinka (Ladomér 1864 – Budapest 1946) historian, linguist the first rector of the University of Pécs, professor of the Universities of Pécs and Pozsony/Bratislava and member of HUS. István Csernicskó, head of the institute reports of four young researchers as permanent staff (Kornélia Hires-László, Zoltán Karmacs, Anita Márku and István D. Molnár), beside several linguists and social researchers connected to the institute by various research programmes.

The main interest of the Institute is: a) investigation of the Hungarian language usage of Subcarpathia; b) the building, archiving and analysing of databases of the written and spoken language; c) the summary of the problems of linguistic planning of the local

Hungarian usage; d) education and further education; e) research organisation; f) education of young researchers; g) support of social scientific programmes in addition to the linguistic ones.

The **Gramma Nyelvi Iroda** [Gramma Language Office] in Duna-szerdahely (Slovakia) continues its activities as a society without permanent staff. The society members and those of the office (seven persons) are university and college teachers in various institutions who participate in the programmes of Gramma, especially through the projects of HAS launched for institutions and individuals. The short duration of the projects, the incidental character of the grants make the employment of permanent staff and the inclusion of young researchers impossible. It does not allow for becoming an institution nor for the realisation of research of greater volume lasting several years. The Gramma is in a favourable position compared to other research centres since in 2007 it became one of the institutions supported by the Hungarian Cabinet receiving 5 Million HUF grant per year for three years.

The **Szabó T. Attila Nyelvi Intézet** (SZTANYI) [Sz.T.A. Language Institute] with its centres in Kolozsvár and Szepsiszentgyörgy is institutionally connected to the Transylvanian Association for Cultivating the Hungarian Language, professionally to the department of the University Kolozsvár, from the point of infrastructure earlier to the Museum Association now to the Kolozsvár Academy Committee. The multiple connections counterbalance the uncertainty resulting from the exclusive dependence on grants, which does not allow for the employment of permanent staff for the realization of long reaching programmes.

**Voivoda** is in the greatest difficulty from the point of view of institutions and personnel alike. The socio-linguistic work-group belongs to the Scientific Association of Hungarian research, its members cooperate in the network but the institutional organisation and activity is as uncertain as before.

## 2. How have the connections to HAS and its professional workshops developed?

As in the 1990s, the research centres have been in close contact with the institutes of HAS: the *Institute of Linguistics* and the *Research Institute of Ethnic and National Minorities*. The collabo-

ration with the former was strengthened by an agreement signed during the 2007 general assembly of HAS. The main academic body is the *Hungarian Science Abroad Presidential Committee* that is responsible for the *Domus*-programme through its supervising boards and the *Homeland Research Program* independent since June 2005. A collection of essays has recently been published thanks to the grant with the title: *Értékek, dimenziók a magyarsággutatásban* [values and dimensions in Hungarian research] edited by Csilla Fedinec. The workshops belonging to the network participated together at the VI. International Conference of Hungarian Studies in Debrecen in 2006 and the papers of the special symposium have also been published *Nyelv, nemzet, identitás. A VI. Nemzetközi Hungarológiai Kongresszus (Debrecen, 2006. aug. 22–26.) nyelvészeti előadásai. I. Kötet.* [Language, nation, identity. Linguistic papers Vol. I.].

**Gramma** reports about traditional independent activities. I.e. the meeting of applied linguistic workshops organized together with the *Department of Normative Linguistics* of the *Institute of Linguistics* HAS. The fifth meeting was held in Budapest in September 2008. The proceedings of the first two meetings (2005 and 2006) were published in 2007: *Műhelytanulmányok a nyelvművelésről* [working papers on language maintenance], well received by the colleagues. Though the meeting was organized by **Gramma** and the *Department of Normative Linguistics* the members of the **Termini** research network as well as teachers of various high educational institutions participated, too. **Gramma** has good connections to the *Hungarian Slovak Research Institute* in Békéscsaba, through private connections to several Hungarian institutions and associations, e.g. the Hungarian Association of Applied Linguists and Language Teachers; Students and doctoral students from Hungary regularly consult with them on linguistic questions and on the language rights of Hungarians in Slovakia, and had been on study tours in the Office.

The **Hodinka Institute** keeps close contacts with the research centres of the network and there is an agreement between them and Gramma as well as STANYI. They also have a similar agreement with the *Research Institute of Ethnic and National Minorities*, the *Linguistic Institute* of HAS, the *Hungarian Linguistics*

and *Finnougric Institute* of ELTE, with the *Department of Applied Linguistics* of the Pannon University, among others.

The bi-annual spoken language conferences are traditionally the major events of the domain. Kolozsvár Ro was the venue of the 13<sup>th</sup> in September 2004. The proceedings: *Nyelvi közösségek – nyelvi jogok* [language communities – language rights] edited by Attila Benő and Sándor N. Szilágyi were published (Szabó T. Attila *Nyelvi Intézet Kiadványai* 3. Kolozsvár: Anyanyelvápolók Erdélyi Szövetsége, 2006) by SZTANYI. On the 14<sup>th</sup> conference held in Bük (Hu) in October 2006 the members of the network had a separate meeting to discuss their joint research. The venue of the 15<sup>th</sup> one was Párkány, Slovakia. There was a special workshop *A kisrégiók magyar nyelve* [the Hungarian language of the small regions], organized by ISNYI and chaired by Anna Kolláth and Szilvia Szoták; the speakers were Anna Kolláth, Szilvia Szoták, Livia Pathy, Irisz Zsótér and Evelin Horváth.

The researchers of the research centres just as regularly participate at the events of the Hungarian Applied Linguistic Congress, too.

In October 2005 was the joint conference *Regionális dialektusok, kisebbségi nyelvhasználat* [regional dialects, minority language use]; the proceeding were published with the editorship of Ferenc Vörös: *Regionális dialektusok, kisebbségi nyelvhasználat : a 2005. október 20-21-i somorjai konferencia előadásai.* (A Magyar Nyelvtudományi Társaság kiadványai, 224. szám). Budapest; Nyitra; Somorja: Magyar Nyelvtudományi Társaság. Szilvia Szoták read a paper on the conference *Európai Unió, nemzetek és nemzeti kisebbségek/Nations and National Minorities in the European Union* in Kolozsvár in March 27–29 2008.

### 3. what are the joint topics (programmes, theoretical and/or methodological background operations, dictionaries, corpora and publications across the borders?)

Present day dictionaries, lexicographical essays or descriptive linguistic analyses cannot lack language technological background. The collection of the *Magyar Nemzeti Szövegtár* [Hungarian National Corpus] started in the *Department of Corpus Linguistics* of the Insti-

tute of Linguistics HAS under the leadership of Tamás Váradi in 1998. The aim has been the collection of a text corpus of one million words representing the characteristic utterances of the present-day Hungarian language. From 2002 the operations were extended to the usage of the entire Carpathian Basin with the aim of obtaining a corpus of 15 million words from the regions in the neighbouring countries. SZTANYI has added 8,9 million words instead of the pre-planned 6 million between 2003 and 2005. The material the Hodinka Institute has collected represents five types: written media, popular science, literature, official and spoken language. The project was completed in November 2005 and thus the Hungarian National Corpus has become a truly national and representative corpus of the Carpathian Basin. Thanks to the cooperation of the linguistic offices and the Department of Corpus Linguistics it is the first linguistic corpus that combines the linguistic varieties of the Hungarian language of Hungary and the regions in the neighbouring countries. <http://corpus.nytud.hu/mnsz/>

The main programme of the joint research the results of which could be directly applied in language planning is the description of the language varieties with special interest in the vocabulary and the connected lexicological analysis to treat the Hungarian language as a unit disregarding political borders ('de-bordering' the language as it were). The break through in the description of the language varieties was the publication of the second edition of *Magyar értelmező kéziszótár* [Hungarian Etymological Dictionary] in 2003 which was enlarged with words and meanings used in Transylvania, Upland and Subcarpathia. The aim of 'de-bordering' is to collect and enter all the elements from the entire Hungarian speech area into the new dictionaries, to make them Hungarian in the strictest sense not only of Hungary. The preparations were carried out between 2003 and 2006 by intensive gathering of words and by 2007 a rich word list of more than 2000 entries have been on the internet.

Thanks to the coordinated work of the linguistic centres an online database has been established which is continuously increased and the data of the corpus are available on the Internet. Itsván Lanstyák is in charge of the theoretical foundation and management of the 'de-bordering' programme. In 2008 the work of the centres made possible the transformation of the ht-list into the complex language

database *Termini* containing lexical entries from all the regions around Hungary. At present it contains 300 entries.

The further coding of the characteristic features of the Transylvanian lexicon, the maintenance and further developments of the online version of the electronic database, its enlargement by new entries and the continuous maintenance of the e-database is the task of SZTANYI. It has been accepted to publish all the databases of the seven outer regions on a uniform operating system. Thanks to Tihamér Juhász, linguist-information expert, it has been achieved in 2007 <http://ht.nytud.hu>.

Thanks to the above described coordinated lexicographical endeavours, representative lexical elements of the of the regions in the neighbouring countries have been included in several dictionaries published in Hungary. Besides the above mentioned Etymological dictionary there are 1) the list of place- and institution names collected for *Osiris Helyesírás* [orthography]; 2) for *Osiris Idegen szavak szótára* [dictionary of foreign words] and its later editions for schools; 3. new entries, meanings, synonyms for *Értelmező szótár* + [etymological dictionary]. In 2006 a joint program of the research centres was to provide the Hungarian spell checker programme of MorphoLogic Ltd. with the place-names of the minority regions (the program is known as the spell-checker for Windows Word and Quark XPress as part of the Office package). The place name list compiled by SZTANYI contains all the Transylvanian town and village names and soon will be included in the next spell checker programme. The list has more than 3000 words and the programme will check all of them for their spelling and suffixation. The joint programme in 2004-2005 was the analysis of legal, institutional and educational situation of minority education. The research has only been carried out partially; the results will soon be published. János Péntek and Rita Foris Ferenczi carried out the research concerning Transylvania, Gizella Szabó Mihály that of the Upland,

Ildikó Orosz, Anikó Beregszászi, István Csernicskó and Szilvia Bányi that of Subcarpathia, Irén Gábrity Molnár, Lajos Göncz and Annamária Bene that of Voivoda, Anna Kolláth that of Slovenia and Szilvia Szoták that of Austria. They have also written the accompanying essays.

The staff of Gramma have analysed the schoolbooks and syllabuses of Hungarian language teaching, the development of bilingual

children in understanding texts, the teaching of the Slovak language, the results of pedagogical surveys, the quality of school libraries and the translation of school books, etc. Katalin Misad, Szabolcs Simon, Gizella Szabómihály and Ildikó Vančo have published several essays; the methods of bringing the teaching of the Hungarian language up to date were the topic of the 4th Gramma linguistic days in 2005. In 2008 the MANYE conference had a special section and round table talk on the questions of language maintenance together with the *Department of Normative Linguistics* of HAS.

The analyses demonstrate that the translated school-books not only represent inadequate usage of special vocabulary but are based on Slovak examples and sources only, thus they do not inspire the Hungarian pupils to enlarge their knowledge by Hungarian sources using their knowledge of the Hungarian language. This realization has led Gramma to publish two textbooks in cooperation with the Szakképző és Felnőttképzési Intézet [institute for vocational training and adult education] in Komárom in 2008 (it is also available with enlarged examples as part of an e-learning programme); the other one describes the Slovakian and Hungarian system of labour and employment legislation as well as that of social security, both have been written by Gizella Szabómihály.

Anna Kolláth has been carrying on with her research of the bi-lingual education in the Mura region.

#### **4. Work in progress in the region: research, language planning, language counselling, educational policy, background work, etc. Cooperation with the institutions of the given region. Events and publications.**

In SZTANYI the continuation of the *A moldvai magyar nyelv szótára* [dictionary of the Hungarian language in Moldavia] is an important local project started as a department project by János Péntek in 2003. It is planned as a dialect dictionary of the traditional Moldavian variety of Hungarian. The definition of the material of the dictionary: the lexicographical problems and the choice of headwords, is connected to the definition of the language variety itself. The most recent developments, which are the result of increased mobility of Moldavians, cannot be taken into account i.e. the new elements from

colloquial Hungarian or the literary language. In the case of entirely bilingual speakers the separation from the Romanian language is another source of difficulty.

Already Wichmann and all the earlier field workers found it important to analyse the language within its traditional cultural context and to represent it in a dictionary. The dictionary edited by SZTANYI is also planned to be a dictionary with cultural aspects, a kind of ethnographical encyclopaedia. It should mirror the language and culture, words and categories, concepts and traditions in their connections.

The aim is the compilation of an encyclopaedic dictionary which sums up 20<sup>th</sup> research, displays language and culture of the Hungarians in Moldavia in its entity as well as in its regional separation. Theoretically it belongs to the type of Hungarian dialect dictionaries that show the complete lexical and phraseological material of the region with proper names included similar to the *Szamosháti Szótár* and the *Szegedi Szótár* [Dictionary of Szamoshát, D. of Szeged]. The dictionary's encyclopaedic character lies in the inclusion of proper names: personal names, place-names, names of regions, etc. The edition is based on the earlier fieldwork of the Department; the processing of the data into dictionary entries has been undertaken and completed up to the letter < i, í >.

The special bi-lingual dictionaries completed or under edition are meant to serve language planning. Because of language use restrictions there are characteristic uncertainties, gaps in language use, and especially the absence of technical terms represent problems for the speakers of Hungarian in Transylvania, sometimes even hindering the realization of certain language rights. The Romanian – Hungarian and Hungarian – Romanian dictionaries try to mend these shortcomings through unification of the terminology and a conscious shaping of the linguistic stock.

In 2004 the *Magyar-román közigazgatási szótár* [Hungarian – Romanian dictionary of public administration] was published, edited by Attila Benő *et al* as the complement of the earlier *Román-magyar közigazgatási szótár* [Romanian – Hungarian dictionary of public administration] edited by Fazakas Emese and published by the Transylvanian Association for Cultivating the Hungarian Language. Both dictionaries treat the language of administration in a wider context

as it is closely connected with the language of economy and law and besides common words it contains the names of important Romanian institutions too.

In 2008 another result of the dictionary editing activity of the office is the *Román–magyar oktatásterminológiai szótár* [Romanian – Hungarian dictionary of the terminology of education] edited by Attila Benő and Krisztina Sárosi Mardirosz, published as an experiment in a limited number of copies. It contains besides words and educational terminology names of institutions, a bilingual subject list as well as the Hungarian and Romanian name of all the Hungarian schools in Romania.

A new type of dictionary is in preparation at SZTANYI, *Román–magyar kulturális szótár* [Romanian – Hungarian cultural dictionary]. A cultural dictionary differs from the usual bilingual dictionaries that its interest is not linguistic information but cultural elements are introduced in short concise entries for the information of readers not enough well versed in the culture of the source language. It is a kind of encyclopaedia to introduce the most important notions of the Romanian culture. It includes high and popular culture: science, art, literature, folklore, beliefs, material culture, folk religion, etc. The already existing cultural dictionaries have been taken as examples (*Angol–magyar kulturális szótár* [English Hungarian cultural dict.], *Német–magyar kulturális szótár* [German – Hungarian Cultural dict.]). These dictionaries treat culture in its widest sense and list representative names and notions in order to introduce the culture of an ethnic community. This is the pattern the Romanian – Hungarian cultural dictionary aims at following. Outstanding Romanian historic personalities, scholars, philosophers, authors, artists of symbolic importance are among the headwords of the dictionary. To a less extent geographical and place-names have also been treated which appear as historic symbols of the Romanian historiography, or are of geographical – touristic importance. E.g.:

BOBÁLNA: *Bábolna. Szamos menti történelmi település, amely a feudális elnyomás következtében kitört parasztlázadásról közismert. E feudális ellenes mozgalom eredménye volt a szabadköltözködés jogának megszerzése és a hűbérúri járadék csökkentése.* [historic locality at the River Szamos known from the peasant rebellion caused by feudal oppression. The result of this anti-feudal movement was the right for moving freely as well as the decrease of the landlords' remuneration]

BÁLEA: *Románia legnagyobb kiterjedésű (0,46 km<sup>2</sup>) gleccsertava, amely a Fogarasi-havasokban, 2034 m magasban fekszik, turisztikai látványosságáról híres.* [the largest glacier lake of Romania lying at the height of 2034 m in the Fogaras Alps is famous as a touristic sight]

BÁRÁGAN: *a Román-mezőségek a Mostište, a Duna és a Buzău folyók völgye közé eső területének neve, amelynek legfőbb jellemzője talajának magas nedvességtartalma, sztyeppére jellemző hőmérséklete, és olyan talajtípusa, amely gabonafélék, napraforgó, dohány stb. termesztésére alkalmas. Az ország „magtárának” is szokták nevezni.* [the name of the Romanian plain between the Rivers Mostište, Danube and Buzău; its characteristics are the high moisture in the soil, steppe like climate and soil suitable for the cultivation of grains, sunflower, tobacco, etc. It is referred to as the 'granary' of the country].

The description of folklore elements (culture specific fundamental concepts, beliefs, customs) is an essential feature of cultural dictionaries. The beliefs connected to animals, plants, meteorological phenomena have the same importance as do the peculiarities of folk medicine or religious beliefs. E.g. the examples below:

BABA DOCHIA [e: bábá dokiá]: *Március első hét vagy kilenc napját a bábák /vénasszonyok/ napjainak nevezik, meteorológiai szempontból ezek lehetnek kedvezőek vagy rosszak. Dochia a tavasz bábája, és az emberek türelmetlenségének a megtestesítője, amellyel a tavaszt várják. A néphit szerint Dochia elküldte menyét február végén számócát szedni, és természetfölötti erők beavatkozása révén sikerült is neki számócát találni. Amikor Dochia meglátta a számócát, azt hitte, eljött a tavasz, kilenc ruhát magára véve elindult nyájával a hegyekbe. Mivel az idő felmelegedett, és esni kezdett, ruhái megnehezedtek, ezért elhagyta őket. A meleg idő után azonban fagy jött, s mivel Dochianak nem voltak már meleg ruhái, megfagyott nyájával együtt. A néphit szerint ma is láthatók jégszobrok formájában a Kárpátok bizonyos helyein.* [the first 7-9 days of March is called the time of the old women, meteorologically either good or bad. Dochia is the old woman of spring, the personification of human impatience expecting spring. Legend has it that Dochia sent her daughter in law to pick strawberries at the end of February. Thanks to supernatural powers she managed to find some. When Dochia saw the strawberries, believed that spring had already come, put on nine garments and went with her sheep in the mountains. The weather became warmer, rain fell, her garments became heavy thus she left them behind. After the warm spell frost came, since she had no more warm things to wear, she died of cold together with her sheep. It is believed that in some places in the Carpathian mountains there are ice-statues to be seen.]

BUSUIOC [e: buszujok]: *bazsalikom. Illatos virág, amelynek a néphagyományban mágikus funkciót tulajdonítanak, így például az újszülöttek fürdővizébe bazsalikomot tesznek, hogy úgy szeressék őket, akár ezt a szép virágot; a lányok mellükre vagy hajukba tűzve hordják, hogy szerencsét hozzon a szerelemben; Vízkereszt napján párna alá téve megtudhatják a fiatalok, ki lesz jövődöbelijük; a menyasszony koszorúját is bazsalikomból fonják, a fiatal házások párnájába is ezt teszik, hogy boldog házasságot hozzon.* [Basil. Its fragrant flower has been attributed magic functions, e.g. it is added to the

bathwater of babies to be loved as well as the flower; girls wear them on their dress or in their hair to bring them luck in love. If put under the pillow on Twelfthnight, young people can learn who their future partner is going to be; it is woven in the wedding crown of brides and put in the pillow of newly weds to bring happiness in their marriage.]

The most recent service of the Institute is the linguistic supervision of the Hungarian translation of about a hundred Romanian official forms. There are several reasons why is it difficult to use the Hungarian language at the self governmental level albeit present laws allow it. With the bi-lingual dictionaries the aim was to help and encourage the knowledge and usage of Hungarian terminology. The necessity of official form in Hungarian had been pointed out earlier and it was the Minority Research Institute of the government in Kolozsvár that has the translations made and asked the Institute for linguistic and terminological checking of the translations. The documents are to found on the home-page of the Minority Research Institute <http://ispmn.gov.ro> and 50 of them are also available on CD. Hopefully the two institutes will continue their cooperation in other topics, too.

Of the events the most important one was the 13. Modern Language Conference hosted by SZTANYI in 2004.

In October 2004 there was an agreement of cooperation between the *Hungarian Language School* Budapest and SZTANYI for the adaptation of the teaching material of *Hungarian as a Foreign Language* to be adapted for Romania for those who wish to learn Hungarian as a foreign language as well as for those who have switched their language but wish to learn it anew in courses organized by non-official civil organisations. The agreement was for a year-long cooperation and the members of the Institute have fulfilled their tasks for 2005, the translation and adaptation of syllabuses.

SZTANYI hosted the 3rd Summer seminar of Illyefalva with the participation of the members of the network. The program was organized around four topics: 1) lexicographic research 2) research of the Hungarian varieties outside of the borders of Hungary, 3) works on corpus linguistics, 4) debate over the research reports of doctoral students.

Also in 2005 there was a workshop where the problems of language usage and translation – and how to overcome them – were discussed

together with the Hungarian translators and editors of the Official Gazette of Romania.

2006 was the centenary year of Attila T. Szabó beginning with laying a wreath on his grave on his birthday, the 12. of January. Afterward there was a conference with the introduction of the new volume of the *Szótörténeti Tár* [historical lexical dictionary].

14.-16 September 2006 was the date of the conference of scattered nationalities, János Péntek, Attila Benő and Krisztina Sárosi-Mardirosz represented STANYI, they all presented their papers on language right and education politics.

In 2003 the first volume of *A Szabó T. Attila Nyelvi Intézet Kiadványai* [publications of STANYI] edited by János Péntek – Attila Benő: *Nyelvi kapcsolatok, nyelvi dominanciák az erdélyi régióban* [linguistic contact, linguistic dominance in the Transylvania region]; in 2005 also edited by János Péntek and Attila Benő *Nyelvi jogi környezet és nyelvhasználat* [linguistic legal context and language use]; in 2006 *Nyelvi közösségek és nyelvi jogok* [language communities and language rights] the proceedings of the 13. Modern Languages Conference held in Kolozsvár edited by Attila Benő and Sándor N. Szilágyi; in 2007 4. volume of the series in two volumes *Nyelvek és nyelvváltozatok* [languages and language varieties] edited by Attila Benő, Emese Fazakas and Sándor N. as a Festschrift for Péntek Jánost on his 65. birthday. The 5. volume of the series is being prepared for publication: *Oktatás: nyelvek határán* [Education at the border of languages].

**Gramma** reports that regional work is mainly connected to the joint tasks of the network and are part of Gramma's long range research plans:

The characteristics of the Hungarian lexicon in the region, lexicological and lexicographical research and analysis

- (a) the development of the word-list of the language of Hungarian in the neighbouring countries (in the framework of Termini);
- (b) corpus building programme;
- (c) Hungarian language teaching in Slovakia;
- (d) Language planning and treatment of language problems;
- (e) Other sociolinguistic and contact studies.

A part of the lexicological - lexicographical research is part of the Termini-programme. Though there are no loan-meanings in the ht-list, the *Kárpát-medencei Magyar Nyelvi Korpusz* [Hungarian



linguistic corpus of the Carpathian Basin] makes it possible to study the frequency of a synonym within a field of synonyms. It is noticeable that under the influence of the majority language the frequency of an element of the field increases and gains specific meanings, while the word with no unambiguous equivalent in the majority language will become less frequent. The Slovak – Hungarian lexicographical activities of the office independent of Termini are concentrated at language planning, language management. With the compilation of lists of terminology the aim is to eliminate variables due to *ad hoc* translation, the lack of norms and the propagation of codified elements. Thus the legal – economic word-list has continuously enlarged; a standardized list of Slovak – Hungarian institution names has been compiled by Gizella Szabó Mihály.

In the *Corpus building programme* the Corpus of Written Hungarian Language is being enlarged with text types under-represented in the material already treated according to the original plans, e.g. regional newspapers, official texts, personal papers. Tibor Pintér has finished the lemmatisation of the words in the ht-list, thus the search-program can recognize the items, thus the special Slovakian developments and borrowings can also be analysed.

*Spoken texts* have also been collected for the Hungarian linguistic corpus of the Carpathian Basin, the project is led by István Lanstyák. There are 268 recordings made between 2003 and 2008, varying in length between 30 minutes to 90 minutes, in the previous years the usual length was 40-45 minutes while in the last couple of years 60 minutes. There are transcripts made of all the recording based on István Lanstyák's guide of transcription. The transcripts contain 20-30 minutes of the discourses.

The informers are persons living in Slovakia who know Hungarian to various extent. Most of them are Hungarian by nationality and have Hungarian as their mother tongue, but there are also persons whose mother tongue is Slovakian or ambivalent, or those who count as 'marginal' from the point of view of the speech community, and at the end of the scale are the speakers who were born in Hungary and later moved to Slovakia.

The students of Hungarian of the Comenius University are the field workers and the material is very varied because besides the Slovakian 'standard' speakers there are recordings from persons

about to switch their language, from such who are already bilingual with Slovak dominance and also from such who learned Hungarian in later years. The recordings have continuously been transcribed and Lanstyák's guide makes a complex analysis of the texts possible. There is a plan to publish the most interesting texts in the series *Tanulmányok a kétnyelvűségről* [essays on bilingualism] (Vol. 4 published in 2008, Vol. 5 in 2009).

*Programme for language planning and problem solving* is about theoretical research, e.g. on language policy and language rights (Gizella Szabó Mihály), language shaping: standardization, language planning, language management (István Lanstyák), terminology planning in a minority language context (Katalin Misad, Gizella Szabó Mihály). In the last two years the problems of the treatment of place-names in the neighbouring countries caused by multiple standardization were treated with special interest in consultation with the Hungarian inter-departmental committee for geographical names, and there have been several essays written on the topic (Gizella Szabó Mihály). The practical activity of the office is of importance: the linguistic customer service, specialist activities and technical translation. The customer service receives about a hundred questions per year mainly from translators and journalists but from the general public too. The members of the office are requested for advice by various Hungarian organizations e.g. Hungarian Coalition Party, Association of Hungarian Teachers, Csemadok, etc. On the request of the Slovakian Ministry of Education Gizella Szabó Mihály translates the new forms introduced in the Hungarian schools and also has other work as expert too, e.g. the names of subjects, schools, etc. The members are also carrying on with their sociolinguistic and contactological research of which the research of the south Slovakian Roma language use is noteworthy (József Menyhárt and Tibor Pintér) as well as József Menyhárt's essays on the language policy and practice of the Slovakian Churches.

As can be observed Gramma keeps closer contacts mainly with Hungarian organisations and institutions. Its connection to the Fórum Társadalomtudományi Intézet [F. Institute of Social Sciences] and the Mercurius kutatócsoport [M. Research group] are the most important (they are also members of the latter individually). In 2008 they compiled a sample from the Hungarian dialects of Slovakia, a digitalized version of the recordings made by students of Comenius

University, for the permanent exhibition of the Szlovákiai Magyar Múzeum [Hungarian Museum in Slovakia].

The contact and cooperation with Slovakian and Czech experts are also important: an event of 5<sup>th</sup> Gramma Linguistic Days was the discussion on language norms with the members of the Linguistic Institute of the Slovakian Academy of Sciences; on language management with the colleagues from the Charles University of Prague (this was the topic of the 2006 socio-linguistic workshop but further discussions and joint publications have also been planned). The contact with the Research Institute for Social Sciences of the Slovakian Academy of Sciences in Kosice is about the legal situation of the Hungarian minority in Slovakia (conference participation).

*Events:* With the exception of the last year, as the Conference on Present day language was hosted by Gramma, in every November there is the Gramma Linguistic Days (so far five events) that is organized jointly with the Research Institute of Linguistics of HAS, the above mentioned workshop on applied linguistics, various workshops on sociolinguistics: on language planning, language management.

*Publications:* the members of Gramma publish about 30-35 essays, articles, critiques per year and about 40 articles on popular topics. The list of publications can be viewed on the home page and the yearly reports are also on the home page.

In their published volumes essays by local and foreign authors are collected thus the colleagues of Termini are constant contributors.

The list below contains the publications written and/or edited by the members Gramma in the research topics of the programme.

Lanstyák, István–Menyhárt, József eds. *Tanulmányok a kétnyelvűségről III.* [Essays on bilingualism] Pozsony: Kalligram Könyvkiadó 2005. 298 p.

Lanstyák, István–Vančóné Kremmer, Ildikó eds.. *Nyelvészetről – változatosan. Segédkönyv egyetemisták és a nyelvészet iránt érdeklődők számára.* [On linguistics – with variety. Manual for university students and everybody interested in language] Dunaszerdahely: Gramma Nyelvi Iroda 2005. 301 p.

Lanstyák, István. *Nyelvből nyelvre. Tanulmányok a szókölcsonzésről, kódváltásról és fordításról.* [[rom one language into another. Essays of lexical borrowing, code switching and translation] Pozsony: Kalligram Könyvkiadó.. Oldalszám: 296.

Domonkosi, Ágnes–Lanstyák, István–Posgay, Ildikó eds. *Műhelytanulmányok a nyelv műveléséről.* [work in progress on language standardisation] Dunaszerdahely–Budapest: Gramma Nyelvi Iroda–Tinta Könyvkiadó, 2007. 297 p.

Szabómihály Gizella: *Üzleti levelezés* [Commercial correspondence]. Komárom: SZAK. 2008. 119 p.

Szabómihály Gizella: *Munkaügyi ismeretek* [On employment]. Komárom: SZAK. 2008. 100 p.

The **Hodinka Antal Institute** has been working on the following topics for its own research project: language policy and language planning, the sociology of language and area analysis, language contacts, research in bilingualism. The individual programmes of the young researchers of the Institute:

*Anita Márku:* Choice of code and code switching as communication strategies among the Hungarians in Subcarpathia. In bi-lingual communities code switching is a well known phenomenon, i.e. the speakers switch language or language variety within a person to person communication situation or even within a sentence. The analysis of the answers of college and university students given to the questionnaire N=116 shows the factors influencing the choice of code of the young people and the level of their mastering the language as well. The literature describes bilingualism as the determining instrument of group identification. There have been research to inquire into the habit of code choice and code switching of the Hungarians in Subcarpathia, but only in the context where Hungarians of Subcarpathia were talking to Hungarians of Subcarpathia. The frequency of code switching and reasons of code switching in Subcarpathia need further investigations.

Further aims and tasks: in 2008 the analysis of the already transcribed in depth interviews will supply a more detailed knowledge of code switching habits in the situation ‘Hungarians of Subcarpathia talking to Hungarians of Subcarpathia’. Recording will be continued to research communication strategies in other situations, e.g. Ukrainina/Russian mono/bilingual persons talking to a Subcarpathian Hungarian-dominant bilingual ones.

*Zoltán Karmacsi:* Strategies of language use of children raised in ethnically mixed families. The aim to discover the language using strategies of 3-6 year old children raised in ethnically mixed (Slavic-

Hungarian, Hungarian –Slavic) marriages. ‘It is presupposed that these children use more complex language using strategies than the ones in ethnically homogeneous families; the children in mixed families have other characteristics of bi-lingualism e.g. code switching in additions to lexical borrowing, while in the speech of children in ethnically homogeneous families lexical borrowings can occur at most; in the vocabulary of children in mixed families the concepts adequate for their age are present in both languages and can be called forth in every day use, depending on the partners the topic or the language of the event the child learned them about’.

**Kornélia Hires-László:** The factors of national and local identity in the Hungarian community of Subcarpathia during the turn of the millennium. The Hungarian community in Subcarpathia has been living in minority since 1918. The fact must be influential on their national and local identity. “The aim of the research is to map the elements of the national and local identity with the help of empirical analysis, questionnaires and in depth interviews; what is the role of the various factors, e.g. that of the common language, blood relationship, citizenship etc. in the national sense of identity; what are the elements of identity that represent affiliation to a local community.’

**István D. Molnár:** The development of migration tendencies in Subcarpathia between the world wars. The importance of the research is stressed by the fact that there are very few publications analysing the characteristics of migration of Subcarpathians during the period in question. The exposition of the topic would facilitate the understanding of the changes in the number of the population. In 2008 the analysis of migrations between the two world wars were analysed that could serve as the starting point of the explanation of the present ethnic make up of Subcarpathia.

#### Publications

- Beregszászi, Anikó – Csernicskó, István – Orosz, Ildikó 2001. *Nyelv, oktatás, politika.* Ungvár: PoliPrint. [Language, teaching, politics]
- Csernicskó István ed. 2003. *A mi szavunk járása. Bevezetés a kárpátaljai magyar nyelvhasználatba.* Ungvár: PoliPrint. [the way we speak. Introduction to the Hungarian use in Beregszász]
- Beregszászi, Anikó és Csernicskó, István eds. 2004. *Tanulmányok a kárpátaljai magyar nyelvhasználatról.* Ungvár: PoliPrint. [Essays on the language use in Subcarpathia]

- Beregszászi, Anikó – Csernicskó, István 2004. *...itt mennyit ér a szó? Írások a kárpátaljai magyarok nyelvhasználatáról.* Ungvár: PoliPrint. [Writings on the language use of Hungarians in Subcarpathia]
- Beregszászi, Anikó – Papp, Richárd eds. 2005. *Kárpátalja. Társadalomtudományi tanulmányok.* Budapest–Beregszász: MTA Etnikai-nemzeti Kisebbségkutató Intézet – II. Rákóczi Ferenc Kárpátaljai Magyar Főiskola. [Subcarpathia. Essays in Social sciences]
- Beregszászi, Anikó – Csernicskó, István 2006. *A kárpátaljai magyar nyelvhasználat társadalmi rétegződése.* Ungvár: PoliPrint. [The stratification of the Hungarian language use in Subcarpathia]
- Karmacsai, Zoltán 2007. *Kétnyelvűség és nyelvelsajáttítás.* Rákóczi-füzetek 25. Ungvár: PoliPrint. [Bilingualism and language acquisition]
- Csernicskó, István and Márku, Anita eds. 2007. *„Hiába repülsz te akárhová...” Segéd-könyv a kárpátaljai magyar nyelvjárások tanulmányozásához.* [Manual to the study of the Hungarian dialects of Subcarpathia] Ungvár: PoliPrint.
- Márku, Anita 2008. *Érvényes történetek. Nyelvválasztási és kódváltási kommunikációs stratégiák a kárpátaljai magyar fiatalok körében.* Ungvár: PoliPrint. [Language choice and code switching strategies in the communication of young people in Subcarpathia].
- The members of the Institute participated in the preparation of a Hungarian – Ukrainian and Ukrainian – Hungarian Dictionary:
- Kótyuk, István (editor in chief.) 2007. *Magyar–ukrán kisszótár.* Ungvár-Beregszász: PoliPrint-KMF ;
- Bárány, Erzsébet, Dzsanda, Galina, Kótyuk, István, Libák, Natália, Margitics, Katalin, Csernicskó, István (eds.) 2008. *Ukrán–magyar kisszótár.* Ungvár-Beregszász: PoliPrint-KMF.

In **Slovenia** Anna Kolláth has finished the description of the Hungarian contact variety of the Mura region and published it in an independent volume: *Magyarul a Muravidéken.* Zora 39. Maribor: Slavistično društvo. 2005. 284 l. [Hungarian in the Mura region]. On invitation to the 2005 conference of the Slavic Society of Maribor University, she presented the work on “de-bordering”; the paper has been published. She also published several essays on her research about bilingual education in the Mura region in Budapest, Vienna, Szombathely and Temesvár.

She continues work on the varieties of contact dialect of the region; participated at dialectological symposiums, e.g. in August 2007.

Early in 2007 she started the frequency analysis of the ht-words of her region based on a 100 item questionnaire. She has evaluated 100 filled in sheets and has published the first results. She presented a paper on the topic at the 15<sup>th</sup> Conference of Present day language in Párkány.

Though lacking her own language office she is engaged in language educational activities ‘simply in the university office, on the phone or

through e-mail'. Linguistically checks the Hungarian translation of schoolbooks for primary and secondary schools. Since September 2008 she is the chairperson of the subject committee for the school-leaving examinations in Hungarian language and literature. The committee is responsible for the composition of the test – papers with the help of a “test bank”, the setting of the topics for oral questions and the list of the questions, etc.

It were the translated schoolbooks that have suggested the questionnaire about the necessity, advantages or disadvantages, general reception of bilingual textbooks addressed to the absolute experts of the matter: the pupils themselves. There were 157 pupils participating in the survey, and the processing of the data is soon to be finished. The first results were introduced on the Applied Linguistic Workshop in Budapest in September 2008.

Szilvia Szoták was the only researcher of the Burgenland small region till 2007. She participated in the joint network research individually, her data helped enlarge the corpus of the Osiris Dictionary of spelling and that of the Dictionary of foreign words as well as the Etymological Dictionary+ of the Tinta publishing house. She participated at the 7<sup>th</sup> International Conference of Nationality Research in Békéscsaba. Together with Boglárka Bakó she edited the volume *Magyarlakta kistérségek és kisebbségi identitások a Kárpát-medencében* [Small regions with Hungarian population and minority identity in the Carpathian Basin](Gondolat Kiadó – MTA Etnikai-Nemzeti Kisebbségkutató Intézet Budapest).

### 5. Work in progress. Work unfinished. Further plans

In the existence and activity of Termini, the linguistic research network of the Carpathian Basin, continuity and the stability are imperative for the accomplishment of the basic programmes. Especially joint basic research is considered to belong under this heading but so are the topics on to planning and application that require the cooperation of several researchers. From the relative stability of the institutions and the network one vital element is missing, stable funding at least on basic level, the existential security of young scholars to become full-time researchers. This shortcoming is the major cause of the important projects lagging behind (e.g. the continuous examina-

tion of the aspects of minority education, the standardisation of the Hungarian place-names as a long-term project).

In spite of all the uncertainty the research on bilingualism and the phenomena connected to language contacts, e.g. language switch and language revitalization seems to be continuous in all regions. The enlargement of the lexical corpora and analysis and evaluation is going on and getting ever more accurate by the help of modern technology. There is no change in the opinion and expectation of the members of the network that the elements in current use in the minority language varieties should be included in the Dictionaries and manuals of the Hungarian language in the future. (The publishers and linguists in Hungary are not always ready to comply). On their part they participate in the field-works of the New Atlas of the Hungarian Dialects as a task belonging to “de-bordering”.

For the colleagues living and working in the various regions it comes naturally to support the local communities in their language use supplying them with dictionaries - bilingual or other types, textbooks, everyday customer service and every kind of activity connected to language use.

Though it proved impossible to fulfil all the plans, the colleagues of the network have not given up the long-term joint project of the *Standardization of the Hungarian place-names in the Carpathian Basin*. The reason of slowing down with the work was that there was less possibility to apply for grants. As is known after Trianon the official use of Hungarian place-names in the neighbouring countries fell under the supervision of the authorities of the new states. The first consequence was that the names were nationalised in the states and the Hungarian linguistic and place-name aspects have not been taken into account, nor the local usage and historical traditions. The various changes in state powers and other political changes played further havoc in the field place-names, mostly taking no account of the “non-official” Hungarian names or forms. In the present relief maps of mountains and rivers the names are given in the official language of the state and do not have Hungarian name equivalents; on the other hand the various maps published in Hungary sometimes contain several different names for the same geographical features. The favourable changes in the 1990s allowed for the improvement in the status of minority languages and the

restricted public use of the Hungarian place-names were permitted, (it is though a question whether public can be regarded as official). The authoritative codification, the confirmation of the lists were the tasks of the public administrative boards (sometimes together with academic institutions); leaving out the competent local experts and scholarly bodies.

The goal of the research centres is to collect a complete corpus of the place-names of the Carpathian Basin, establish their correct denomination, give their equivalent in the state language, standardise their Hungarian form and spelling as well as establish the common rules of name forming and usage of names.

The common basic principles of standardization are the following: 1) local Hungarian usage (together with the suffixation used by the local speakers); 2) historical tradition; 3) the general rules of Hungarian name giving and usage (together with the rules of orthography of place-names). The project planned for three years could be carried out in three steps. Firstly the place-names, the names of the administrative units and the most important area names of the regions should separately be codified, including the names of places with non-Hungarian population but which have Hungarian names as well as the transcription/transliteration of names written in non-Latin script. Secondly the names in the neighbouring areas should be unified from the point of view of name giving, usage and form. Thirdly the resulted data should be compared and harmonized as far as possible with the Hungarian official names, name giving and name usage principles and practice.

According to the earlier decision the Hungarian Place-name Committee, the Linguistic Institute of HAS and the Department of Hungarian Linguistics would continuously participate. This was the main topic of the workshop held in Debrecen between the 30<sup>th</sup> August and 2<sup>nd</sup> of September. The place and area names have permanently been collected in Transylvania. In Subcarpathia an electronic database was established for the identification of geographical names that contains the local place names both in their form in the given state language and their variant in Hungarian too: in the case of settlements the name of the largest administrative units, area names, the names of the natural formations of the surface of the earth: names of terrains, river names, etc. are included.

The enlargement of the lexical content of the Romanian – Hungarian dictionary of educational terminology and the edition of its Hungarian – Romanian version belongs to the short-term plans of STANYI and parallel to it the collection of the material for the Hungarian -Romanian cultural dictionary.

In cooperation with the Institute for Minority Research in Kolozsvár they continue to strive for the inclusion of the Hungarian language into the state and self-governmental administration in Romania. Together with the Institute STANYI participates in the representative sociological and sociolinguistic analysis of the whole region.

The **Gramma Language Office** intends to continue its already mentioned long-term research project complemented with the individual research of its members. They plan a special representative volume in the series *Magyarok Szlovákiában* [Hungarians in Slovakia] of the Fórum Institute for Minority Research, to summarize the results achieved and supplement with newer ones; the publication will give a deeper, subtler and more comprehensive view over the present linguistic situation and language use of the Hungarians in Slovakia. Another publication also planned is a guiding dictionary that would be the summary of earlier practical language planning, popular educational activities.

Further research plans of the **Hodinka Antal Institute** in Subcarpathia:

1. Research to connected to programme *The Hungarian language in the Carpathian Basin*. The aim is real time analysis (István Csernicskó), the repetition of the 1996 RSS inquiry; In 2006 the questionnaires were re-issued and now the 594 answer sheet are being analysed.
2. *Education in Hungarian in minority regions* (István Csernicskó and Anikó Beregszászi). The research started in 2005 and planned for three years aims at the inquiry into the language situation of the minority Hungarian educational institutions; it examines the relationship between education and the use of the mother tongue; the quality of the knowledge of the mother tongue, the majority language and competence in other learned languages, the types of bilingualism and their operation.
3. *Languages at the various scenes of language use*. The program which started in 2006 contains a number of individual

research to discover the strategy of code choice of Hungarians in Subcarpathia during various their language use situations from personal communicational to the official sphere; there is overt bilingualism: bilingual inscriptions, notices, street signs, etc., and audible bilingualism on records.

The **Imre Samu Linguistic Institute** participates partly in joint projects, partly organizes its own programmes. Thus the institute participates in the research programme following the schedule of the Termini network programme. This is the framework for the enlargement of the lexical database of the neighbouring countries, i.e. the collecting and analysing of direct borrowings – contact elements – from the majority language. The maintenance, enlargement and development of the ht-database of borrowings from the majority languages of three small regions

The field-work in Burgenland is the task of Szilvia Szoták, in the Mura region that of Anna Kolláth, in Croatia that of Orsolya Žagar-Szentesi. In addition Anna Kolláth is responsible for the questionnaire investigation of the frequency of the school slang layer of the ht-words; Szilvia Szoták undertakes similar investigation in Burgenland: in the summer of 2008 there were about hundred people in three locations, Felsőőr/Oberwart, Alsóőr/Untervart and Órisziget/Siget and der Wart who filled in a questionnaire containing 50 sentences with 73 contact elements. The results will soon be published.

Both Anna Kolláth and Szilvia Szoták joined the field working for the New Atlas of Hungarian Dialects in their regions. The edition of the planned dictionary of the Mura region is temporarily stopped.

Szilvia Szoták is planning to edit a Hungarian Dictionary of Burgenland as an institute project. It will be a development of the dialect dictionary of Felsőőr edited by Samu Imre. ‘We want to investigate which words are still alive in common knowledge and which have gone out of use. In contrast to Samu Imre’s practice the field work will not be restricted to the investigation among the Calvinists of Felsőőr but extended to the speakers of Alsóőr, Sziget and Pulya/Pullendorf too. The most frequent contact elements borrowed from the state language will also be included.’

The Burgenland studio of the ORF television station launched a programme *Our language heritage* where Szilvia Szoták urges the listeners to participate in the field-work. They were asked to collect

and send in old words and expressions they have heard their parents or grandparents using. The aim is to enlarge the Burgenland dialect wordlist and also to focus on the speech of the Hungarians of the region and draw attention to the language heritage that could survive for centuries but the future of which is in danger. There is a plan together with ORF to compile recordings on CD with Hungarians of Burgenland speaking in their local dialects.

There was a conference on the 13<sup>th</sup> September 2008, the proceedings are planned to be published. ‘We would liked to present this book not only to the experts and the Hungarians of Burgenland, but also to the Austrian audience to inform them about the language situation of the Burgenland group of the Hungarian speakers who represent Austria’s largest minority according to the data of the 2001 census.

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**90 Years in the Carpathian  
Basin Since the Fall of the  
Austro-Hungarian Monarchy**

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László Szarka

## **The Helvetian model as an alternative and its failure in autumn 1918**

### **A contribution to the history of the minority policy of the Károlyi government**

#### **Abstract**

*The minority political idea of Oszkár Jászi elaborated at the end of World War I., that Hungary should have had to join forces with the newly formed states, was doomed to failure from start. It could not succeed because of the actual way the great powers delineated the forms of the new Central European states. Hungary became internationally isolated and the minority movements grew more and more radical.*

The Austro-Hungarian Monarchy lost World War I. which led to its dissolution. The long process leading to its breaking up into several national states has usually been neglected by analysts who prefer to interpret the real reasons of the dramatic changes in Central Europe from the point of view of their own national interests. They treat the new situation created by the armistice in Padova and Belgrade as being without historical antecedent, the creation of small national states merely as geopolitical and geo-strategic rearrangements serving the strategies of the victorious great powers. There are tragic myths about the collapse of the Austro-Hungarian Monarchy and heroic ones on the foundation of new states; however, these are partial, nationalistic interpretations. In these contexts the protagonists of the era can appear as state forming heroes, national saviours or traitors destroying their own country.

The analysis offered by Gyula Szekfű of the event of 1918 has remained dominant. In his book published in 1920 he wrote that the responsibility for the catastrophe rested on those who had deliberately prepared it, who, shoving Prime Minister Tisza aside, took the leading of the country into their own hands and instead of steering the country



into a safe haven, sank it in the vortex of revolution.<sup>1</sup> Eighty-eight years later János Gyurgyák has drawn the same conclusions in his book on the history of national idea and nationalism, that it was political naiveté on the part of the radicals to believe that the Hungarian nation and the minorities living in Hungary would have understood each other without violating integrity; the Hungarian political elite could not have renounced territorial integrity willingly, it was an impossible thought at the time and even to suggest such a step would have meant political suicide.<sup>2</sup> Gyurgyák is of the opinion that the mistakes of the radicals and their leader, Oszkár Jászi originated from three factors: first of all they treated the traditional political elite of noble dissent rather exclusively and this way eliminated the possibility of a dialogue. Secondly they were too strictly attached to the integrity of the country when they tried to come to agreement with the minorities, that *ipso facto* was impossible. The third factor was that the democratic transformation and the Hungarian national interests were in 'tragic conflict' and neither Tisza, nor Jászi were of the necessary political format to solve the problem. Gyurgyák's conclusion, similar to that of Szekfű, is gravely condemning, that Jászi and his followers misunderstood the state of affairs, they did not recognize the real causes of the tragic circumstances, the underdevelopment of the country.<sup>3</sup> The above arguments, however, seem to be too limited and one-sided a summary of the mistakes committed by the protagonist of the 1918 collapse and mastermind of the failed minority policy. After all Jászi searched for possible allies – and partially found them among the independents and the nationalities too – when he tied to solve the question of the extension of suffrage as well as that of the correction of the Hungarian nationalistic minority-policy course. He cannot be blamed for Tisza being neglectful and a fatalist; similarly to ignore the provisory policy of the Károlyi government, expressly declared

<sup>1</sup> Szekfű Gyula: A három nemzedék és ami utána következik (új kiadás), Budapest, 1989. 373. [The three generations and what follows]

<sup>2</sup> Gyurgyák János: Ezzé lett magyar hazátok. A magyar nemzeteszem és nacionalizmus története. Osiris Könyvkiadó, Budapest, 2008. 176. [That is what your Hungarian country has become. The history of the Hungarian idea of nationhood and nationalism]

<sup>3</sup> Ibid.

to be valid till the peace-conference, means to misunderstand the policy of integrity of the Károlyi government.<sup>4</sup>

The accusations concerning the Károlyi government have not been justified by the historical analysis of Szekfű; the arguments explaining the country's collapse seem to looking for scapegoats and do not reflect the actual aims and shortcomings of the Hungarian nationality policy after the 1867 Austro-Hungarian Compromise.

Tisza himself had condemned the nationality policy following 1867 which led to a dead-end and propagated forceful assimilation; though he, too, was responsible for the rejection of general suffrage, stopping nationality developments toward autonomy which pushed the minorities of the country toward external solutions for their aspirations for national emancipation during the years leading to WW1, thus jeopardizing Hungary's integrity. Jászi and Károlyi could not be held responsible for all of it. Jászi in his memoirs written in his Viennese emigration tried to lighten his own role. Less than two years after the Hungarian October revolution of 1918 he was of the opinion that Hungary's integrity had been irrevocably lost and the secession of the nationalities could not have been stopped.<sup>5</sup>

It would be impossible to point out anyone as the planner of the fall of the Austro-Hungarian Monarchy because everybody from the monarch to the Hungarian governments and their opposition wanted to preserve the integrity of Hungary up to the days of the defeat at WW1. The real drama of the situation at the end of the 1918, described as a maze by Szekfű, was that there was no stable internal or external basis to depend on. The October 1918 revolution was only a small event of the European turmoil effecting all the participants of the war. The communist takeover in March 1919 is a different question where Károlyi's personal relative responsibility could indeed be an issue.

There are two questions to be asked when analysing the possibilities of a democratic change in the Hungarian nationality policy. One

<sup>4</sup> Szarka László: A Jászi Oszkár vezette nemzetiségi minisztérium rendezési tervei és működése 1918 végén, In: Göncz L. (szerk.): A Mura mente és a trianoni békeszerződés - Pokrajina ob Muri in trianonska mirovna pogodba. Lendvai Füzetek, 2000. 154-163.

<sup>5</sup> Jászi Oszkár: Magyar kálvária magyar föltámadás. A két forradalom értelme, jelentősége és tanulságai. Magyar Október Szabadsajtó, Budapest, 1984 (3. kiadás). 69–70. [Hungarian calvary and resurrection. The meaning of the two revolutions]

is why did Oszkár Jászi, the minister of nationalities of the Károlyi government believe that adopting the elements of the Helvetian model would have given a new basis to the Hungarian nationality relations? The other is how did he plan and for what goals did he try to organize the cantons, an ethnic based federation of Hungary and how would he have made it accepted during the Hungarian-Romanian negotiations in Arad and the November 1918 Hungarian-Slovak ones in Budapest, and realized it in the Ruthen, German and Slovak nationality laws?<sup>6</sup>

As the minister of the Károlyi government Jászi laid out the theoretical basis of his nationality policy in his book *A Monarchia jövője. A dualizmus bukása, a Dunai Egyesült Államok* [The future of the Monarchy. The downfall of dualism, the Danubian united states] the second edition of which appeared before the outbreak of the revolution in October 1918. Albeit there constantly remains a false accusation in Hungarian as well as international literature that Jászi had not considered a federation of the ethnic nationalities of Hungary, Chapter 9 of the book subtitled *Magyarország és a demokratikus föderalizmus* [Hungary and the democratic federalism] gave a detailed analysis of the advantages and pitfalls of federative change. He definitely supported the system of national autonomies and the democratic federation of Hungary. Contradicting the argument that the system of democratic federation would have overthrown Hungarian domination and would have supported the expansion of the nationalities, Jászi declared that a democratic Hungarian nationality policy could not aim at the continuation of Tisza's obsession about keeping Hungarian hegemony by every possible means as that had been an unacceptable basis for negotiations for the non-Hungarians representing half of the population of the Hungarian Kingdom since 1848.

<sup>6</sup> Recent contributions to the topic: K. Lengyel Zsolt: „Keleti Svájc” és Erdély 1918–1919. A nagyromán állameszme magyar alternatíváinak történetéhez. In: *Uő: A kompromisszum keresése. Tanulmányok a 20. századi transzilvanizmus korai történetéhez*. Pro Print Könyvkiadó, Csíkszereda, 2007; Zeidler Miklós (szerk.): *Trianon. Osiris 2003*; Salamon Konrád: *Nemzeti önpusztítás 1918–1920. Forradalom – proletárdiktatúra – ellenforradalom*. Korona Kiadó, Budapest, 2001; Litván György: *Jászi Oszkár*. Osiris, Budapest, 2003; Pelle János: *Jászi Oszkár. Életrajzi, eszme- és kortörténeti esszé*. XX. Század Intézet, Budapest, 2001; Hronský, Marián: *Boj o Slovensko a Trianon 1918–1920. Národné literárne centrum, Bratislava, 1998*; Grad, Cornel – Ciubota, Virol (ed.): *Sfarsit si inceut de epoca. Korszakvég – korszakkezdet. The End and the Beginning of an Era*. Lektorn, Zalau, 1998.

This aspect of Jászi's nationality policy has never been argued; albeit it would be important to compare the Hungarian nationality policy before 1918 with the concept of the Károlyi government, and analyse both in the context of the radicalisation of the nationalities and understand the innovations of the former: that it stated that the federal transformation of the Austro-Hungarian Monarchy was only possible through the complete democratisation of all its members and first of all of that of Hungary.<sup>7</sup>

The Károlyi Government defined its aims in several steps to achieve by its nationality policy: the first and foremost step was to introduce general suffrage together with extending minority-nationality rights; the second phase would have created regional non-Hungarian 'national' governments modelled on the Swiss canton system in the areas with non-Hungarian majority. The idea of 'Eastern Switzerland' was meant to balance the national aspirations of the neighbouring countries, which expressed enormous territorial claims that were accepted by the great powers and were supported at the peace conference too, and agree with them in territorial and other questions and preserve the regions with Hungarian majority in spite of military occupations.<sup>8</sup>

The proclamation to the nationalities of Hungary signed by the Minister President published in the newspapers on the 24. November 1918 asked the nationalities to make peace with Hungary because it was a new democratic country where every one had the same rights; to cooperate, work and learn together so that Czechland, Romania, Yugoslavia and Hungary could be like one country.<sup>9</sup>

It is true, Jászi's new nationality concept had hardly any chance at the time when the great powers had already formed new states in Central Europe, when Hungary was almost completely isolated internationally, constantly threatened with military intervention and the nationality movements increasingly radical. It is also certain that the national affiliation of the Ruthens, Saxons and Swabian, who temporarily seemed to be ready for agreement, did not depend on the endeavours of the Hungarian government, but was dictated by the

<sup>7</sup> Jászi Oszkár: *A Monarchia jövője. A dualizmus bukása, a Dunai Egyesült Államok*, Budapest, 1918. 124. [The future of the Monarchy. The failure of dualism, the Danubian United States].

<sup>8</sup> Jászi Oszkár: *Magyar kálvária*. P.70. [Hungarian Calvary]

<sup>9</sup> *Világ*, 1918. október 24. Newly published in Zeidler, Miklós (ed.): *Trianon*. p. 37.

military occupations of the neighbouring countries and the decision of the peace conference.

### The drafts of the Helvetian Model

#### *The Hungarian – Romanian negotiations in Arad*

The first challenge for the Károlyi Government, one which defined its later nationality policy, came on the 9. November. After the promising 3<sup>rd</sup> of November Hungarian – Romanian negotiations, the Romanian National Council (RNC), in full knowledge of the American support of their claims, sent an ultimatum to the Hungarian government. The RNC announced that they wanted to seize the power over vast regions of Transylvania and eastern Hungary with Romanian inhabitants justified by the acceleration of the events, by the right for self-determination of the people as well as by the necessity to stop assaults over properties.<sup>10</sup>

The 12. November 1918 meeting of the Hungarian government decided to delegate Jászi, the minister of Nationality Matters to go to the head quarters of RNC in Arad and try to agree upon provisional arrangements till the decisions of the peace conference concerning the situation in Transylvania and the eastern part of Hungary;<sup>11</sup> a kind of *modus vivendi* was to settle based on the Wilsonian principle of national self-determination, not merely agreeing with the self-determination of the Romanian nation, but also vindicating the same rights for the other nationalities, Hungarians, Germans, Saxons etc. too.<sup>12</sup>

Jászi firmly rejected the claims of the RNC over regions without Romanian majority as that would disagree with the Wilsonian princi-

<sup>10</sup> A Román Nemzeti Tanács memoranduma a kormányhatalom átadásáról 26 vármegye területén 1918. nov. 9. Magyar Országos Levéltár (MOL) K-40-1918-3-IX-240. [the memorandum of the RNC on the take over of governmental power in 26 counties] [Hungarian National Archives].

<sup>11</sup> Jászi Oszkár: Visszaemlékezés a Román Nemzeti Komitéval folytatott aradi tárgyalásaimra. Különnyomat a Napkeletl. December 1921., Cluj–Kolozsvár, 1921 [Memoirs of the negotiations with the RNC in Arad]. [Offprint]; K. Lengyel, Zsolt: „Keleti Svájc”, op.cit.pp. 73–77. Raffay Ernő: Erdély 1918–1919-ben. Magvető Kiadó, Budapest, 1987.pp. 92–114 [Transylvania 1918-1919]. Haslinger, Peter: Arad November 1918. Oszkár Jászi und die Rumänen in Ungarn 1900 bis 1918. Wien, 1993. 122–135. Szarka, László: Iratok a az 1918. novemberi aradi magyar-román tárgyalások történetéhez. Regio, 1994. 3. 140–166. [Documents of the November 1918 Hungarian – Romanian negotiation in Arad]

<sup>12</sup> Jászi, Oszkár. Világ, 14. November 1918.pp. 2-3. speech given on the first day of the Hungarian-Romanian negotiations.

ple.<sup>13</sup> The minister of the Károlyi government could accept the claims only over regions with Romanian majority, and demanded the extension of the principle of majority and the right of self-determination to all the nationalities of the country, Hungarians included.<sup>14</sup>

Jászi's first draft for solutions was based on the model of the governmental system of Switzerland as a starting point, with nationality governments for local matters and in cooperation with the central government in the case of common affairs.

The Swiss model would have been realized by dividing Transylvania and eastern Hungary into cantons. Jászi proposed the abolition of the old counties, the creation of smaller units with more homogenous national population to deal with the affairs of common interest. He claimed that it would be no good to create new oppression to replace the old one, what the preservation of the old county system would mean.<sup>15</sup>

At the same time Jászi pointed out that due to the mosaic-like character of Transylvania even the suggested division based on nationality would still produce cantons with considerable minorities whose rights should have been ensured by a reciprocal system of minority protection. Jászi claimed the plan to be the only possible realization of the Wilsonian principles considering the conditions of Transylvania and eastern Hungary. He assumed mutual agreement and was of the opinion that the rejection of the plan would actually mean the rejection of the Wilsonian principles.

Two days after the Belgrade armistice negotiations Jászi felt compelled to point out the dangers of military actions expected by RNC, that the peace to come did not depend on Foch and the other generals who, as it had become obvious at the peace talks, did not differ from the Hapsburgs or Ludendorffs, but it would be made by the European Soviet republic, by councils of workers and soldiers; that the promises of the great powers made to Czech and

other imperialists would not be recognized by the European republic. He referred to Racovszkij, who was appointed ambassador of the Hungary in the Russian Soviet Republic, as one who was well informed about Romania and the situation of Romanians in

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

Hungary.<sup>16</sup> Jászi was later seriously reprimanded for his statement, and even nowadays there are some who accuse him to have prepared communism – together with Károlyi, an accusation most unjust.

Recognising the aims of the Romanian objections made the previous day, Jászi replaced the original plan of separating the areas of eastern Hungary and Transylvania inhabited by Romanians from the Hungarian state into cantons – as contradicting the Wilsonian principle of self determination – by a more far-reaching one. He stressed that the creation of new states, however in line with the general direction of European developments, would remain the competence of the international peace conference.

Under the circumstances Jászi rejected both the plan for a separate Romanian state in Transylvania and its annexation to the Romanian Kingdom; the former because he was convinced that Transylvania torn away from Hungary would result in a ‘deformed state incapable of survive’, the latter because in his opinion Romania was the ‘most corrupted, most feudalistic state’ in contemporary Europe, and the Hungarian, German and Serb minorities must not have been thrown on its mercy. After the Romanian refusal he summed up the situation, that he and Maniu had different thoughts about the self-determination of nations, in Jászi’s plans it mean a Hungarian Switzerland, in Maniu’s a tightly organized Romanian nationalistic empire.

The head of the Hungarian delegation then presented a new plan summed up in 11 items about the transitional government with the task of the preservation of peace and public order. As a part of it RNC would have the right to take the administration of districts and towns with Romanian majority into Romanian hands; to participate in the Hungarian government through a delegate of the Romanian government to handle all the international, economic, financial matters, as well as those of public provision and transport of the Romanian governmental areas.

In the Romanian governmental areas new laws could have been formed only by the consent of the Romanian government. The 44.1868 nationality law would have regulated the rights of the Romanian minorities in Transylvania and eastern Hungary, as well as in recip-

<sup>16</sup> Ibid.

rocation those of the minority Hungarians in areas with Romanian majority. It also required of the RNC, while guaranteeing the security of property, they would renounce of falling back on the military force of the Romanian Kingdom.

The plan also suggested the appointment of a common governmental commission for the creation of a new Transylvanian governmental system as well as for the decisions over controversial issues. This system would have been in power till the end of the peace negotiations and would have no role in its decision-making. The Transylvanian provision would have operated under the scrutiny of sophisticated nations and the protection of the national honour of the two nations, Hungary and Romania.

Maniu stressed the unrestricted right of self-determination of the Romanian nations and announced its right to declare complete secession, the Romanian nation being an independent nation intended to hold the executive power in its own hands. After the evening interval the negotiations ended with the reading out of the negative resolution of the RNC in Arad.

### **Hungarian – Slovak negotiations in Budapest**

After the complete fiasco of the Arad meeting the Károlyi government tried to achieve results by further negotiations concerning the Slovak and Ruthen regions of northern Hungary, especially that the Belgrade agreement left greater freedom of action at least temporarily and theoretically. On the 3<sup>rd</sup> of November Jászi sent a letter to Matúš Dula and some other Slovak politicians to form personal relationship with the leaders of the Slovak National Council (SNC).<sup>17</sup>

Since the French military entente mission led by lieutenant-colonel Vix seemed to keep minutely to the text of the Belgrade cease-fire of 13. November and accepted the phrase about allowing Hungarian administration in the northern part of Hungary, the Czechoslovakian government delegated Milan Hodža, Slovakian politician to discuss the Czechoslovakian – Hungarian questions of ‘delimitation and liquidation’ Hodža initiated negotiations with the Károlyi government in

<sup>17</sup> OL, K-40, 1918–IX. 3. c. s. 2/1918

Budapest on the 25<sup>th</sup> of November.<sup>18</sup> Károlyi and Jászi received Hodža and informed him of the offer of giving governmental power to the SNC in 26 districts with Slovak majority.<sup>19</sup> The towns of Kassa, Pozsony, Érsekújvár and the districts of Verebély, Rozsnyó, Gölnicbánya, Kassa and Sztropkó would have been excluded.<sup>20</sup>

On the 29<sup>th</sup> of November Hodža invited Matúš Dula and a 6 strong delegation of SNC to Budapest to discuss the plans of the Hungarian government; doing so Hodža evidently transgressed his originally limited mandate, and he tried to excuse himself toward Prague that he had tried to gain time till lieutenant-colonel Vix ascertained the validity of item 17. of the Belgrade convention and clarified its meaning regarding the Slovakian territories promised to Czechoslovakia.<sup>21</sup> The Slovak delegation was unanimous that they would not accept the autonomy offered by Jászi under any circumstances without first consulting the Czech government.

On the 30<sup>th</sup> of November the Hungarian – Slovakian negotiations followed the scenario of the earlier ones in Arad. Hodža made it clear from the beginning and later repeated in the Hungarian media that the topic of the negotiations could only relate to transitory agreements and not touch upon the self determination of the Slovak people who had already considered themselves Czechoslovakian citizens since 14. August 1918 (the date France recognized the Czechoslovakian government in emigration). Matúš Dula the head of the SNC delegation made similar declarations. Hodža wanted to gain time till the Czechoslovakian legion would arrive from Italy and in opposition to Jászi's plans made evident that the question of the Slovakian autonomy could only be feasible within the frame of the Czechoslo-

<sup>18</sup> Hodža, Milan: *Slovenský rozchod s Maďarmi, 1929*; Fogarassy László: *Hodža Milán és a Károlyi-kormány, Palócföld, 1990*. 5. 72–88 [H.M. and the Károlyi government]; Krajčovič, Milan: *Károlyiho vláda v Maďarsku a jej vzťah k Slovensku*, In: Deák, Ladislav (red.): *Slovensko a Maďarsko v rokoch 1918-1920 (Zborník referátov z konferencie v Michalovciach 14.-15.6.1994.) Matica slovenská, Martin, 1995* s. 32-45; Krajčovičová, Natália: *Koncepcia autonómie Slovenska v maďarskej politike v rokoch 1918-1920*, Uo. s. 46-55; Hronský, Marián: *Boj o Slovensko*, id. m. 114–124; Szarka László: *Szlovák nemzeti fejlődés – magyar nemzetiségi politika 1867–1918*. Kalligram Könyvkiadó, Pozsony, 1995. 216–221 [Slovakian national development – Hungarian nationality policy].

<sup>19</sup> Fogarassy László op.cit. pp. 83-84.

<sup>20</sup> For the map see Szarka op.cit. 260–261.

<sup>21</sup> Hronský, Marián: *Boj o Slovensko*, id. m. 115-116.

vakian state, the negotiations with the Hungarian government were solely about military and economic liquidation.<sup>22</sup>

Though Jászi and the Hungarian government believed to have got farther in the negotiations with Hodža and the SNC delegation than with RNC in Arad, the end result was the same: the Czechoslovak government in Prague supervised the Budapest talks, repudiated Hodža, and Dula rejected Jászi's plan in the name of the SNC. It was not enough anymore to offer Slovak governmental authority restricted to regions with at least fifty percent Slovak inhabitants just as a restricted autonomy was found unacceptable. Jászi's plan was also rejected by his own colleagues in the cabinet, thus he remained in minority.<sup>23</sup>

The only result of the Hungarian – Slovak negotiations was the agreement over the demarcation lines signed by Albert Bartha minister of war and Milan Hodža; the Hungarian government committed themselves to withdraw the Hungarian armed forces to the line more or less corresponding to the Hungarian – Slovak language limit. This demarcation line, however, was not accepted either by the French army commandant in the Balkans or by the French minister of foreign affairs who considered it invalid, so much so that Eduard Beneš Czechoslovakian foreign minister, staying continuously in Paris, managed to obtain a French document which defined the rivers Danube – Ipoly as the demarcation line between Hungary and Czechoslovakia in November.<sup>24</sup>

### The two plans of the Hungarian cantons

Neither with Romania nor with Czechoslovakia were the negotiations successful. There were various plans and suggestions pouring in the department dealing with legal matters in Jászi's ministry led by Bódog Somló, in addition to Jászi's own modifications and supplements. The plan of cantons for the entire territory of Hungary was completed by the end of November. The archives of the Ministry of Nationalities contain a variant shelved on the 2. December 1918,

<sup>22</sup> Fogarassy László op.cit. pp. 76-84

<sup>23</sup> OL, K-27, Minisztertanácsi jegyzőkönyvek, 1918. november 28-29, december 1. [cabinet minutes]

<sup>24</sup> Hodža, Milan: *Rozchod*, id. m. 64-75; Fogarassy László: *Hodža Milán*, id. m. 83-86.

which tried to systematize the Helvetian model planned for the whole country.<sup>25</sup>

According to the above-mentioned document Hungary should have been divided into districts – or cantons. Of the 14 districts/cantons seven would have been Hungarian: Pozsony, Marosvásárhely (or Kolozsvár), Szeged, Debrecen, Budapest, Győr and Pécs. Of the other seven one Slovak, formed out of the north western and northern counties and the eastern Slovak counties with Kassa as its centre; one Ruthen around Beregszász; the cantons of Dés and Déva Romanian; one German in the Nagyszeben area; while the one of Temesvár was planned as a canton with mixed Saxon, Serbian, Bunyevac, Hungarian population.<sup>26</sup> Miksa Stróbl who did not belong to the staff of Jászi's ministry prepared an even more complex plan of cantonization. He published an article with the title "The new Hungary as eastern Switzerland" in the 1918 Christmas issue of *Új Magyarország* with a map showing 12 nationality cantons, eight Hungarian ones and six additional ones for big cities Pozsony, Kassa, Debrecen, Budapest, Szeged and Kolozsvár.<sup>27</sup> However, none of the plans had any political meaning by the end of 1918.

### Nationality laws

In the meantime preparations for the Ruthen, German Slovak nationality laws were in progress, which would have had the role of codification of the planned regional autonomies. The canton system of Switzerland had been taken as models for the ethno-regional self-governments that carry all the regional decisions within their own competence and deal with national matters in cooperation with the central government.

<sup>25</sup> Published by Szarka László: Keleti Svájc – illúzió vagy utópia? In: -: Duna-táji dilemmák. Nemzeti kisebbségek – kisebbségi politika a 20. századi Kelet-Közép-Európában, Ister, Budapest, 1998. pp. 113–125. [Easter Switzerlan – illusion or utopia?] [Dilemmas of the Danube area. National minorities – minority politics] For the processed map cf. Bárdi Nándor – Fedinec Csilla – Szarka László: Kisebbségi magyar közösségek a 20. században [Hungarian minority communities in the 20<sup>th</sup> century]. Gondolat Kiadó – MTA Kisebbségkutató Intézet, Budapest, 2008. 17.

<sup>26</sup> Szarka: Duna-táji dilemmák pp.281-284. [Dilemmas of the Danube area.]

<sup>27</sup> Pándi Lajos (ed.): Köztes Európa 1763–1993. Térképgyűjtemény. Osiris–Századvég, Budapest, 1995. 290–291.[Europe in between. 1763-1993. Collection of maps]

As the result of the assiduous organisation and preparation there was a Ruthen meeting in Budapest on the 10<sup>th</sup> of December 1918 with the assistance of Hungarophil Ruthen leaders, Ágoston Volosin, Hiador Sztripszky, Ágost Stefán and Oreszt Szabó. On the 23<sup>th</sup> of December 1918 the Nationality Law No. X.1918 on Russka-Krajna was accepted and the creation of Russka-Krajna ministry, autonomous administration and the Ruthen general assembly began. Similar self-governing structures were planned by the nationality laws 1918. VI. for the German and 1918. XXX. for the Slovak (Slovenska krajina) self-governments.<sup>28</sup>

Because the Hungarian nationalist opposition condemned the plans and the neighbouring countries threatened with military occupation, Jászi found his position increasingly hopeless. He had already offered twice his resignation but Károlyi never accepted it. He tried to approach the heads of the neighbouring countries already becoming increasingly hostile, but it was only Masaryk president of Czechoslovakia he felt he could hope for some response. He would have liked Masaryk to forget old disagreements and look upon Hungary as a new democracy, a nation that freed itself from its wicked lords and stepped onto the road of democracy with dynamism and determination.<sup>29</sup>

Under optimal circumstances the idea of constitutional law slowly taking shape in Jászi's Ministry of Nationalities could have developed toward the plans of a complex symmetrical federative state. In this framework there were three nationalities with national laws two of which – Romanian and Slovak – would have been ensured of regional autonomy. Under ideal circumstances the 'empires' i.e. regional governments as offered during the negotiations would have become federative parts of the Hungarian Republic according to Jászi's plan. However, the plan had no future; the war was lost, there was no internal or international support for the plan, while the threatening

<sup>28</sup> Schönwald Pál: A magyarországi 1918-1919-es polgári demokratikus forradalom állam- és jogtörténeti kérdései. Akadémiai Kiadó, Budapest, 1969. 64–87. [The governmental and legal questions of the Hungarian bourgeois-democratic revolution in 1918-1919]

<sup>29</sup> On the relationship between Jászi and Masaryk cf. Szarka László: Trianoni alternatíva: Jászi Oszkár 1919. évi Masaryk-kritikája, In: Kisebbségi léthelyzetek – közösségi alternatívák, Lucidus, Budapest, 2004. 75–84.[the alternative of Trianon: Oszkár Jászi's 1919 critique of Masaryk]; Világ, 1919. január 5.

Yugoslavian, Czechoslovakian and Romanian armies surrounding Hungary enjoyed Allied support.

Jászi's "Helvetization" plan to divide the regions of Hungary with non-Hungarian majority inhabitants into federative districts or "cantons" and in the case of more complex national make up into federative governmental districts was doomed to fail from the start. There were three major reasons of failure: there was no international legal acknowledgment, no support came from the great powers, and Hungary was lacking military forces, thus the Hungarian government could not make its transitory provisions accepted by the non-Hungarian nationalists in their fever of founding their own nation states.

The idea of an "Eastern Switzerland" was not an equal possibility for two of the largest nationalities, Slovak and Romanian, in comparison to the option of Great Romania and Czechoslovakia respectively. In addition, during the preparations the model changed almost daily and was too uncomprehensible and too complex; it proved to be an unfeasible means of pacification because the ethnic-based delineation of cantons would have caused new conflicts. It has to be understood, that Jászi's nationality policy notwithstanding its failures was not the cause of the collapse of the Hungarian Kingdom in 1918. It was the only comprehensive political alternative offered to prevent the collapse of the country. The active national defence as an alternative – urged by Jászi himself from December 1918 onward as well as the suggestion of a Social-Democratic one-party government remained equally unacceptable at the time.

*Balázs Ablonczy*

## **Mortification, legal continuity, frustration: the fugitive government-board of the Co. Lower-Fehér in Budapest, 1919-1921.**

### **Abstract**

*Using archive material, the essay explains the workings of the association founded by civil servants who fled from Co. Lower Fehér in Transylvania to Budapest. Besides the facts of organization the major aim has been to analyse the language used in legislation as well as the requirements it expressed. The association was managed by a small number of participants whose social background explains the position of the fugitives in the society of the Horthy-era, their possibilities to integrate, to preserve their social prestige, to develop their social activities. The results of the survey show that associations of the kind did not offer ways and means to integration. Due to the decision of the government, the association that aimed at the legal continuity of Co. Lower Fehér, discontinued its operations in the summer of 1921.*

There has been relatively little published about the social status and options of the refugees after the Paris peace treaty<sup>1</sup>. There were officially about 350 thousand, unofficially about 420-425 thousand persons, representing about 5% of the population of Hungary's reduced area. The social developments and their integration has been still offering much to discover.

The present paper is based on a bundle of official papers discovered by chance completed by the results of other sources and analyses.

<sup>1</sup> Szűts István Gergely: A miskolci optások társadalomszerkezeti vizsgálata. In: Czetz Balázs-Kunt Gergely (szerk.): Politika és mindennapok. (A jelenkortörténet útjai 2.) Miskolc, 2007, ME BTK Új- és Jelenkori Magyar Történeti Tanszék. 143-165. [Social system of the Miskolc optants]

### Mountains and storms

The Co. Lower Fehér on both sides of River Maros was created in 1764<sup>2</sup>; its final size, 3577 km<sup>2</sup>, was established by the reform of public administration in 1876. The area is geographically variable consisting of the Transylvanian Erzgebirge in the west, the so-called Transylvanian Plateau in the east and the wine-growing area of the Transylvanian Hegyalja as well as the mountain ranges along the Rivers Ompoly and Aranyos. There were four towns: Abrudbánya, Zalatna, Nagyenyed and Verespatak, the latter being the county town. A short overview of the events of 1848-1849 is essential to understand of the events under discussion. In the spring and summer of 1848 the new Hungarian government wanting to secede from the Habsburg monarchy recruited soldiers to fight for its cause that raised high passions in Transylvania. Not only Romanian peasants resisted but several Romanian border guard battalions too refused to obey the new government's orders. In October 1848 civil war broke out centring in Co. Lower Fehér. It was the first time that houses of Hungarian landowners were sacked, their inhabitants massacred, the civil servants of the county attacked. The area was the headquarters of the Romanian rebellion led by Avram Iancu and Axente Sever. The Hungarian inhabitants of Abrudbánya, Zalatna, Nagyenyed and Verespatak and the area of the Transylvanian Hegyalja suffered because of their nationality. The 1848-1849 civil war has been a much discussed topic of the history of Hungarian War of Independence.<sup>3</sup> Fifty years later Farkas Szilágyi, a protestant minister in Nagyenyed, the chronicler of the county, estimated the Hungarian victims of the civil war to 4264 persons (not counting 400 mentally victimised ones and 500 soldiers dieing on the battlefields and in hospitals), about one sixth of the Hungarian inhabitants of the county. Ákos Egyed, the specialist of the era has completed the number to 6000.<sup>4</sup> It would mean that

<sup>2</sup> Iczkovits Emma: Az erdélyi Fehér megye a középkorban. Budapest, 1939. [County Fehér in the Middle Ages]

<sup>3</sup> Egyed Ákos: Erdély 1848-1849. I-II. köt. Csíkszereda, 1999, Pallas-Akadémia. I. köt. 221-234. II. köt. 24-42., 159-179., 282-293. [Transylvania 1848-1849]; Szilágyi Farkas: Alsófehér vármegye 1848-49-ben. (Alsófehér vármegye történelme. III. kötet, 1. rész). Nagyenyed, 1898, Nagyenyedi Könyvnyomda és Papíráru gyár Részvénytársaság. 113-198., 228-254.: 400-407 [County Lower Fehér 1848-49]; Hermann Róbert: Az abrudbányai tragédia - 1849. Budapest, 1999, Heraldika. [The tragedy in Abrudbánya

<sup>4</sup> Egyed: op.cit.. Vol. II. p. 300.

70-80 % of the 7500-8000 Hungarian civilian victims of the Transylvanian civil war were inhabitants of the Co. Lower Fehér. Frakas Szilágyi estimated 1000 the number of Romanians of the county killed during the actions of the Hungarian army in addition to the Romanian casualties in the battlefields, thus adding up to 3500-4000 Romanian victims.<sup>5</sup> There were only few Saxon losses; the more than 10 thousand dead represented about 6% of the 160 thousand inhabitants of the County between the autumn of 1848 and summer of 1849. According to Szilágyi's reckoning the material loss was about 9 million Forints.<sup>6</sup> The reason why these circumstances have received a more detailed summary is that in 1848 there had still been memories of the Horea – Closca rebellion of 1783-84, and in 1918 there must have been persons whose childhood memories had preserved the horrors of 1848-49. Since the events of the county had central interest in history books as well as fiction, quite a few people must have regarded 1918 as a repetition of earlier events.

### The county and its towns

The census following 1867 show a slight increase in the number of inhabitants: from 188 702 to 219 177. According to the 1910 census the total was 221 618, of which 39 107 (17,6%) were Hungarians, unevenly distributed in the region, the majority living in small towns.<sup>7</sup> There were also 7269 Saxons in the county, The number of Lutherans equalled with the number of the Saxons while Hungarians made up the number of Catholics (11 194), Calvinists (23 009), Unitarians (1269) and Jews (3845).<sup>8</sup> The proportion of illiteracy was very high, only about one third of the inhabitants (76 618 persons) were literate.

Though the county was varied where nationality and education were concerned, its role in Hungarian learning was important nonetheless: the schools of Nagyenyed, the archbishopric and its seminary

<sup>5</sup> Ibid. 401-402.

<sup>6</sup> Szilágyi: op.cit. 407.

<sup>7</sup> Lázár István: Alsófehér vármegye magyar népe. Nagyenyed, 1896, Cirner és Lingner Könyvnyomdája. 3-4. [The Hungarians of County Lower Fehér]

<sup>8</sup> Magyar Statisztikai Közlemények Új sorozat. 42. köt. Budapest, 1912, Athenaeum. 376-379., 850-851. [Hungarian Statistical publications] 1911-ben 89% of the Jews claimed to have Hungarian as their mother tongue; Glück Jenő: A gyulafehérvári izraelita hitközség története. Levéltári Szemle, 2004. 2. sz. 37. [The history of the Jewish community in Gyulafehérvár]



in Gyulafehérvár, the state officials in the managements of the mines meant that Hungarian learned people played an important role in the county's public life. On the other hand post 1848 surveys refer to the urban Hungarians as immigrants giving a very low number of families true-born of the county.<sup>9</sup>

Towards the end of World War I, public order of the county broke down already in autumn 1918. The Hungarian civil servants were threatened or made to flee by the Romanian inhabitants in regions with Romanian majority. The papers of the refugee government board contains evidence that Miklós Roska mayor of Gyulafehérvár and János Winkler district-notary of Abrudbánya had already left their posts in November 1918.<sup>10</sup> The nationality movements, the geographically central position of the county (from the point of view of Romanian inhabited territories to be annexed to Romania), the county's history in the Romanian movements, the hostile attitude of the Hungarian government in Kolozsvár had a cumulating affect and the reason that the Romanian nation forming act was organized in Gyulafehérvár, the county town of Co.Lower Fehér.<sup>11</sup>

On the turn of 1918-19 the Romanian army occupied the county. On the 9<sup>th</sup> of December the railway connection to Kolozsvár was cut off at Tövis, a major railway junction.

Gyulafehérvár was occupied on the 19<sup>th</sup> of December, Nagyenyed on the 20<sup>th</sup>, and Budapest papers informed about a delegation from Bucharest to take over the ore mines in Abrudbánya and Verespatak.<sup>12</sup> In most of the cases the military entry merely sanctioned the *status quo*, e.g. in Gyulafehérvár, where the Romanian inhabitants took over the control of the city as early as the 5<sup>th</sup> of December and elected a local lawyer to mayor.<sup>13</sup> The new military and civil authorities jointly prevented the local Hungarians to go to the General

<sup>9</sup> Lázár: op.cit. 4.

<sup>10</sup> Pest Megyei Levéltár, IV. 901., Alsó-Fehér vármegye Budapesten működő törvényhatóságának iratai, 1. cs. 124-1920. sz. ill. 133-1920. sz. [Papers of the government board of County Lower Fehér in Budapest]

<sup>11</sup> 'Az erdélyi románok Nagyromániához csatlakoznak.' *Az Est*, 1918. december 3. 1-2. [The Romanians want to join Great Romania]

<sup>12</sup> Pesti Napló, 1918. december 20. p.1., Budapesti Hírlap, 1918. december 20. p.5.

<sup>13</sup> 'Gyulafehérvár tisztviselői felesküdték a románoknak'. *Az Est*, 1918. december 8. 3. [The civil servants of Gyulafehérvár made the oath to the Romanians]

assembly of Transylvanian Hungarians held in Kolozsvár on the 21<sup>st</sup> and 22<sup>nd</sup> of December.<sup>14</sup>

Because after the political takeover Hungarian officials were fired from their posts and because of atrocities against Hungarians, a mass refuge began towards the regions still under Hungarian rule. The first great wave of refuge was at the beginning of 1919 when the occupying Romanian authorities chase away those who did not gave the demanded oath of allegiance or because their behaviour was considered otherwise hostile. During the Hungarian Soviet Republic there was a lull in expelling Hungarians from the county – judging by the accounts of the sources – but the Romanian authorities changed techniques and interned or imprisoned persons disagreeable to them, e.g Győző Korinsky former judge of the court.<sup>15</sup> After the fall of the Communist power the expulsion started immediately renewed and continued all through 1920.<sup>16</sup>

### The act

The radical right-wing daily paper *Szózat* published a notice in its 19. December 1919 issue requesting the inhabitants of the deannexed counties to register with the governmental boards.<sup>17</sup> The forming governmental boards must have started earlier, because two days later the Budapest board of the Co. Lower Fehér was founded in the premises of the *Magyar Nemzeti Szövetség* [Hungarian National Association]. The organization probably was initiated by *Területvédő Liga* [Ligue for territory preservation (LTP)] because the meeting was called by Sándor Krisztics the secretary of LTP and Zsigmond Perényi president of the Hungarian National Association. At the meeting László Okolicsányi vice president represented LTP. Those present declared the government board of the Co.Lower Fehér formed and Aladár Pongrácz, former county attorney of Abrudbánya, elected as its head.

<sup>14</sup> *Az Est*, 1918. december 24. p.2.

<sup>15</sup> PML, IV. 901. 7-1920. sz. Alsó-Fehér vármegye törvényhatóságának átirata a Tevéhez, Budapest, 1920. február 12. [letter of the government board of County Lower Fehér in Budapest to Tevé]

<sup>16</sup> cf. the cases Daubravszy, Gyula chief auditor of Gyulafehérvár (No. 62-1920.), Újhelyi, János municipal cash-clerk of Nagyenyed (No. 85-1920. sz.).

<sup>17</sup> Also in the Catholic paper *Új Nemzedék* 14. July 1919.

The twenty odd participants could hardly represent the whole county legitimately; from the start on it was stressed that the association was necessary to maintain legal continuity. The 29 participants were men (with only 5 women, 3 of them as family members) who were state or town officials with Budapest domicil at the end of 1919 and a town in Co.Lower Fehér as their previous address. According to occupation three of them were gendarm, police and army officers, 7 civil servants (chief auditor, county attorney, vice mayor, town councillor, dispatching clerk,) 3 teachers and head masters (and two family members), 3 municipal and district-notaries, 2 technical university students, one state geologist (and his wife), one layer, journalist, coffee-house owner, locksmith, landowner, technician, retail bank maneger, and some who did not specify their occupation. There are two of the participants who had later more important carreers: Gyula Toókos (1883-1958) hussar captain, member of the group known as the 'Szeged' officers, he later became a general, registered as refugee from Vajasd; Lajos Esztergár (1894-1978) layer from Abrudbánya, later became the mayor of Pécs, and in the early 1940s was one of the organizers of the Horthy governments social polity.

It is noteworthy that former county officials were represented only by László Tóth former chief administration officer in Verespatak, several of them had remained in Transylvania but probably many others were also among the fugitives. All the same, their absence is strange even if they might have lived away from Budapest in various parts of Hungary and might not have any information about the initiative nor the means to travel to the capital, as is suggested by later applications by refugees who lived in the country at the time (a judge, an accountant, a state financial councillor).

The participants of the meeting declared to form the governmental board (it was on of ether with other 47 ones) to maintain legal continuation. Dr. Aladár Pongrácz, former county attorney of Abrudbánya was elected president.<sup>18</sup>

<sup>18</sup> PML, IV. 901., 1-2/1920. minutes of the meeting of 21. December 1919.

### Statement

The newly formed general assembly accepted a resolution to collect all reasons and statements against the disannexation of the county and for the necessity of the foundation of the board. Besides stressing the maintenance of legal continuity there appear the phrases which remain the characteristic usage of the association and its members.

The arguments can be summed up as

- (a) reference to past sufferings (1783-84, 1848-49): 'Our ancestors had suffered much. They saw the hords of Hora – Kloska kill and rob, the bands of Janku and Axentye in Austrian pay, however, they did not despair, the county still remained. The Romanians calling themselves the descendants of the ancient Romans do now the same what their grandfathers did, but we, the sons of the martyrs of past times do not despair either and know that the county will survive'. There is also reference to the destruction of Abrudbánya, Zalatna and Nagyenyed.<sup>19</sup>
- (b) the stressing of cultural superiority: the Romanian rabbles destroyed cultural treasures during their marauding campaigns and are without any historical, legal and moral basis [sic].
- (c) The description of scenes of patriarchal life: 'the inhabitants of the Co.Lower Fehér, Hungarians, Saxons and sober Romanians, especially the more intelligent Romanian miners, would make a statement in favour of the integrity of our country fully appreciating the past and firmly believing in the future.'

It is peculiar, that the economic and geographical arguments so importantly present in the Hungarian propaganda demanding the territorial integrity of Hungary are missing from these document apart from some stereotypical references to the gold of Zalatna, the salt of Vizakna and the wine of Magyarigen.<sup>20</sup>

In the following months several other boards were also formed, probably in answer to the initiative of LTP. The available documents indicate the establishment of the governmental boards of the counties Torda-Aranyos, Maros-Torda and Szilágy, and the town of Zombor,

<sup>19</sup> *Abrudbánya és Vidéke* 1917: Bölöni Mikó Samu on the destroyal of Zalatna and Abrudbánya, 1918: Rákosy, István Memoires of 1848-49.

<sup>20</sup> PML, IV. 901., 2-1919 decision of the general meeting 27. December 1919.

which kept intensive correspondence with other refugee boards and even tried to call them to make political statements, thus to support Sekler Association instead of Sekler National Party, also to found a Transylvanian army<sup>21</sup>

The Hungarian government was aware of the initiatives. On the 29th of February 1919 Cabinet meeting Ödön Beniczky minister of home affairs reported on the government boards and sub-prefect offices established by the fugitives of disannexed counties in Budapest. Though the minister appreciated the movements, he stressed the importance of legality and disapproved of their operation contradicting legally formulated criteria. He agreed with their actions as long as they remained within the limits of making statements on their wish to preserve territorial integrity; he added that he would make these conditions known to the groups too. The meeting confirmed the motion.<sup>22</sup>

The Co. Lower Fehér board was not satisfied and sent petitions to power holders of Hungary and the world. There were several privately initiated petitions of which that of the members of Abrudbánya is most noteworthy, since it was addressed to the president of the peace conference. The style of the document dated on the 16 February 1919 is typically patriarchal: the authors claimed that the 'seriously minded' Romanians were dissatisfied with the secession of the region and gave sound of their opinion that the Romanians were in general incapable of statehood.<sup>23</sup> It would be easy to take these initiatives lightly and dismiss their provinciality; but such petitions could reach high places e.g. the one from Co. Sáros to Paris and under the circumstances of the time no one could tell what petition signed by a small group of people would have caught the attention of the great powers. The archive of the government board contains a great number of petitions demanding the leaders of the county to protest against the peace treaty. In February 1920 the county wrote a letter to Albert Apponyi the head of the peace delegation to inform him that 'the more serious Romanians also insist till their death to the

<sup>21</sup> Uo. 67-1920, on the general assembly of Co. Torda-Aranyos 5. June 1920. június 5. 139-1920, Co. Maros-Torda, 31. October 1920.

<sup>22</sup> Magyar Országos Levéltár (MOL), K 27 Minisztertanácsi jegyzőkönyvek, 1920. február 29. 23. napirendi pont.[Cabinet minutes, item 23].

<sup>23</sup> PML, IV. 901., 16-1920. Felhívás, Budapest, 16. February 1920. [proclamation]

upkeep of St. Stephen's ancient country and would never want to become the slaves of Romanians from the Balkans. All the culture in the country is the result of Hungarian money, work and brain, there was no such thing as Romanian culture. The Romanians can pride only in their marauding and mass murders'; then after a reference to 1848-49: 'The spirits of the murdered women, children and old people of Nagyenyed, Abrudbánya, Zalatna, etc. would all come to help us gaining back our ancient country.' The document ends with an explicit threat: 'We will never put up with the loss of our country and curse the hand which signs the peace treaty sanctioning the dismembering the country.'<sup>24</sup>

### Activities

The refugee self-government – self-appointed as it were – had no own administration nor office; they had to rely on the infrastructure provided by LTP and the National Association. During 1920 they moved several times until all the refugee boards were finally settled down in the Adria Building. The heads of the counties issued certificates (of character, domicile, poverty), verifying patriotic conduct and also tried to lobby in favour of certain co-refugees. The activities required no great exertion of the elected clerks: in 1920 there were 134 papers filed, in the first half of 1921 80, the last on being 80-1921; the archive was closed down on 23. July 1921. The validity of the documents were enhanced by the boards own stamp with the inscription "The community of the Co. Lower Fehér", a model shared by the other refugee offices too.<sup>25</sup>

The major part of the board's activity was to lobby for the active members, to give character references or obtain medical help; there was one instance when someone was accused of unpatriotic behaviour.<sup>26</sup> It seems that on their part LTP as well as governmental organs tried to use these governmental boards to collect information (on

<sup>24</sup> Uo. 9-1920, Memorandum to Albert Apponyi signed by Aladár Pongrácz. Budapest, 5. February 1920.

<sup>25</sup> Uo. 5-1920, letter of Ferenc Kratochvil, Budapest, 23. December 1919.

<sup>26</sup> Uo. 8-1920, the government board of Co. Lower-Fehér to the Ministry of Justice. Budapest, 12. February 1920.

local firewood prices,<sup>27</sup> on Hungarian, Romanian and German newspapers published in the region,<sup>28</sup> on the disposition of the county<sup>29</sup>), however, the data collected were fragmentary and proved useless. There were also attempts at unifying the work of the various refugee boards. In February 1921 István Dessewffy former notary of Co. Sáros signed a document which invited the Lower Fehér representatives to participate at a great meeting of delegates to be organized later; the addressees were paradoxically asked to keep secret 'the existence of the leading committee of the occupied counties'. Though Aladár Pongrácz head of the board answered that they could not materially contribute to the costs of the meeting, offered himself for talking on Romanian nationality questions.<sup>30</sup> It was also lack of money that the refugees of Co. Lower Fehér could not buy the 'Hungarian Talisman' of *Védő Ligák Szövetsége* [the Association of Protecting Leagues] propagated by the central bureau of occupied government boards.<sup>31</sup>

It was not lack of funds what finally ended the activities of the governmental boards. After the ratification of the Paris peace treaty the Hungarian government was compelled to dissolve the openly irredentist organizations, among them the self-appointed regional government boards too. The Bethlen government organized central and partly covert structures to handle matters concerning the regions which had got outside the borders of Hungary.<sup>32</sup> The last board meeting was held on the 9. June 1921 again with twenty some participants. A couple of days later the organization ceased to exist and its tasks were taken over by the National Refugee Bureau.

The short existence of the refugee governmental board of Co. Lower Fehér might have some lessons to offer. Unfortunately there is no information about the actual number of people fleeing from the county to Hungary between 1918 and 1924. Judging from the total number of Transylvanian refugees it could be estimated about

<sup>27</sup> Uo., 4-1920, Budapest, 29. January 1920.

<sup>28</sup> Uo., sz. n.-1920, a note of the Ministry of Foreign Affairs, Budapest, 4. November 1920.

<sup>29</sup> Uo., 23-1920, the account of Gyula Daubravszky on the June 1919. events in Gyulafehérvár Budapest, d. n. [1920]

<sup>30</sup> Uo. 34-35-1921. Letter of Pongrácz Aladár 24. March 1921. and letter of Dessewffy István 28. February 1921.

<sup>31</sup> Uo. 5-1921. Letter of the central office of government boards, Budapest, 12. January 1921.

<sup>32</sup> Nemes Dezső-Karsai Elek (szerk.): *Iratok az ellenforradalom történetéhez*. II. kötet. Budapest, 1956, Szikra. 177-181. [Papers concerning the history of the counterrevolution]

5000 (The total number of Hungarian inhabitants in Transylvania decreased by 13,4%;<sup>33</sup> in the case of the 40 thousand Hungarians in Co. Lower Fehér that would proportionally make 5300 persons). The number of names appearing in the board's registers is between 100-200, i.e. only a fraction of the refugees turned to the representatives, mostly those who lived in or around Budapest. Even if we consider the generally unfavourable material and travel situation of the post war period, the organization could not exceed the level of a movement of a few desperate, embittered persons or of such who had interest in the matters. There is very little known about the later life of the participants (thus, e.g. that of Aladár Pongrácz), the path of the two better known persons, explained above, indicates that their participation in the refugee board that did not serve them as political or social lever, it had no role in their reintegration. Though István Dessewffy mentioned above and Árpád Gálócsy metallurgical engineer were well known figures of the radical right movement of the time still they remained on the periphery of the political life. The comparison of the earlier and 1920-21 job situation of the refugees shows serious downgrading in their social status. The documents report destitution as well as – at least temporary - employment at the lower level of municipal or governmental administration. It might come surprising that there was no overt or covert anti-Semitism discernible, such a characteristic feature of the era. The board quite regularly issued certificates, documents for Jewish applicants, sometimes stressing their patriotic conduct.<sup>34</sup> In analyses it is customary to connect revisionism and anti-Semitism but as this example represents, not always correctly.

The motivation of the participants was varied. Anger and grievance dominated but there are examples for attempts at maintaining legal claim of material effects through the help of the board.<sup>35</sup> The

<sup>33</sup> Istvan I. Mócsy: *The Effects of World War I The Uprooted: Hungarian Refugees and Their Impact on Hungary's Domestic Politics, 1918-1921*. Social Science Monographs-Brooklyn College Press, New York, 1983. Petrichevich-Horváth Emil (ed.): *Jelentés az országos Menekültügyi Hivatal négy évi működéséről* (Budapest, 1924) [Report on the four years of activity of the national Refugee Bureau]. Cf. also: <http://varga.adatbank.transindex.ro/?pg=3&action=etnik&megye=11>

<sup>34</sup> PML, IV. 901., 33-1920, Ervin Ábrahám certificate of character, 11. March 1920. 52-1920, document for Weinfeld, Mór hotelier-coffee-house owner, 4. May 1921. 79-1921: Trencsiner, Netty inhabitant of Gyulafehérvár, 23. July 1921. probably also Grünfeld, Ignác shopassistant, Wolf, Ignác lawyer and Lobstein, Dezső.

<sup>35</sup> Uo. 132-1920. it was about a grand piano.

language and vocabulary used by the organization was rooted in the traumatic memories of 1783-84 and 1848-49 as well as the feeling of cultural superiority.

Although the organization was operated by persons well versed in administration and law, the form of activity was without future. The Hungarian government lent no hand in the organization albeit tried to use it for its own purposes with modest success. The developments of international politics forced the cabinet to dissolve the refugee boards and other similar organizations and try other, more centralized structures.

*Balázs Kiss*

## **Nitra and the change of state between 1918 and 1923.**

### **Abstract**

*The essay investigates the process of change of statehood in the town of Nitra through the changes occurring in its local institutions and politics between October 1918 and the year of 1923. At the end of World War I, the city management was taken over by the Hungarian National Council. In December 1918 the Czechoslovakian legions marched in and the power was handed over to the Slovakian National Council. In the first years of post-war changes Slovakian civil servants became the managers of the city who had been well versed in Hungarian legislature and culture being educated during the time of dualism. Most of them came to the county town from Szakolca, a small town in the northern part of County Nitra. The civil servants of the transitory period remained in office till 1923. That year the town was downgraded to the status of small town resulting in extensive changes in the personnel, Czech nationals being given preference.*

In Nitra, the town at the foot of Mount Zobor the first signs of changes following the the four years of war appeared at the end of October 1918 when the Czechoslovakian Republic was declared. The Hungarian office holders of Nitra regarded the town as continuing to be a part of Hungary while the Slovak inhabitants regarded the town as the cradle of all Slavs which was once upon a time the centre of the Great Moravian Empire. There were important events happening at the time: the October revolution in Hungary and the declaration of the Czechoslovakian state in Prague. The political representatives of the Slovaks made a statement in support of the new state.<sup>1</sup>

<sup>1</sup> Kováč, Dusán: *Szlovákia története*. Kalligram, Pozsony, 2001. 166-179. [History of Slovakia]

Later in October the civil servants of Hungarian nationality convened against the foundation of Czechoslovakian Republic; the local revolutionary movement also set down its own requirements against Czechs and the Czechoslovakian state. The leaders of the town declared in favour of the integrity of Hungary at a secret meeting held on the 24th October 1918. Kálmán Szmida provost-parson, Gyürky city notary and Palásty judge of the High Court were joined by the leaders of local economic life.<sup>2</sup> Kálmán Szmida was the first to speak explaining the mission of the church, that its task was to campaign among Hungarian as well as Slovak congregations. He urged the publication of papers written in both the Hungarian and the Slovak languages in support of the unity of St. Stephen's country and rejecting Czech aspirations. He also found it important that the church should organize meetings and other movements. Several participants of the meeting seconded Szmida's suggestions and at the county meeting held a week later, the drafting of a common decision about the preservation of integrity of the Hungarian state was accepted.<sup>3</sup>

On the 28th of October, which was also the date of the declaration of the Czechoslovakian Republic, the representatives of Nitra had another meeting discussing the Prague decisions too. Szmida hailed the event as important that the Slav past was negotiating with the world; the question was how that would effect the inhabitants who wished to remain the 'children of the Hungarian mother country at the end of a terrible war'.<sup>4</sup>

Several of the speakers hoped that the Czechs and Slovaks would consider the Wilsonian ideas when delineating the new state borders. The Slovakian delegates were all for national self-determination in 15 counties – the Co. Nitra among them – instead of the preservation of the integrity of the region and the Hungarian state. The City representatives were of the opinion that the Slovak national movement could not be successful in Nitra thanks to the public and cultural activity of the Hungarian Cultural Society of the Upper

<sup>2</sup> Mrva, Ján: *Paberky k dejinám štátneho prevratu v Nitre*. Matica Slovenska, 1933. 9-14.

<sup>3</sup> MRVA (1933) 9-14.

<sup>4</sup> MRVA (1933) 14-20.

Region<sup>5</sup> the city became a Hungarian speaking area. The data of the 1910 census seemed to have supported the belief, giving 60% of the population as Hungarian, 30% Slovak and 10% German.<sup>6</sup> According to contemporary reports, Slovak was the language of the older generation consisting mostly of workers and day labourers who had come to the city for their living.

In Túrócszentmárton the Slovaks had expressed their wish of secession; though the news had reached Nitra by the time of the city meeting, the representatives could not imagine the possibility of the disintegration of the 1000 year old Hungarian state. They believed that under Czech rule the contact to the mother tongue, historic past and culture, so vital to national existence, would be endangered.<sup>7</sup>

On the 31st of October 1918 Mihály Károlyi was appointed prime Minister of Hungary in Budapest; it was known in Nitra the same day as the heads of all the counties were informed by telegrammes asking their assistance in public matters. The Hungarian National Council (HNC) whose organizations made up the new government ordered all the county and town offices to form independent National Councils within their legal authorities. Since Mayor Thúróczy came down with the flu rampant in the city, the editor in chief of the local newspaper *Nyitrai Lapok*, the notary and the delegate of the Social Democratic party together with Viktor Magyar, a lawyer, held a conference at the sick-bed of the mayor. They decided upon complying to the wish of the HNC to form a local National Council (INC), however, there could not be any decision made about the delegates at this limited forum.<sup>8</sup> Next day, on the 1st of November, there was a joint meeting of the city's and county's assembly where the notary explained the current events and the telegramme received from the Hungarian people's government requiring the organization of the National Council (NC). There was a heated debate about jurisdiction of the NC. Szatmáry, the county notary was against wider rights for the NC than the maintenance of public order, others wanted a much wider

<sup>5</sup> Felvidéki Magyar Közművelődési Egyesület, founded in Nitra in 1883. Organizing kindergartens, apprentice schools, reading circles and popular libraries in ten counties.

<sup>6</sup> Zajonc, Juraj: *Prečo je Nitra staroslovne mesto*. In: *Mýty naše slovenské*. Zost.: Krekovič – Mannová – Krekovičová 134-149.

<sup>7</sup> Mrva (1933) 14-20

<sup>8</sup> Mrva (1933) 21.

sphere of authority; thus voting was adjourned.<sup>9</sup> In the meantime the Hungarian government appointed city notary Gyürky as head of the the local NC by telegramme. Rumours had it that János Hock, member of the Budapest government phoned him personally to invite Gyürky to the post but later it was hotly denied. The members of the Nitra NC were unanimously elected.<sup>10</sup> The new Council had beside Social Democratic majority also Christian Democratic members. The inner structure of the Council was also deliberated, consisting of three independent committees: for public order, public supply and one for complaints. There was also a special five member committee responsible for the supply of military troops stationed in the city; immediate steps were necessary due to food shortage and political instability. However, political rivalry between the council members greatly hindered quick decisions.<sup>11</sup>

### Political rivalry

In Nitra there were two major political tendencies at the end of 1918: Social Democratic and Christian Democratic ones. Both were importantly present in the NC, though in different proportions. Membership in the new NC meant gaining city councillor positions for the political parties. The council consisted of appointed and elected members but without the consent of the population as there were no actual public elections. The National Council aimed at an active role in the political life of the city. On the 2nd of November the local Hungarian Social Democratic Party was created with 500 members, Jenő Dugesz watchmaker was elected its president who automatically became a member of the HNC. Though the Christian Democrats had a strong organization in the ecclesiastical center it was only in December that they could gain important influence<sup>12</sup>; till then the city was under Social Democratic leadership. The line which branched off from the Catholic Popular Party was active in the lower social strata of the population demanding the righting out of social deficiencies. It lent a hand to the founding of the Regional National Catholic Council

<sup>9</sup> Mrva (1933) 23-24.

<sup>10</sup> *Nyitrai Lapok* 1918. november 11.

<sup>11</sup> Mrva (1933) 24-26.

<sup>12</sup> *Fórum Társadalomtudományi Szemle* 2002/2. Elbeszélte történelem. Lelley János.

with the aim of strengthening the work of the clergy. Heads of the association were Jozef Tiso professor of theology and Eugen Filkorn secondary school teacher, himself a Catholic priest.<sup>13</sup>

### Party debates

On the 13th of November the HNC had a meeting in Nitra to discuss their opinion on Hungary in the formation. The Budapest HNC suggested 'Hungarian People's Republic' as its name, the regional Christian Socialists were in favour of 'Hungarian Popular Democratic Republic' for the name. The city delegation led by the Social Democrats went to Budapest to support the proclamation of the Hungarian Popular Republic.<sup>14</sup> This meant a change of statehood, from kingdom to republic. On the 17th November, there was a meeting of the Social Democrats with the participation of one Budapest delegate who appraised the Social Democrats' merit in the changes. László Matyuga, the delegate of the Communist Party was in favour of a world revolution and demanded the clerical elements to step down.

The Christian Democratic representatives in the HNC were Eugen Filkorn and Jozef Tiso who in November started a radical bi-lingual – Hungarian and Slovak – weekly *Nyitra – Nitra* in which they gave sound to their criticism of the Social Democrats and their differing views. There were also antisemitic writings published in which they agitated against Jews and elements who in their opinion were the cause of the war, against military institutions and coffee-houses in Nitra.<sup>15</sup>

The situation between the opposing sides aggravated to such an extent by the end of November that the outbreak of a pogrom threatened. In November the local branch of the National Radical Party, on the 1st of October that of Károlyi were organized in Nitra; however, the changes in the local political life were not reflected in the membership of the HNC. The 1st December issue of *Nyitramegyei Szemle* – a periodical with Christian Social tendencies – foresaw the dissembling of the NC and urged for new representation by new elections.<sup>16</sup> It

<sup>13</sup> Mrva (1933) 28-34.

<sup>14</sup> Mrva (1933) 34-35.

<sup>15</sup> *Nyitra-Nitra* 1918. november 24.

<sup>16</sup> *Nyitramegyei Szemle* 1918. december 1

was, however, in Budapest where it was decided how local policy was to change. The Central Hungarian National Council ruled that new members had to be delegated by the parties to the local councils with the exclusion of independent representatives.

In the second half of October Slovak National Councils were also organized in several Uppland towns. In Nitra Slovak interests were represented by Viktor Magyar, Štefan Bertovic and Viliam Paška within the Nitra HNC.<sup>17</sup> 2nd of December was the date of the HNC elections in the assembly hall of the city with the participation of 28 political and professional organizations with 126 nominees.<sup>18</sup> Christian Democrats considerably increased the number of their delegates in the new HNC.<sup>19</sup> During its short lived activity second HNC tried to keep order in the city with the help of the parties' militiamen and made a bloodless transition possible. Barely a week later the Czech legions marched in Nitra and the Slovak National Council (SNC) took over power.

Filkorn and Tiso became the two leaders of the local Slovaks in November. During the war both served as army chaplains and had got into touch with Czech soldiers thus had been informed about the Czechoslovakian resistance abroad. Though the declaration of the Czechoslovakian independence was final, the borders of the new state had not yet been delineated, they, however, were certain that Nitra would belong to it. At the time Filkorn and Tiso had returned back from the front Nitra gave the impression of a Hungarian city. Already in October they started secretly campaigning among local Slovaks. On the 10th of November the formation of Slovak National Council was suggested but on Tiso's advice who believed it still to be too early the decision was postponed. The two young priests, Filkorn and Tiso were agile leaders of the association and were of the opinion that their opponents could only be overcome through a mass movement, through the organization of Christian Socialism. In order to support their aims they started an independent periodical *Nyitra – Nitra* with Filkorn as publisher and Tiso the editor. The first issue published on the 17th of November did not mention Slovak national matters yet, but explained *Rerum Novarum*, the encyclical of Pope Leo XIII

<sup>17</sup> Mrva (1933) 39-43.

<sup>18</sup> Mrva (1933) 44-47.

<sup>19</sup> Mrva (1933) 47-50.

on Christian Socialism as a programme to be followed irrespective of nationality.<sup>20</sup> The second issue had the title *Slováci, plesajme!*<sup>21</sup> urging to abandon the feeling of shame to be Slovaks since they are not second rate citizens and Slovakia is their cradle. He pointed out the importance of using the Slovak language in every situation of public life. In the 1st December issue Tiso published an article with the title *Slováci hore s hlavou* which he concluded with a citation by Vajansky: 'I am proud because I am Slovak'. As is apparent from the content of the publication the Slovak national programme was introduced by the theologians of the Nitra seminary on Christian social basis and they kept stressing the issue week by week in increasing length. Before the elections of the second HNC the Slovak anthem *Hej Slováci* was recited during the meeting of the Christian Socialists thus uniting religious and national traditions. The fourth issue Tiso published an article with the title *Christianity Has Already Risen* where he wrote about the history of the events.<sup>22</sup>

### The Czech legionaries in Nitra

At the beginning of December there were contradictory news about the possible demarcation lines between Hungary and Czechoslovakia. At the end of November there was looting all over the city, the parties own militiamen were not able to maintain peace and order, even the military hospital was plundered. The Hungarian government had abandoned the plan to build an airport at Nitra; this fact was analysed by Slovak journalists that the Hungarian government had accepted Nitra to be annexed to Czechoslovakia.

At the middle of November the Czech army moved into Szakolca, a small town at the western part of County Nitra bordering Moravia. The provisional government led by Vavro Šrobár chose it as their headquarters. The army occupied the northern part of the county in November, reached the valley of the River Vág in December where their aim was to seize the main railway line connecting Nagyszombat – Pöstyén – Trenčín – Zsolna. The Hungarians counter attacked at

<sup>20</sup> G. Kovács László: Jozef Tiso. *Archépek Kettős Tükörben*. Nap Kiadó, Dunaszerdahely, 1997. [J.T. Portrait in double mirrors].

<sup>21</sup> *Nyitra-Nitra* 1918 november 24

<sup>22</sup> *Nyitra-Nitra* 1918. december 8.



Galgóc, but the Czech troops led by Neumann stopped their march and with the help of the Czech artillery arriving the Hungarian troops were made to retire, thus the Hungarian offensive was stopped. Now the Czech troops had an open road to Nitra.<sup>23</sup> Due to the military situation, Dreiszler, the Hungarian city commander of Nitra informed Mayor Gyürky about the plan of the military evacuation of the city.<sup>24</sup>

The mayor called an extraordinary meeting to inform the representatives of the general and military situation and to ask the corporation's advice on what to do. Kálmán Szmidá provost urged for resistance against the legionaries. It was decided to organize resistance. Viliam Pašek, a Slovak lawyer left the meeting to inform the Slovak leaders as well as Bohumil Neumann, the commandant of the Czech troops of the political and general situation of the city. Since the idea of resistance was most eagerly accepted by the Jewish inhabitants of the city, Tiso in several antisemitic papers pointed out the Jews as the perpetrators of resistance, though there were no such actions.

On 9th November a delegation of the city met Neumann in Felsőcserény to negotiate about surrendering the city.<sup>25</sup> They agreed that there would be no pillage, the city would provide for the occupying Czech soldiers, the city militia would be disbanded and their weapons collected, the local police force completed strong with 50 Czech soldiers.

The HNC and the city needed the agreement – and the military assistance – to be able to keep peace and order, and still maintained the hope that the Czech occupation would not influence the final decision which state Nitra would belong to. On the 10th of December the inhabitants of Nitra watched the arrival of the Czech legion of 800 strong led by Colonel Neumann from the station to the city hall with mixed feelings. At the city hall the city council formally objected against the occupation of the city.<sup>26</sup> Neumann as the commander of the military forces had the widening of the supremacy of the Czechoslovakian state in mind. He ordered the formation of the Slovak National Council (SNC) with 15 members which took over

<sup>23</sup> Mrva (1933) 77.

<sup>24</sup> Szomolányi (1931) 27-31.

<sup>25</sup> *Nyitra – Nitra* 1918 december 15.

<sup>26</sup> Medvecký, Karola A: Slovenský Prevrat. sv.III. Spolok sv. Vojtecha, Trnava, 1931. 103-109.

the authority from HNC. Knowledge of the Slovak language was a precondition of membership in the SNC. Jozef Tiso became the notary of the new body;<sup>27</sup> he published an article in the 29 December issue of *Nyitra – Nitra* with the title *Učtujeme!*<sup>28</sup> in which stressed that countries and regimes changed the old system was over, and the new situation had to be soberly received. From this date the periodical ceased to be bi-lingual, it was published as two separate publications with different content.

The first task of the SNC was to provide the city with sugar being the pre-Christmas period; it was successfully carried out by bartering for flour with Nagyszombat. This popular step as well as the early closing time of the pubs and their restricted licensing did not allow any opportunity for resistance.<sup>29</sup>

Ludovit Okánik became the new Lord Lieutenant of the region and one of his first measures was to reorganize SNC into a municipal corporation and asked István Bertovics to organize the public administration. Soon a nine member city council was also appointed, Jozef Tiso among them.

Changes quickest happened in the political life of Nitra. The HNC was replaced by the newly organized SNC to help keeping contact with the Czech troops. The Slovak ministry led by Vavro Šrobár regulated the steps to be taken in the interim. Thus Hungarian laws and regulations lost their power, all the earlier legal and municipal bodies were dissolved, their power taken over by the SNC. Civil servants could keep their posts if sworn to the Czechoslovakian Republic. The regulation also appointed Slovak as official language.<sup>30</sup>

The rapid change had, however, soon hampered by the lack of qualified civil servants with knowledge of the Slovak language as can be judged by the great number of advertisements offering posts.<sup>31</sup> While at the head of administration was quickly reorganized, there was a lack of civil servants at the lower levels. The Christian Social Association organized Slovak language courses for civil servants and

<sup>27</sup> Mrva (1933) 96-97.

<sup>28</sup> G. Kovács László 1997

<sup>29</sup> *Nyitra – Nitra* 1918 december 29.

<sup>30</sup> *Nyitra-Nitra* 1918 december 29. 7.

<sup>31</sup> *Nyitra-Nitra* 1918. december 29.

also was active in replacing civil servants without the knowledge of the Slovak language.<sup>32</sup>

Szokolca, a small town at the northern part of County Nitra was the place which sent most of the participants of Nitra's public life at the early time of the change; it can be stated that the importance of its taking part in political life was in reverse order to the size of its population. The person coming from Szokolca were undoubtedly of Slovakian origin, well versed in Hungarian language and culture, experienced in municipal practice; they occupied the most important positions of Nitra's civil life. Kálmán Czobori, former mayor of Szokolca was appointed to mayor of Nitra.

The old system of counties was dissolved; Ludovít Okánik became the head of the new Nitra district whose brother-in-law, Pavel Blaho, was the agricultural commissioner of Šrobár. In Szokolca Okánik and Blaho edited a political periodical *Hlas*, in which they had propagated the Czechoslovakian cooperation well before the beginning of the war.<sup>33</sup> Okanik was inaugurated as Lord Lieutenant in June 1919. In his speech he claimed land reform the most important task. He wanted to give war veterans land from the confiscated estates.<sup>34</sup> Since Okánik was a clergyman, thus his secretary Ivan Štefánek substituted him in his secular duties. Changes were there only at the posts of the county notary and public persecutor.<sup>35</sup>

People from Szokolca took over in the sphere of education too. Jozef Rozim teacher of religion became the headmaster of the secondary school from the beginning of school year in 1919.<sup>36</sup> According to the ruling of the minister of education, in January that year the pupils returning from a month long winter recess were allowed to continue their studies in Hungarian, with the exclusion of Hungarian literature and history in the secondary school named after St. Ladislav in Nitra. The Slovak language became compulsory but lacking competent teachers and adequate textbooks teaching faltered. There was a decrease in the number of pupils, however, some private pupils joined from neighbouring towns where Slovak became the language

<sup>32</sup> *Nyitra-Nitra* 1918. december 15.

<sup>33</sup> Szalatnai Rezső: *Juhász Gyula hatszáz napja*. Magvető, Budapest, 1962.

<sup>34</sup> *Nyitramegyei Szemle* 1919. január 26.

<sup>35</sup> *Nyitra-Nitra* 1919 január 12.

<sup>36</sup> Szalatnai (1962).

of instruction. By the beginning of the schoolyear of 1922 almost all the teaching staff had left; the school became a state school and was renamed Tomáš Červená.<sup>37</sup> In March school inspectors were also replaced.<sup>38</sup> Ján Mrva was appointed to chief of police also from Szokolca. The reason why so many new office-holder were hailed from Szokolca might be due to the shortage of experts, as indicated by the number of advertisements of jobs and unlike later practice when people were coopted from Czech land, such people were employed who already had some experience in the organization of public life.

### The new bishop

At the end of the war Vilmos Batthyány was the bishop of the Nitra diocese. He was suffragan from 1904 and became bishop in 1911 following Imre Bende after the latter's death. At the time of the change he was still widely active, he lent his car to the city's delegates to the negotiations in Felsőrécsény. From December onward the Czech troops left, only Boriani an Italian general remained in his company, and was not hindered in his movements.<sup>39</sup> In march he forbade the priests of the diocese to participate at a meeting to Zsolna in an episcopal circular;<sup>40</sup> and later disqualified the decisions made there. The Czechoslovakian authorities forced him to leave his office, giving as reasons his ban on the Zsolna conference, his insistence on corresponding in Hungarian in the diocese as well as his connections to the Hungarian government. Batthyány rejected the charges read out to him; and he was demanded to leave Czechoslovakia within 24 hours. He left the office in the hands of an episcopal vicar Alajos Jeszenky, and went to his relation, László Batthyány-Strattman, to Köpcsény. The Czechoslovakian government appointed a committee to control the properties of the bishopric. The episcopal representative protested against the activities of the commissioners.<sup>41</sup>

<sup>37</sup> Vyročná Zpráva. Cs. Štátneho Rl. Gymnázia Tomáša Červená v Nitre. Za Školský Rok 1922-1923. obsah: Zprávy školské

<sup>38</sup> Mátrai (1919)

<sup>39</sup> *Nyitramegyei Szemle* 1919. január 26.

<sup>40</sup> *Nyitramegyei Szemle* 1919. március 2.

<sup>41</sup> *Nyitramegyei Szemle* 1919. március 13.

Karol Kmetko became the new bishop consecrated on the 13th of February 1921.<sup>42</sup> He instructed Jozef Tiso, the spiritual of the Seminary in Nitra, to produce the pope his bull addressed to the cathedral chapter of Nitra as well as the one which informed János Csernoch, the Hungarian archbishop of Esztergom about the appointment, who still had the authority over the bishopric of Nitra.<sup>43</sup> During the inauguration mass the new bishop greeted the congregation both in Latin and Slovak languages and received the bishop mitre from the papal legate of Prague. There was also a military mass celebrated in Slovak with the participation of the troops and many of the civil servants. According to a papal regulation it was possible to use not only Latin but another language to celebrate mass in the ancient liturgical places of Czechoslovakia, thus also in Nitra, twice a year. Šrobár was keen on the appointment of Kmetko as he believed it would strengthen discipline among the clergy and the order and peace of the new state would be extended to the Catholic church too.<sup>44</sup>

### The transformation of symbolic places

The change of state was accompanied by the transformation of symbolic places in several steps. The SNC of Nitra renamed the streets in a regulation accepted the 27th of December. All the names representing the memory of the Hungarian state and its illustrious persons had been replaced by ones of the Slovak national pantheon.<sup>45</sup> In 1896 there were monuments erected in several points of Hungary to commemorate the millenium of the Hungarian conquest, one of them being on the top of Mount Zobor above Nitra.<sup>46</sup> In 1818 just it was damaged just before Christmas: the head of the turul, a mythical bird, was broken and the arms of the nation also destroyed. Jan Hofmann who was responsible for the historical monuments of Slovakia was of the opinion that there are no esthetic objections against the remaining column which could be transformed into a

<sup>42</sup> J.E. Dr. Karol Kmetko 25 rokov biskupom v Nitre. Spolok sv. Vojtecha, Trnava, 1946.

<sup>43</sup> Nyitrai Szemle 1921. január 30.

<sup>44</sup> Nyitrai Szemle 1919. november 13.

<sup>45</sup> E.g. Rákóczi út > Ludovita Šturova ulica, Szent László tér > Sv. Cyrillové námestie, Vármegeyház tér > Sv. Methodové námestie, Millenniumi Emlékút > Svätoplukova cesta. Nitrianske Noviny 1919. január 7.

<sup>46</sup> Lipták, Lubomir: Száz évnél hosszabb évszázad. Kalligram, Pozsony, 2000.

symbol of Slovakian freedom at a more appropriate place.<sup>47</sup> The SNC agreed with the verdict and suggested a citation to be carved into the monument.<sup>48</sup> However, the bronze turul remained at its original place till it was blown to pieces on the 9th of February 1921.<sup>49</sup>

The example of the turul justifies Lubomir Lipták's remark that the policy of the change of monuments was carried out in several stages;<sup>50</sup> the first was just after the seizing of the power, and later, in 1921 all the monuments representing the Austro-Hungarian Monarchy had been replaced.

### State administration

Those civil servants who had taken the oath could remain in their office. Due to lack of experts there were only minor changes among the higher rank of personnel, and those which occur were mostly relocations from other parts of the county. Czech officials also arrived; since there came enough people from Szokolca their role was not significant. Mass pensioning of civil servants started in April 1921 when county officials became state officials. The pensions were reckoned according to pre-changes salaries disregarding the considerable inflation;<sup>51</sup> the persons involved protested against the discrimination at Pozsony.

### Conclusion

The paper investigated the steps taken to change the statehood in Nitra between October 1918 and the beginning of 1923. At the end of the war the old administration was replaced by the Hungarian National Council for a while with the participation several persons who had earlier had no important political role. The short period of pluralism was ended by the arrival of the Czech legions. With the foundation of the Slovak National Council such civil servants managed the city who had had experience in the earlier Hungarian

<sup>47</sup> Lipták, Lubomir: Száz évnél hosszabb évszázad. Kalligram, Pozsony, 2000:244-293..

<sup>48</sup> Nyitrai Szemle 1921. január 23.

<sup>49</sup> Nyitrai Szemle 1921. február 20.

<sup>50</sup> Lipták, Lubomir: Száz évnél hosszabb évszázad. Kalligram, Pozsony, 2000:244-293..

<sup>51</sup> Nyitrai Szemle 1921. április 17.

public organizations. With their knowledge of Hungarian they served as transition in the multi language city. Most of the civil servants arrived from Szakolca, the place which counted as the cradle of the Czechoslovak ideas in the Upperland. The transitional period lasted about till 1923, when Nitra was downgraded to township. With the introduction of the new public administration the old officials were pensioned off. Hungarian remained as the official language at the post office, railway station and in legislation till 1923, when all civil servants were required to sit for Slovak language examinations.<sup>52</sup> In the diocese the first period lasted till the death of Bishop Batthyány in 1923. At the head of the county Okánik was followed by Ján Jesenský also in 1923. The new zupan claimed to follow with liberal mind the rights of the minorities, but would take care of the Slovak country be Slovak.<sup>53</sup> Jesenský must have based his remark on the results of the 1921 census, when Nitra was the fifth largest town in Slovensko and almost 70% of the inhabitants claimed to be Slovaks and only 11% Hungarian.<sup>54</sup> The change of statehood could only mean one of the reasons of the massive ethnic change in the 11 years. It is possible that thanks to the important organizing activity of FEMKE and the role it played in the public life of the city many people claimed to be Hungarian in 1910; the change of statehood was important to the Slovaks and as a result of the developments of years had changed the ethnic picture of Nitra by the mid-1920s.

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<sup>54</sup> Of the total of 19.107 inhabitants: 13.505 Slovak, 2.118 Hungarian, 1.590 Czech, 1.076 Jewish, 744 German, 74 other. Zubáčka, Ida: *Nitra za prvej Československej republiky*. Univerzita Konštantína. Nitra, 1997. 10-15.

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*Béla Pomogáts*

## **Failed strategies**

### **Abstract**

*There has been no courageous and convincing agreement over Transylvania's fate between Hungary and Romania: sincerity was lacking in most participants. There were even less of those who felt that the age-old disagreements should have been solved by such compromise as would have given full national self government to the Romanians of Transylvania and would not destroy the autonomy of its Hungarians either. It seems that literature could sometimes suggest a more acceptable political reality than the complicated arguments of politicians: the situation of Transylvania before World War I. as well as the dangers threatening the region were most creditably revealed by Endre Ady both in his political writings and his poetry.*

It is my experience strengthening my belief that there have been very few in Hungary who have been willing or able to actually serve the interests of the country and even less who have been able to do so realising the political realities and adapting to them. Probably the representative of other East Central European nations could draw similar conclusions; however, if we consider that it is success that justifies national strategy and willingness to act, the Romanian, Czech, Slovak, Serbian and even the Polish intelligentsia were more deliberate and effective in handling their respective countries' affaires than Hungarians. This was so in the decade preceding the Trianon decisions, the fall of the old Hungary when there were only few so thoughtful to have tried preventing the perils awaiting the country while considering the political realities of the world and of Central Europe and most importantly their possible geopolitical consequences.

There were exceptions of course; among those in power there was István Tisza who tried to consolidate the country's situation by such a conservative strategy that it was doomed from the beginning; on the side of the opposition Mihály Károlyi who had no effective influence upon politics till the autumn of 1918; or even Oszkár Jászi, who offered strategic steps to consolidate historical Hungary, was without the necessary political power and when he finally obtained it, it was too late. In the non-political sphere the scholar Benedek Jancsó was such an exception who kept warning that the Hungarian Transylvania was in danger; and Endre Ady too (being a poet and Transylvanian) who probably was the most sensitively aware of the fate of the country but neither he could have foreseen what was actually to happen. The Hungarian public was deluded by the illusion of the millennium, busy with the strife with Austria and dreams about Hungary as a great power; nobody was ready to notice the approaching dangers thus the country was led toward its fall failing mental, political and military defence and it was a miracle that it has survived at all.

The fate signed at Trianon has frequently been claimed unavoidable; in his emigration Lajos Kossuth referred to the Austrian - Hungarian compromise of 1867 as the doom of Hungary in his 'Cassandra Letter'. Unlike his great opponent Görgei, he was fortunate and did not live to see the war which fulfilled his prophecy. Others have believed that the greed of the newly formed neighbouring countries to gain territories could not have been fent off, there were not anymore Hungarians to conscript and resistance would have led to even greater loss of territory; had it not been for the decision of the peace conference but for sheer military force, Debrecen would have remained under Romanian occupation, Miskolc under Czechoslovakian, Pécs under Yugoslavian.

All these statements are arguable. First of all after 1867 there was the possibility to found a nation-building strategy to consolidate the achievements of Deák and Andrassy, e.g. through compromises in nationality policy; its possibility was given by the nationality law of 1868 which was - as has been severally pointed out - the most tolerant nationality law in contemporary Europe. Then it could and must have been possible to withstand the occupation of the military forces of the Little Entente; in October 1918 there were still

2 million Hungarian soldiers in arms, a new army could have been organized, as Aurél Stromfeld organized his 'red army' which recaptured the towns of Kassa, Eperjes, Bártfa in the Upland, which of course at the time defended the country and not the 'proletarian dictatorship'. It also has to be mentioned that the February 1918 regulation of the Bucharest peace had not required the Romanian army to lay down their arms into the hands of the central powers; it was with the help of those arms the Romanians occupied Transylvania and parts of eastern Hungary. In the history of wars it is unusual on the part of the winners to allow the losers keeping their weapons. The Hungarian political leaders were unable to consolidate the still available army and use it for the protection of the country. Béla Kun called back the troops re-occupying the Upland in the hope of gaining points of merit for it at the peace conference (strange that a communist leader had such illusions about powers representing capitalism).

Let's not fall into the trap of wishful thinking what would have happened if the politicians had chosen a different strategy. However, sometimes history offers possibilities for a choice of political developments and it is worth analysing what ways were still open. There is the example of Turkey. There was a completely beaten humiliated Ottoman Empire; Mustafa Kemal Atatürk organized a new army, renounced the earlier treaty and was able to enter into a new one under more favourable conditions preserving all the Turkish regions in Anatolia. It is not probable that the French generals would had been ready to send their armies into battle for Czechoslovakian, Romanian and Serbian territorial claims. Though there was some resistance, e.g. Mihály Károlyi appearing in Szatmár, the battles of the Sekler troops, Stromfeld's north-eastern campaign, an organized, overall resistance was lacking and it makes one wonder how inevitable was the neglect.

### Preludes to Trianon

At the time of the developments leading to Trianon it was the general Hungarian public opinion that before the defeat in World War I no one could have foresee what was to come. The essay of Iván Bertényi Jr. mentions how István Tisza was surprised when

after the peace talks Benedek Jancsó showed him maps drawn by the Romanian irredentists he had found in Bucharest archives and the Hungarian prime minister still believed it to be utter nonsense. But unfortunately it was not. Benedek Jancsó wanted to warn the Hungarian public to take heed of what is brewing in the Bucharest political and military circles. He published several articles on the topic: *Szabadságharcunk és a dáko-román törekvések* (1895)[our war of freedom and the Daco-Romanian aspirations], *A román nemzetiségi törekvések története* (1896-1899)[the history of the Romanian nationalistic aspirations], *Erdély és a nagyromán aspirációk* (1918) [Transylvania and the Great Romanian aspirations], and after the annexation of Transylvania: *A román irredentista mozgalmak története* (1921) [the history of the Romanian irredentist movements], the latter contains the results of his research in Bucharest archives.

It still remains a future task to make widely known the Transylvanian scholar's oeuvre and a new issue of his works would be necessary. Let's refer to *Erdély és a nagyromán aspirációk* which is based on his lectures held at the Association for the Propagation of Science and Knowledge in March 1917 – after the Romanian attacks against Transylvania but before the peace of Bucharest and without the knowledge of the archive material. The Hungarian political leaders left it completely unregarded because of the joy of the then successful war against Romania.

Benedek Jancsó reviewed several political documents, scholarly works as well schoolbooks written much before the outbreak of WWI which prove that the Romanian political and cultural leaders had made plans to annex Transylvania and the eastern regions of Hungary at a time when Romania claimed to be of an ally of the Austro-Hungarian Monarchy. He quotes the minutes the 12. June 1912 meeting of the Romanian Academy of Sciences where General Craiceanu declared in the king's presence that the first idea of Romania and the Romanian army was to protect the country; Another was to make the country complete especially that they were convinced that was what Europe expected of Romania, not immediately by military force, but maintaining the idea because who did not have such ideas did not deserve to survive. Not much afterward there was a publication in the summer 1913 issue of the Romanian

Army gazette *Revista Armatei* that the goal of the Romanian army was to put the emperor's crown on the head of King Carol and to offer him the imperial throne of "Dacia Traiana" (Romania + Transylvania) to unite the Romanian population of Máramaros, Crişana, Temeşiana, Transilvania, Bukovina, Bessarabia in the veins of whom the same brotherly blood was flowing, who had the same aspirations for their future and represented more than 14 million souls. It was the time of national ideals and the nations wanted to realize their ideals by every means. Nobody and nothing could stop this striving of the Romanians to fulfilment. The general promised it to be a long and terrible process but sooner or later every nation with such an ideal would succeed. The Romanian ideal is Great Romania between the Dnester, Tisza, Danube and the Black Sea. There was the ideal of Great Romania all ready.

From then on the Romanian politics and diplomacy used all means to win the support of the great powers to their foundation of an empire. In the case of Bessarabia they wanted German, of Transylvania French help, and these contradictory strategies explain the vacillation between two (German and French-Russian) orientations. It is known that Germany was ready to sacrifice Transylvania (a territory belonging to their own ally) for Romanian goodwill, just as French politicians were not unduly disturbed by Romanian claims over large areas of Hungary reaching east to the River Tisza where Romanians were in minority. The characteristically deplorable lack of information on the part of the French politicians dealing with the question of Transylvania was exemplified when Gustave Le Bon described the ethnic situation of Transylvania in his book *Enseignements psychologiques de la guerre Européennes* published in 1916, that there were 1,540 000 Romanians in contrast to 380 000 Hungarians, 560 000 Czechs, 234 000 Germans and 54 000 other nationalities. For some unknown reason the author believed the Seklers to be Czechs, not impossibly misled by Romanian sources.

There are more such reasoning and statements showing that the Romanian politics was all set to occupy large areas of Hungary much before the breach of treaty with the Austro-Hungarian Monarchy and the attack on Transylvania, and the Romanian politicians of Transylvania supported the policy, albeit the 12<sup>th</sup> of August 1914 statement made in allegiance of the Monarchy in Arad when Austria had

just entered the war. According to the statement every Romanian familiar about history had to know that the Romanian people are traditionally faithful to the Monarchy. The fact gave them dignity and national pride and that it required sincerity and to renounce any dubious manifestations. Teodor Mihali Romanian nationality politician published an article in a Romanian newspaper of Hungary where he mentioned how willingly the Romanians joined the army and how eagerly they awaited the glorious results. Such statements inspired the prime minister István Tisza to start negotiations with Ion Mețianu, the metropolitan of Nagyszeben, on possible political concessions. Tisza hoped that such steps would reduce the hostile feelings against Hungary. He had to become disappointed because his suggestions were turned down not only by the Romanian politicians but Hungarian progressives too were enraged that Tisza was the initiator who had earlier withstood every nationality demands however rightful they were.

The Hungarian politicians were not able to understand the strategy of Bucharest politics or the aspiration of the Romanian leaders of Transylvania. Lutz Korodi Transylvanian Saxon politician and member of the Hungarian parliament (who was believed to be the agent of the Berlin staff) probably was right in his memoirs written for the German chancellor Bethmann-Hollweg that Romanian irredentism had been quite widespread in Transylvania. Only those could notice it who knew the country, the Hungarians knew nothing about it because they were blinded by their own imperial vanity. Korodi was convinced that the moment the Austrian -Hungarian army suffered defeat the Romanians would occupy Transylvania. The Hungarians in Transylvania would completely powerless facing such a insurgency because they lived as an island surrounded by a Romanian sea, they would simply be crushed, on their one side 3 million Romanians in Transylvania and eastern Hungary, on the other the Romanian Kingdom. Besides the important passes leading to Romania had not been fortified.

Indeed the Romanian army streamed through these unprotected passes into Transylvania and started its offensive against Hungary on the force of the 17<sup>th</sup> August 1917 treaty between the Romanian government and the Entente powers. It is really enraging to read those professions of allegiance the members of parliament of Roma-

nian nationality made toward the Hungarian state adding that it were the Russians who threatened Romania and only the defeat of the Russian empire could save Romania.

Vaida-Voevod made a similar affirmative statement in the 15<sup>th</sup> September 1916 issue of the *Österreichische Rundschau* when he declared that that all the Romanians of the Austrian-Hungarian Monarchy are proud of their patriotic and dynastic behaviour, since it had always been very sad when their faith and patriotism had been questioned. What the words could not have proved their deed had done. The Romanian people of the Monarchy shook away the irredentist ideas and the knowledge is deeply rooted in them that their thank for their culture is due to the Monarchy; that they firmly believed that the problems between Hungarians and Romanians were mere disagreements between siblings; and now in the face of the Russian menace they must be united by the same fate.

Many were the people who were completely misled by such deceitful speech, so frequent stressing of loyalty, because the sentiments could have been sincere, e.g. they could have initiate a bold and convincing agreement between the Romanian and Hungarian political scene and contesting national strategies.

### Ady and the Romanians

Unfortunately such sincerity was not general, on the Hungarian side there were only very few who thought that the centuries old debate of the two nations could have been solved by some compromise based on the more favourable traditions of coexistence by sincere goodwill. Such compromise would have been needed that would have given complete national self-government to the Romanians in Transylvania without destroying the self-determination of the Hungarians. One of the few representatives of the above ideas was Endre Ady, who offered suggestions worth having been taken – even today worth keeping in mind – to reduce the sometimes bitter hostilities endangering the future of both nations. Given, he was a poet who did not have to abide political necessities, to count with the consequences of the old mutual distrust. He could speak freely. It was the lack of free speech, the taboo of talking about political necessities that caused so much tragedy in modern Hungarian history. Literature



has often suggested more creditable realpolitik than the complicated reasoning of statesmen; and poets frequently see clearer and define more precisely the task awaiting the nation than political strategists. Hungarian literature has a vast pantheon of such seers: Sándor Petőfi, Endre Ady, Mihály Babits, , Attila József, Gyula Illyés are some of the outstanding examples.

The pre-war situation of Transylvania and the perils awaiting the region were probably best expressed in Ady's journalistic writings (and also in his poetry). In Ady's eyes Transylvania was a mythic country and one that is historically in a dangerous position. At the beginning of the 20<sup>th</sup> c. it should have been obvious that the policy of the Romanian government in Bucharest was increasingly guided by open aspirations to conquer. The leaders of the Romanian nationalist party in Transylvania were also thinking about tearing away Transylvania from Hungary. The open propaganda was braced by some caution in the behaviour of the Romanian politicians towards the Hungarian government, as was exemplified above. Ady was one of the first to recognize the dangers lurking around Hungarian Transylvania and since 1905 he gave sound to his fears while those who accused him to be unpatriotic took lightly the aggravated situation of the Transylvanian Hungarians.

In the 21st of January 1905 issue of the daily *Budapesti Napló* he published a critique of the play *Elnémult harangok* [silenced bells] in which he rejected the rethoricism of the play written by Viktor Rákosi and Dezső Malonyai and continued with a dark picture of the dangers threatening Hungarians in Transylvania. He described that he had observed how the earlier so strong Hungarian blood became Romanian and decadent in Co. Bihar, which is the outer edge of the region to the west. He had fear about the situation among the high mountains; there was a change and it was the better that had been swallowed up by the culturally less endowed. He believed Transylvania to be an endangered zone.

His next piece was *Se treasca* published in the 24<sup>th</sup> of May issue of *Budapesti Napló*. It was about the territorial aspirations of the Bucharest government based on the news that the Romanian Society of Ethnography announced the plan of a gazetteer of the place-names in Transylvania and 'attached regions' in the Romanian language. He tried to draw attention of to the facts and warn

those who constantly stressed their patriotism but did not take notice of the increasing territorial claims of Romanian irredentists. He referred to Ion Şirianu Russu, the editor of the Romanian nationalist newspaper *Tribuna Poporului* published in Arad who claimed to be pro-Hungarian but in his paper advocated Bucharest irredentism. Ady wrote that while the likes of Şirianu Russu seemingly faithful to Hungary try to loosen the not too strong bonds of the national state in Hungary, in Wallachia the young Romanian kingdom was about to spiritually devour it, as far as the Tisza, maybe. They kept alerting the western Romance countries that the big moment was approaching, Romania was ready to rise and the descendants of Emperor Traian to shake off the yogh of the 'Asian hordes'. And the scholarly society with in the presence of King Carol decided that the name of Nagyvárad should be Oradea Mare and that of Érmindszent Mencia. Ady wrote ironically about the Romanian irredentists whose effectiveness was not evident at the time, but he hoped that the case of the Romanian gazetteer would make people sit up. He remarked that it seemed the Romanian ethnographers were teaching the Hungarians about ethnography. Hungary should look around at home and try to put things in order, because evil spirits were lying in wait in wrath.

All Ady told about the probable fate of Transylvania remained unheeded. The poet's voice grew more dramatic in his article *S ha Erdélyt elveszik?* [If Transylvania be taken away?] published in the November-December 1912 issue of the periodical *Huszadik Század*, written in the first days of the I. Balkan war broken out in 1912. In this paper he was confident that Transylvania was the token of Hungary's historic vitality and an eventual loss of the region would shake the Hungarian nation and state to its fundamentals, because at the time when the European nation states developed Transylvania represented Hungary.

He also described the justification of 'Transylvanianism' in the framework of the history of ideas. He stated that Transylvania represented a special kind of mentality and the planned changes of the map could cut off the two twin nations of it, Hungarians and Romanians. The Saxons are able to live or perish on their own as they had always lived separated as the German colonies had done in Russia. But the Hungarians and Romanians would be uprooted when they would be

torn apart following by the crazy military world social democracy was still unable to stop and the situation be treated on diplomats' diagnoses. He found the situation tragic because the war had stepped into its democratic revolution. He is of the opinion that the strong nationalistic policy would make the two nations homeless and he was convinced that the Hungarians would be worse off if gobbled up by Romania than the Romanians had been in Transylvania.

In all truth Ady had known only his birthplace Érdmindszent in the region known as the Partium, then Nagyvárad, Temesvár and Kalotaszeg; it was in the summer of 1915 that he visited the historical inner part of Transylvania the first time. His wedding with Berta Boncza in Budapest on the 27<sup>th</sup> of March, the couple moved to Csucs and country life cut him off from the politics, the literary circles of Budapest but made him all the more vulnerable to the fear of the war. In those difficult days György Bölöni visited him accompanied by his wife to ease Ady's solitude who had complained much in his letters. Much later, in the November 1957 issue of *Igaz Szó* published in Marosvásárhely and dedicated to Ady's memory, Bölöni remembered the days spent with Ady and his wife, travelling about in the neighbouring places visiting acquaintances in his memoirs *Ady ismerkedése Erdéllyel* [Ady being acquainted with Transylvania].

That was how the decision was made to travel around the inner regions of Transylvania. The two couples, Ady and his wife and Bölöni with his wife, took the train and travelled to Brassó; the town's ancient look, urbanity and style were a great surprise to Ady who up till then had known mostly the dusty village like towns of the Great Plain. Then by the Secler circle-line the reached Marosvásárhely to visit György Bernády, the Lord Lieutenant of Co. Maros-Torda, earlier the mayor of the town, who had done most for the urbanisation of the 'Secler capital' than anybody else. He had made build the famous Art Nouveau building of the Palace of Culture. Ady told about the experience of the visit in *A magyarság háza* [The house of the Hungarians] published in the monthly *Nyugat* in August 1915, claiming that he regarded it as a refuge for the Hungarians who had sinned so much against one another. This was the place to meet for music, poetry and talks. It was meant as an homage to Bernády who Ady felt as a relation because both of them were true Hungarians.

The poet's visit became widely known in Marosvásárhely. The representatives of the local intellectual circles came to meet him and Ady suddenly became the centre of celebrations. The memories of the short stop in Marosvásárhely left deep impressions in Ady and if there were not any references of it in his writings he talked frequently about the experience and kept in touch. From there they went to Szováta and bathed in the famous Lake Medve the water of which is so salty that it is impossible to sink. Afterwards they returned back to Csucs. Ady gave an account of the journey in a letter to his brother in July 1915.

Bölöni may be right that Ady did not write any detailed travelogue of the journey, however, he reflected on it in some of his journalistic pieces and poems, too, e.g. *A fajtám takarója* [the cover of my kind], *Intés az őrzőkhöz* [warning to the guardians]. These writings, however, were neglected by later researchers of Ady's oeuvre and were not included in the 1977 collection of journalistic papers; such are *Lenn, Erdély földjén* [Down in the land of Transylvania] published in the 25. July 1915 issue of *Világ*, the above mentioned *A magyarság háza*, and *Az oláh mumus* [The Romanian bogeyman] in *Nyugat* August 1915. These pieces continue the thought of *S ha Erdélyt elveszik?* mentioned above.

*Lenn, Erdély földjén* summed up the experiences of the journey describing the beauty of the country and, as a contrast the devastations of history. He quoted the Book of Chronicles of the Old Testament to describe the ordeal of the region and the new perils lurking around; he repeated his conviction that Hungary should regard Transylvania as its source of renewal, concluding that Transylvania is Hungary and if there was need for Hungary, Transylvania had to remain Hungarian.

Ady contemplated the fate of Transylvania and the approaching dangers with anxiety but with forced confidence. It is interesting though not unusual that Ady's survey was dismissed from two sides the leading Romanian politicians in Transylvania on the one hand and the official Hungarian trendsetters on the other. On the 26<sup>th</sup> of August 1915 *Românul*, the Romanian newspaper of Arad vehemently rejected the poet's elaboration in spite of the fact that earlier it had hailed Ady as a friend of the Romanian people. *Ady úr csúfot üz a románokból* [Mr. Ady makes fun of the Romanians] was the title of

the anonymous article that declared that Hungarians had a poet who albeit fed on French culture could not gain entrance to the editors of Budapest newspapers. The 'Mr. Poet' had become impotent and to save face he ridiculed the Romanian people in the last issue of Nyugat; than it concluded that the Romanians have a future not prepared by Ady's poems in reactionary editors' offices.

*Magyar Kultúra* a militantly conservative Catholic periodical also reflected to Ady's article and attacked the poet from the other side charging him with two-timing. The false accusations coming from two opposing directions affirm the undoubted truth of the poet.

Ady clearly recognised the dangers approaching toward Transylvania; he had dark visions about the fate of the Hungarians there, however, he tried to becalm himself by sober political reasoning. The tragic ambivalence can be observed in the short piece *Az oláh mumus* where he tried to debate with dark prophecies about the loss of Transylvania. He believed that the 'Romanian bogieman' was tolerable, conquerable and he could not wish anything worse than Transylvania for him. Only Kolozsvár, Brassó, Marosvásárhely would mean danger for him, because the Romanians would perish in the highly cultural environment. He believed this would not happen because Hungary would not let it. He quoted a Romanian lawyer who declared that he would have been upset had had his proceeding been in Bucharest instead of Budapest. *Románul* reacted rudely to this writing hurting Ady's honour both as a human being and a poet.

Ady's soul tried to cling to a reasonable vision of the future in vain, to the illusion that neither Hungary nor the civilized western world was ready to give up Transylvania. In the last days of the war he had to realise that all his hopes were self-deception, his vision false. The war he always condemned ended in defeat and collapse that also determined the fate of Transylvania too. At the end of October Ady was lying in his deathbed and tore his Bible, he always kept at his bed, to pieces, a fatally symbolic deed. On the 16<sup>th</sup> of November he was taken to the festivities in the Houses of Parliament to celebrate the proclamation of the Republic, wrote *Üdvözet a győzőnek* [Greeting to the winner], his last poem, not only his farewell to life but to his historic hopes too. His biographers, Gyula Földessy, György Bölöni,

Miksa Fenyő and Lajos Ady reported that he had not been conscious at the time of the Romanian occupation of Transylvania. As if providence had wanted to protect him of realisation with a clear mind that the region he regarded as a place of mythical heights and historical example, Transylvania was lost.



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