

## **MINORITIES RESEARCH 14**

# MINORITIES RESEARCH

**N° 14**

2012



This book is published with funding by the  
National Cultural Program Fund



Nemzeti  
Kulturális  
Alap

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Translated by Veronika Kniezsa

ISSN 1585 – 860X

© Győző Cholnoky  
Published by LUCIDUS Kiadó

Book design by János Szabó  
Typography by Scriptor Kft.  
Printed by Scriptor Kft.

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## **The status of Minorities**

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Zsuzsa Remete

## Migration in the European Union\*

### Abstract

*The present paper aims at summarizing the migration policy of the European Union. The article describes the beginnings and the major trends of legislation, and the main institutions of the migration policy. Especially Frontex and RABIT - these are responsible for co-ordinating the activities of the national border guards in ensuring the security of the EU's and the Schengen Area's borders with non-member states. The Arab Revolution revealed the necessity of the common migration and border policy, thus this paper shows the direction of further regulation and co-operation.*

### Introduction

The importance of migration in the European Union is unquestionable; internal migration as well as immigrant movements concern the whole European Union because of the Schengen borders the migration policy of the individual states has its effect upon all the other states. The heads of the member states have recognized the necessity of a mutual regulation; Cecilia Malmström<sup>1</sup> commissioner responsible for the internal affairs of the European Committee named the matters of refugees and migration policy as her major concern – besides security and fighting against terrorism and organised crime.

\* The paper has been prepared by the grant of ÚjSzéchenyi Terv (TÁMOP-4.2.1/B-09/1/KMR-2010-0005) at Corvinus University Budapest. (The projects have been carried out with the support of the European Union, co-financed by the European Regional Development Fund)

<sup>1</sup> Cecilia Malmström is the commissioner of Sweden of Council of Europe. She was born in Stockholm in 1968. Took her doctorate in political sciences at Göteborg University. 1999-2006 was member of the European Parliament than became minister in Sweden responsible for EU matters. She than became the member of CE.

The aim of the present paper is to present the beginnings of the EU regulations and their major directions as well as the policies to be followed, the institutions the Union has created for the administration of migrant matters and the fending off of illegal migration. Legal and illegal migration as well as the issue of refugees are treated separately because of their special individual character.

Besides the actual analysis of regulations and institutions it is necessary to examine the present and possible future situation of migration in order to be able to correctly evaluate the various policies. My paper starts with the introduction to the importance of migration and the problems of immigrants examined by international organizations. Next the problems met in the EU and especially in Hungary will be discussed and the basic interests of the Union and Hungary explained. The more important decisions and trends of various periods will be considered till the present days. Among the institutions of the Union the various information systems will be highlighted, the European Migration Network, the agency responsible for the operative cooperation at external borders, *Frontières extérieures* (Frontex) and the Rapid Border Intervention Teams (RABIT) as well as the European Asylum Support Office. Finally the future of migration policy will be treated with special interest in the possible international trends and institutional changes.

The sources are the documents dealing with migration from the home page of the Home Affairs DG, laws of the Union and other studies in Hungarian and English dealing with migration policy.

### 1. Migrants and the role of international organization

Migration, the movement of persons within one country or between several countries is a decisive phenomenon of modern history. During the 20<sup>th</sup> c. its restriction and regulation became continuously stricter and the role of international organizations and international agreements has gained increasing importance. The regulation of migration can be divided into three categories<sup>2</sup>:

<sup>2</sup> Tóth, Judit: A nemzetközi migráció jogi alapjai. In: Lukács, Éva – Király, Miklós (Eds.): Migráció és Európai Unió. Szociális és Családügyi Minisztérium Budapest,

1. Regulations about the freedom of movement (regulations for border crossing, definition of visa obligation)
2. The legal status of migrants. According to legal status a person can be *native* (own citizen of the country); *dual or multiple citizen* (citizen in two or more countries); *beneficiary* (compared to other non-natives have more favourable conditions to enter, stay or settle); *non beneficiary*.
3. Institutions dealing with matters of migrants (e.g. organizations for their support and administering their movements).

The international organizations have set international norms for immigration that contain minimum laws for native and non-native citizens. In the case of native citizens mobility is a human right and citizenship and the prohibition of banishment is relevant; in the case of non-natives the observance of human rights, protection of refugees, action against criminal organizations and the moral questions of employment are regulated. In the above question there are statements and agreements<sup>3</sup> made by the European Union and other organizations: UN, European conference on Security and Cooperation and its successor Organisation for Security and Co-operation in Europe (OSCE), Council of Europe, OECD and other bi- and multi-lateral agreements between various countries.

EU has made various regulations and laws in the three spheres mentioned above. In the case of agreements of international organizations it is more important how those regulations are complied to and how well they are controlled than in the case of some looser association. With the creation of the borders of Schengen, in addition to being an economic community, the EU has become an administrative unit that makes the free movement of migrants possible. Complying to the common regulations is therefore of great impor-

2001. pp. 81–123. [Migration and the European Union]

<sup>3</sup> Cf. the list: Tóth, Judit: A nemzetközi migráció jogi alapjai. [The legal bases of international migration] In: Lukács, Éva – Király, Miklós (szerk.): Migráció és Európai Unió. [Migration and the European Union] Szociális és Családügyi Minisztérium Budapest, 2001. pp. 81–123.

tance and the member states have to consider the interest of the other member states too when deciding about their migration policy.

## 2. Migration in numbers

The European Commission has calculated with about 20,1 million persons arriving from countries not belonging to EU who have settled down legally in the territories of the Union in 2010. The data receive special weight by the fact that legal migration represents 4% of all the inhabitants of the EU.<sup>4</sup> Net migration, i.e. the difference between emigration and immigration has increased 1,75 million persons i.e. this is the yearly increase of the actual number of immigrants. In addition there are about 9 million citizens of EU member states who do not live in their home country.<sup>5</sup>

Illegal migrants coming to the territory of the Union or those who are staying unlawfully in a EU country (e.g. who came as tourists to the territory of the Union and remained after their visa expired) form another group. Their number can only be estimated: according to the European Commission it was estimated at 4,5 million persons but that keeps changing because of detentions as well and new arrivals.<sup>6</sup> Besides the legal and illegal migrants the regulation of the rights of asylum seekers too has also been considered, though they are fewer in number than the earlier ones, about 200 000 persons a year.<sup>7</sup>

The indices of migration and refugee cases are projected in Figures 1. 2. and 3. representing the EU countries most involved, Hungary included.

<sup>4</sup> Report of the Committee for the European Parliament and Council: Migration and Asylum in 2010. COM(2011) 291. Bruxelles, 24.05.2011.

<sup>5</sup> Európai Bizottság Kommunikációs Főigazgatóságának kiadványa: Lehetőség és kihívás – Migráció az Európai Unióban. Európai Unió Kiadóhivatala. Luxemburg, 2010. p. 5.

<sup>6</sup> Ibid. p. 3.

<sup>7</sup> Ibid. p. 3.

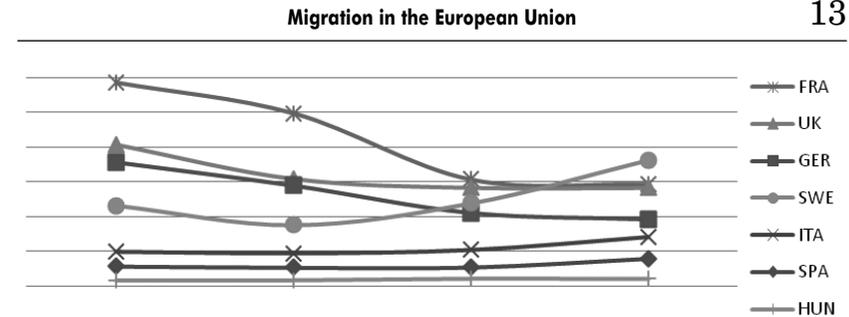


Fig. 1. : Development of applications for refugee status 2004-2007<sup>8</sup>

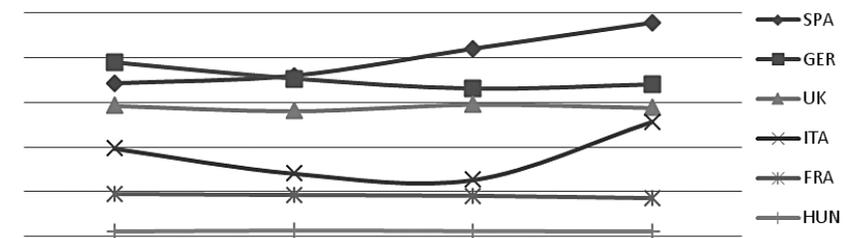


Fig. 2. Number of incoming migrants<sup>9</sup>

<sup>8</sup> European Migration Network: Annual Report on Asylum and Migration Statistics 2007. Author's diagram.

<sup>9</sup> European Migration Network: Annual Report on Asylum and Migration Statistics 2007. Author's diagram.

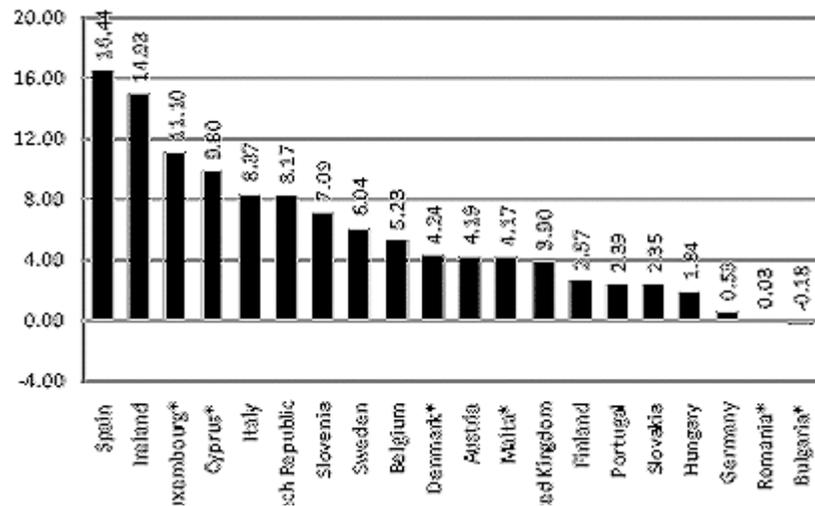


Fig. 3. Net number of migrants 1000 per capita<sup>10</sup>

It is evident that there is a considerable number of migrants arriving to the EU each year. Besides America and Asia the Union is one of the most thought after migration target<sup>11</sup>, therefore a comprehensive plan is necessary to manage migrants, to clarify their situation. The Union tries to define the common interests and principles that are valid for all the territories involved in migration. The coordination is not simple since the member states judge the presence of migrants differently. Certain countries are worried about the influx of migrants fearing for the loss of opportunity to work of their native inhabitants (e.g. Austria) or are afraid of ethnic conflicts (e.g. France), others are ready to receive migrants because of lack of work force (e.g. the U.K.). Every member state is free to decide to whom they would give legal status to work, permits to stay or settle down, however, because of the internal market and the existence of the Schengen

<sup>10</sup> European Migration Network: Annual Report on Asylum and Migration Statistics 2007. 2010. december. [http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do%3b?entryTitle=02\\_Annual%20Report%20on%20Asylum%20and%20Migration%20Statistics%202007](http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do%3b?entryTitle=02_Annual%20Report%20on%20Asylum%20and%20Migration%20Statistics%202007) (letöltve: 2011. 03. 08.)

<sup>11</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter: Nemzetközi migráció – Nemzetközi kockázatok. Budapest, HVGORAC Kiadó. 2008. p. 124. [International migration – international risks]

zone the migration policy of one of the countries has a great influence upon all the inhabitants of the whole Union, therefore all the states have agreed to bring their relationships closer concerning their migrant policy. According to the Office of Immigration and Citizenship (BÁH) of Hungary there were 216 084 persons in Hungary with valid residence permits for over three month on the 31<sup>st</sup> of December 2009.<sup>12</sup> There are 14 categories of permits, most of them with registration certificates (ca. 70 000 persons), with permits for immigration (ca. 47 000 persons), for stay (ca. 33 000 persons), and for settling (ca. 23 000 persons). The number of the registration certificates<sup>13</sup> expresses the volume of the migration within the EU to Hungary, meaning that there are at least 70 000 persons working, learning or staying with families in Hungary who have come from the European Economic Region; since these persons may have other kind of permits too, they need not to register their stay shorter than 90 days their passport is enough for their identification.<sup>14</sup> The largest group with permits came from Romania (ca. 52 000 persons) and Ukraine (ca. 33 000), that is understandable since there are Hungarians living in those countries.<sup>15</sup> The migrants coming from countries with similar cultural background do not cause any social problems for Hungary. The statistics of BÁH show, however, that there is a growing influx of migrant from Asia and Africa. There is a considerable number of Chinese citizens (ca. 18 000 persons) and their number is growing year by year; there are also migrants coming from Vietnam, Nigeria, Somalia, too. Since Hungary joined the Union there is an increase in the number of migrants trying to illegally cross the borders as well as those of seeking asylum.<sup>16</sup>

<sup>12</sup> BÁH booklet of statistics (2009-2010.)02.03. 2011.

<sup>13</sup> [http://www.euvonal.hu/index.php?op=mindennapok\\_utazas&id=118](http://www.euvonal.hu/index.php?op=mindennapok_utazas&id=118) (letöltve: 2011 03. 02.)

<sup>14</sup> [http://www.euvonal.hu/index.php?op=mindennapok\\_utazas&id=118](http://www.euvonal.hu/index.php?op=mindennapok_utazas&id=118) (letöltve: 2011 03. 02.)

<sup>15</sup> A BÁH statisztikai kiadványfüzete (2009-2010.) 2011. március 2.

<sup>16</sup> A BÁH statisztikai kiadványfüzete (2009-2010.) 2011. március 2.

### 3. Fundamental interests of the Union

The question of migration had increasing emphasis in Western Europe since the 1970s and 1980s. Growing out the reactive policy to manage immigration it became necessary to change over to proactive thinking. The former colonist countries had a different approach to the problem. In the spirit of multiculturalism they were readier to receive the newcomers and supported their settling down while others were ready received only those of working age.<sup>17</sup> Of course the past decades have changed the picture and it is the Union's task to make policies acceptable for every member states. The 2003 survey of Eurobarometer revealed that nearly 60% of the citizens of the Union were in support of a common immigration and refugee policy and the majority of the citizens of those member states too, who joined in 2004, were for the making of a common migration policy. Intervention against organized crime and criminal organizations across borders at Union level that would regulate legal cooperation in addition to matters of migration was also considered necessary.<sup>18</sup>

At present the Union is regulating the migrations along the following principles:

- The basic aim is to encourage legal migration and suppress illegal migration. Illegal migration does not only make taxation or registering difficult but it usually is connected to crimes as smuggling people or slavery.
- The Union needs work force from the third world because the majority of the member states have aging societies and also there are jobs the employees of the given country are not willing to accept (e.g. garbage collection, physical work at constructions, etc.) aiming at more lucrative jobs.
- To the formation, development of a society based on learning highly educated workers, researchers are necessary. It is not the aim of the Union to follow a policy of brain drain instead tries to encourage *circular migration*, i.e. people coming from

<sup>17</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter: Nemzetközi migráció – Nemzetközi kockázatok. Budapest, HVGORAC Kiadó. 2008. p. 123. [International migration – international risk]

<sup>18</sup> Commission of the European Communities COM(2004) 401. (2004. 06. 02.).

- poorer countries should return back home and make use of their knowledge at home and may return to the EU later again.
- To help integration of the migrants. The basic problem in the EU is that highly qualified migrants often are allowed to have jobs needing low qualification while the labour market would need their qualification and they would be able to fill in gaps of the labour market. It is supported by a survey in Portugal that examined the qualification and actual work of students of language courses concluding that a considerable proportion of highly qualified migrants were employed to do physical jobs. Thus among migrants working on constructions in Portugal there were many general practitioner doctors, paediatricians, but even surgeons and other specialists from Russia, Ukraine and Moldova because their diplomas were not accepted in the host country and they were not given possibility of registration either.<sup>19</sup> Effort for integration does not only mean social integration in the interest of peaceful coexistence, mutual tolerance and appreciation but its practical side too e.g. on the labour market, by providing language courses, support at finding jobs, acceptance of qualifications.

### 4. History of the EU migration policy – laws and institutions

The Treaty of Amsterdam came into force in 1999<sup>20</sup> and it signalled the beginning of the development of a common migration policy, from then on the crossing of EU borders and migration from outside were buttressed by community decisions. Nevertheless it was not migration policy that developed first but, following the Treaty of Dublin - prior to the coming into force of the Treaty of Amsterdam, – there was a cooperation agreed upon in refugee matters. It served simply to establish the spheres of authority and established the administrative – management relationships between the member states. On the 15th of June 1990 the member states signed an agreement

<sup>19</sup> Európai Bizottság Kommunikációs Főigazgatóságának kiadványa: Lehetőség és kihívás – Migráció az Európai Unióban. Európai Unió Kiadóhivatala. Luxemburg, 2010. p.8. [Possibility and Challenge]

<sup>20</sup> <http://www.euvonal.hu/index.php?op=szerzodesek&id=1> (letöltve: 2011. 02. 24.)

that defined the authority of the state the application for asylum was handed in valid in any of the EU member states; it came into force on the 1st of September 1997.<sup>21</sup> The cooperation in the field of refugee matters has strengthened further. The Treaty of Dublin was followed by Dublin II. (343/2003 EC regulation and its execution by 1560/2003/EC) and the same year the Eurodac system,<sup>22</sup> too, started its activity (2725/2000/EC and 407/2002/EC). After accepting the Amsterdam Treaty EU set the objective to define the zone of freedom, safety and justice. Since then there are many comprehensive political concepts and programs created besides the laws to be discussed below.

#### 4.1. The Program of Tampere

The extraordinary meeting of the Council of Europe and the following Program of Tampere operating between 1999 and 2004 were the first steps toward the realization of the aims defined in the Treaty of Amsterdam. The major goals of the program were to define the rights of migrants coming from a third country nearer to the rights of the UN citizens; it also stressed the importance of a firm approach to achieve that migrant should choose the legal way.<sup>23</sup>

The aims of the Program of Tampere was strengthened and supplemented by a new concept of the operation of outer borders as an integrated administrative system by the 2001 European Meeting at Laeken. The new direction included the summary of demands concerning border control and protection, risk-assessment, border force and equipment. The 2002 meeting in Sevilla summed up the Laeken goals in the UN Action Plan for External Borders within the frame of the Program of Tampere.<sup>24</sup>

The Program of Tampere started the creation of bilateral agreements on EU level concerning the re-admission of illegal migrants e.g. with Macau (30.4.2004), and Hong Kong as the special admin-

<sup>21</sup> Euvonal: Kísszótár: Dublini Egyezmény. [http://www.euvonal.hu/index.php?op=tenyek\\_kisszotar&abc\\_id=5](http://www.euvonal.hu/index.php?op=tenyek_kisszotar&abc_id=5) (letöltve: 2011.03.01.)

<sup>22</sup> A database for the fingerprints of applicants for asylum and also of illegal migrants. It operates since the 15<sup>th</sup> January 2003. <http://abiweb.obh.hu/abi/index.php?menu=5/eurodac/rendszer>

<sup>23</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter 2008: 132.

<sup>24</sup> [http://circa.europa.eu/irc/opoce/fact\\_sheets/info/data/policies/freedom/article\\_7307\\_hu.htm](http://circa.europa.eu/irc/opoce/fact_sheets/info/data/policies/freedom/article_7307_hu.htm) (letöltve: 2011. 02. 26.)

istrative region of the Chinese Democratic Republic (24.01.2004). There were several laws made in the framework of the program;<sup>25</sup> of these several has defined the UN legal situation about legal and illegal migration matters.

In connection with legal migration the guidelines regulating unification of family and prolonged stay are the most important. In the directive *on Family Unification* (2003/86/EC) the Council has aimed at guaranteeing minimal conditions to migrants legally staying in the territory of the member states during family unification. Through family unification the settlement of closest family members (spouse and under aged children) can be helped, but it is left to the discretion of the member states to extend the permit to direct ascendants too.<sup>26</sup> The regulation became the most cited legal title on legal migration toward the EU especially to France and Sweden.<sup>27</sup> It is interesting that in these countries the number of refugees is the highest in all the EU countries (Fig. 1.) but they do not belong among the countries most involved in legal and illegal migration (Fig. 2.-3.). It can mean that the citizens of third countries arrive to these countries as refugees who obtain legal permit of abode for the rest of the family through family unification. The other important institution of legal migration is the directive accepted in Tampere ((2003/109/EC) concerning the status of third-country nationals who are long-term residents. The task of the directive is to draw the legal status of citizens of third countries near to that of the citizens of the EU. The major condition of receiving the permit for prolonged stay is the length of the stay (five years), its being legal, and its continuity (with absence from the member state of 10 month at most – maximum six month at a stretch). In addition the applicant has to prove not to become a burden for the receiving country's social system, i.e. he has secure income and residence.<sup>28</sup>

<sup>25</sup> Jai-Aquis – October 2009; Póczik-Dunavölgyi 2008.

<sup>26</sup> 2003/86/EC directive (22.09.2003).

<sup>27</sup> Gyenyey, Laura: Családegyesítés kettős mércével? Bevándorláspolitikai: a harmadik országbeli polgárok családegyesítéséről szóló irányelv vizsgálata. *Iustrum Aequum Salutare* III. 2007/4. 77-101. [Migration policy with double standard? Migration policy: examination of the directives on the family unification of third country citizens].

<sup>28</sup> 2003/109/EC directive (2003. 11. 25.)

In the case of illegal migration there were taken cooperative steps in coercive measures and in liquidating international organized crime and these regulations can be regarded as the most important result.<sup>29</sup> Thus the member states can carry out expulsion – by route and by air – with fewer costs, and can jointly take steps in criminal cases of border crossings and white slavery. In addition to the above the network of immigration liaison officers is an innovation of the Tampere Program with growing importance. The network was basically founded as an information service; the task of the officers is to reconnoitre possible illegal migration movements, help to discovering organized crime and warn the Union about them, as well as to assist at the repatriation of illegal migrants and the management of legal migration. The officers can be appointed to the national consulates or other competent authorities of the given member state acting in a third country. They are to prepare a yearly report; if there are officers of several member states on duty in a country they act jointly.<sup>30</sup> Hungary sent immigration liaison officers the first time in 2009; they were on duty in Istanbul, Cairo and Abuja.<sup>31</sup> The officers are under the supervision of BAH directed by the Ministry Home affairs.<sup>32</sup>

The results of Tampere Program were evaluated half yearly by the EC and when it expired a detailed evaluation was issued with the title: *Area of Freedom, Security and enforcement of rights* (COM(2004) 401. (02.06.2004)). The major criticism expressed in the evaluation was that there were few laws made because of extreme consideration of the sovereignty of the member states. The Nice Treaty<sup>33</sup> undertook the task of solving the problem by setting the upper limit at three month for the free movement of persons coming from a third country and by extending the authority of joint decision thus making regulation smoother.

<sup>29</sup> on expulsion: 2001/40/EC directive (2001. 05. 28.); by air: 2003/110/EC directive (2003. 11. 25.); joint measures: 2004/573/EC directive (2004. 04. 29.).

<sup>30</sup> 377/2004/EC directive (2004. 02. 19.).

<sup>31</sup> [http://www.solidalapok.hu/sites/default/files/Kulso\\_Hatarok\\_Alap\\_2007\\_es\\_2008\\_evi\\_programjanak\\_vegrehajtasarol\\_jelentes.pdf](http://www.solidalapok.hu/sites/default/files/Kulso_Hatarok_Alap_2007_es_2008_evi_programjanak_vegrehajtasarol_jelentes.pdf) (letöltve: 2011. 03.02.)

<sup>32</sup> 9/2010 (IX.29) BM-KIM

<sup>33</sup> <http://www.euvo.hu/index.php?op=szerzodesek&id=6> (letöltve: 2011. 02 24.)

#### 4.2. The Hague Program

At the November 4-5<sup>th</sup> 2004 meeting the Committee accepted the Hague Program based on the committee evaluation to be the continuation of the Tampere Program in order to facilitate the creation and development of a region of freedom, security and enforcement of rights. The program was effective between 2005 and 2009 and had 10 priorities.<sup>34</sup>

##### 1. Strengthening fundamental rights and citizenship.

It is about the development of comprehensive political strategies centring on protection against racism and the rights of children and against violence against women.

##### 2. Anti-terrorist measures.

The major aims were to develop the fields of prevention, preparation and response to combat terrorism efficiently.

##### 3. Common refugee area

Introduction of effective uniform management along the values represented by the Union and in harmony with the humanitarian traditions. The important task is the development of a common European refugee system. In the frame of the Tampere Program there were important developments in defining minimum regulations. The aim of the Hague Program was to make common executive regulations as well as to reach uniform legal status for the refugees; to create partnerships within the Union for an effective policy for expulsion and repatriation policies.

##### 4. Immigration management: defining a balanced approach

The Hague Program has recognized the necessity of the global management of migration in aid of the legal migration of citizens coming from a third country; that it has to be managed at Union level and the protection against illegal migration has to be strengthened. During the Program the agreements on repatriation started earlier were concluded (there was important breakthrough in the agreement with African, Caribbean and Pacific: ACP countries) and the concept

<sup>34</sup> COM(2005) 184. Bruxelles, 2005. 05. 10

for the return of citizens of third countries was also achieved.<sup>35</sup> The Hague Program, as the continuation of Tampere, decided on the extension of the immigration liaison officers' tasks, their closer cooperation and the exact definition of their duties.

#### 5. Maximizing the positive impact of immigration

The Hague Program formulated the concept of *managed migration*.<sup>36</sup> EU have recognised that the acceptance of migrants is essential for the building of a society based on knowledge but it is necessary to create a comprehensive management of the migration processes to ensure the arrival of appropriate work force to the territory of the community. Thus the policy of entering and acceptance or returning as well as settling and adapting is of growing importance.<sup>37</sup>

#### 6. Internal and external borders and visa

It is about developing integrated management of the Union's external borders for a more secure Union. The Hague Program continues the policy on external and internal borders as well as the visa policy of the Tampere program. It plans to develop the level of the administrative cooperation to facilitate legal travel and to create common visa offices.

#### 7. Balance between privacy and security while sharing information

The development of the information systems is an important aim of the Hague Program. As a part the Visa Information System (VIS), the Schengen Information System (SIS) and a European dactyloscopic database (Eurodat) have been developed.

#### 8. Developing strategic concept on tackling organised crime

Illegal migration is characteristically connected to organized crime; there are attempts at the development of cooperation on the field of

criminal law with the intensive cooperation of Europol<sup>38</sup> and Eurojust<sup>39</sup> and the widening of their sphere of competence.

#### 9. A genuine European area of justice

It is about access to civil and criminal justice for everybody. Priority is not to simply to accept international judgements but that the member states set up the minimum standards of legal procedures mutually.

#### 10. Sharing responsibility and solidarity.

The division of responsibility is an important fundamental principle of the EU in connection of migration because every action, the assurance of protection or its weakening, concerns the whole community. In the interest of the realisation of solidarity EU has created 4 financial bases within the frame program *EU Solidarity and Migration*: European Integration Fund, European Return Fund, European Fund of Migration, European Fund for External Borders. The purpose of these funds is to help the member states to draw their regulating or institutional background nearer to the Union's average and to provide them with grants to finance it.<sup>40</sup> *The European Integration Fund* has the task to facilitate the adaptation of migrants coming from third countries with different cultural, linguistic, economic, religious or ethnic background into European societies.<sup>41</sup> *The European Refugee Fund* was created to improve the situation of protected persons, refugees and asylum seekers thus it is possibly to apply for the development of the conditions of their acceptance, the improvement of the necessary processes and the shortening of their completion.<sup>42</sup> *The European Return Fund* was created for the support of those who cannot meet the conditions of entering or settling in the member state therefore they have to be deported, returned to their country of provenance.<sup>43</sup> *The Fund of External Borders* supports the protection of borders, thus its aim is the improvement of the effi-

<sup>38</sup> European Police Office

<sup>39</sup> The European Union's Judicial Cooperation Unit

<sup>40</sup> [http://www.euvonal.hu/index.php?op=kozossegi\\_politikak&id=20](http://www.euvonal.hu/index.php?op=kozossegi_politikak&id=20) (letöltve: 2011. 02. 26.)

<sup>41</sup> <http://www.solidalapok.hu/?q=node/101> (letöltve: 2011. 03. 23.)

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>35</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter: Nemzetközi migráció – Nemzetközi kockázatok. Budapest, HVGORAC Kiadó. 2008. p. 177. [International migration – International risks].

<sup>36</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter 2008:133.

<sup>37</sup> [http://www.euvonal.hu/index.php?op=kozossegi\\_politikak&id=20](http://www.euvonal.hu/index.php?op=kozossegi_politikak&id=20) (letöltve: 2011. 02. 26.)

ciency of border control, higher level protection, the development of a uniform European system. On the other hand the program serves the improvement of the operation of the consulates in third countries in order to direct migration into EU through legal routes.<sup>44</sup> Hungary is entitled to use 115 million Euro from the four Funds during the budgetary period between 2007 and 2013. So far the program realized was the employment of refugees at the reception point at Bicske of BÁH, the project of complex aid for the *National Police Headquarters* and the practical help given to the border guards in using and recognizing biometric tagging. In addition there were several studies financed on intensive language teaching programs and analysis of integration possibilities.<sup>45</sup>

The great innovation of the Hague Program is the elaboration of the principle of circular migration<sup>46</sup> that is determining the attitudes of the Union towards migrants. Circular migration offers solutions to the problems of labour market and brain-drain. According to the concept developed by the European Commission circular migration can be realised by bilateral mobility partnership: the partnership agreements promote legal entry and employment in the territory of the Union, the reception and return of their own citizens as well as the battle against illegal migration. The principle of circular migration would help the citizens of third countries already settled in the territory of the EU to start their business in their country and the immigrants seeking employment or education coming from third countries; the latter only with the proviso that the migrants should return back after a set period and continue their activity at home; in exchange they will have easier entry later.<sup>47</sup> This procedure can prove to be the answer to the problem of brain-drain and also could strengthen the economic, commercial and other relationships too. However, the realization of circular migration is not without hazards because a person having been employed in the EU may find difficult to settle again in his own country's society, thus those who want to return need support. It would be worth helping them e.g. in starting their business, and it is also important especially for those immi-

<sup>44</sup> Ibid.

<sup>45</sup> <http://www.solidalapok.hu/> (letöltve: 2011. 03. 23.)

<sup>46</sup> (COM/2007/0248). Brüsszel, 2007. 05. 16.

<sup>47</sup> Ibid.

grants who come for educational purposes that their country of origin should accept their formal or informal knowledge and make use of it.

Among the major regulations the definition of the special conditions about the stay of students and researchers has to be mentioned; it was accepted in the frame of the Hague Program in harmony with the Lisbon goals<sup>48</sup> and according to Priority 5. Thus citizens of third countries are guaranteed the entry into the territory of the Union at the discretion of a member state if it is a study tour, student exchange, unpaid practice or voluntary service. The general condition is the traveller's valid passport, in case of minors parental permit, health insurance and paid procedural fee; special conditions are the certificate of the educational institution about the acceptance of the student, certificate of language competence, and enough money for return fare and tuition fee.<sup>49</sup>

During The Hague Program there were two Green Books edited: Green Book on the economic migration from the Union's point of view; and the Green Book of the future common European refugee system. Both documents are treatises written with the aim of including society and other institutions in the decision making of the Union, and also as the effective collection of the various opinions. This was the platform where the regulations about the potential employees from third countries were decided upon and as well as the concept of the Blue Card<sup>50</sup> that was planned to be introduced in 2011 as part of the economic migration.<sup>51</sup>

The Commission prepares two evaluations per year on the Hague Program, similar to that of Tampere; there was a comprehensive one in 2006, and in 2009 the achievements were evaluated in their entity. The comprehensive report (COM(2009) 263, Brussels, 10.06.2010) mentions the 2005 terror attack in London and the death of several thousand illegal migrants arriving across the Mediterranean Sea as

<sup>48</sup> Gács, János: A lisszaboni folyamat – egy hosszú távú stratégia rejtélyei, elméleti problémái és gyakorlati nehézségei. *Közgazdasági Szemle*, LII. évf., 2005. március pp. 205-230. [The Lissabon – process – the secrets, theoretical problems and practical difficulties of the long-range strategy]

<sup>49</sup> 2004/114/EC directive (2004. 12. 13.)

<sup>50</sup> European Commission Directorate General Justice, Freedom and Security: Citizen's Summary: „EU Blue Card” – Employment of highly qualified third-country nationals. [http://ec.europa.eu/home-affairs/summary/docs/blue\\_card\\_en.pdf](http://ec.europa.eu/home-affairs/summary/docs/blue_card_en.pdf) (letöltve: 2011.03.01.)

<sup>51</sup> Póczik Szilveszter – Dunavölgyi Szilveszter 2008:140.

focal regions that influenced the planning of the Hague Program. The report of the Commission analysed three aspects: 1) the execution of the whole program broken down to special political fields, achievements and challenges; 2) the achievements of institutions - the instruments and assets coordinated to the programs; 3) the results of execution and their results at national levels. Fig. 4. represents the results of migration goals of the Hague Program.

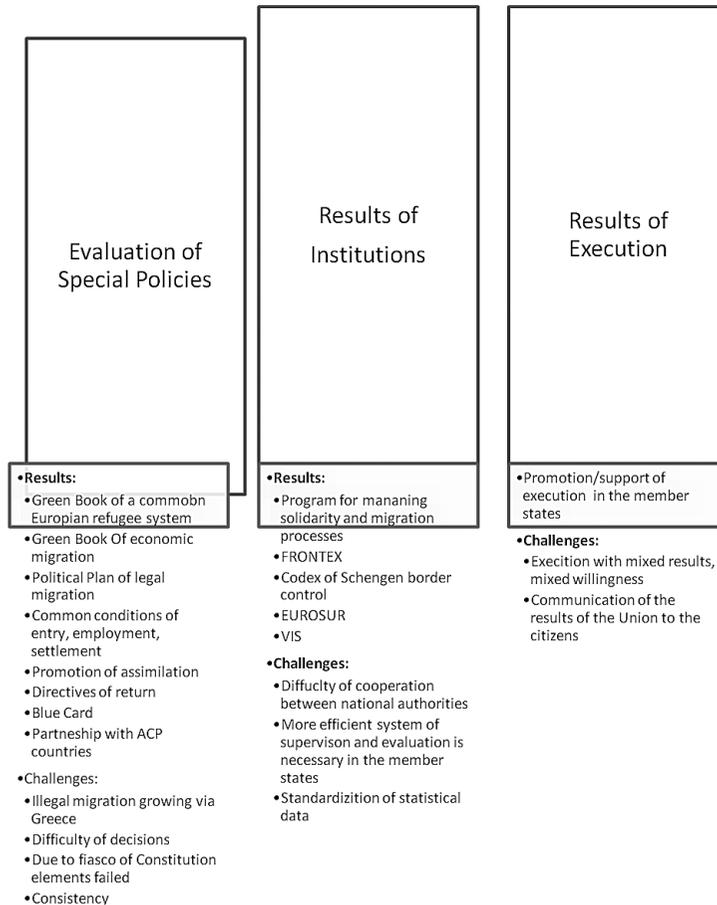


Fig. 4.: The evaluation of the Hague Program<sup>52</sup>

<sup>52</sup> Author's diagram based on: Európai Közösségek Bizottsága: A Bizottság közleménye a Tanácsnak, az Európai Parlamentnek, az Európai Gazdasági és Szociális Bizottságnak és a Régiós Bizottságnak. A jog érvényesülése, a szabadság és

#### 4.3 The European Immigration and Refugee Pact

In contrast to Tampere or The Hague this pact is not a comprehensive program but has had considerable impact on the development of migration policy. The document was formulated and accepted during the Union presidency of France between July and December 2008 as the special goal of the French government, and it received prime importance in the agenda. France is one of the most interested member states in migration matters (Fig. 1.) as being a former colonist state it is the fifth largest target of legal and illegal migrants after Spain, Germany, UK and Italy (Fig. 2.) thus the activity of French political leaders furthering mutual regulation of migration is understandable.

The state and government heads of the Union member states unanimously accepted the pact on the 15<sup>th</sup> of October 2008. Its importance does not lie solely in its novelty, since the more important topics, central questions were already treated by The Hague Program, and also there have been constant legislations in the field, but in the fact that it repeatedly made migration a central, much mentioned topic.<sup>53</sup> The pact could be regarded as preparatory to the Stockholm Program following The Hague; the aims described in the latter are repeated in the new document too. The Immigration and Refugee Pact defined five basic fields to represent the future migration policy.<sup>54</sup>

#### 1. Legal migration and employment

The aim of the pact is to restrict illegal roads of immigration by stricter regulation of legal migration and to create opportunity for the citizens of third countries – among very strict conditions – to seek employment and/or settle down in the territory of the EU. The pact stresses that every member state should accept migrants according to their capacity and necessities. There should be equilibrium of solidarity and taking of responsibility, and every member state should

a biztonság Európában 2005. óta: A Hágai Program és cselekvési terv értékelése. COM(2009) 263 Brüsszel, 2009. június 10. alapján.

<sup>53</sup> Fóris, György: Bevándorlási Paktum. Világgazdaság – Vélemény rovat. 2008. szeptember 30. <http://www.vg.hu/velemeny/bevandorlasi-paktum-241892> (letöltve: 2011. 03. 10.) [Pact on migration]

<sup>54</sup> [://www.euractiv.hu/belugyek/linkdossziek/europai-menekultugyi-es-migracios-egyuzmeny](http://www.euractiv.hu/belugyek/linkdossziek/europai-menekultugyi-es-migracios-egyuzmeny) (letöltve: 2011. 03. 10.)

continuously monitor the impacts of their applied community and national politics; the countries with heavier loads should receive extra support. The Pact commits the Union to introduce the Blue Card suggested by the Commission.

The Blue Card was decided upon by the EU member states on the 25<sup>th</sup> of May 2009 with a deadline of two years i.e. in 2011 as its coming into force.<sup>55</sup> The Blue Card is a work and settlement permit that guarantees wide-ranging rights to its holder (e.g. free movement within the Union). With its introduction the Commission aimed at inviting qualified migrants to work in fields in need of employees (e.g. information sciences, certain engineering, etc.). Blue Card is similar to the green card in the USA. For similarities and differences see Table 1.

Characteristics	Blue Card (EU)	Green Card (USA)
Guaranteed permanent domicile	None	Yes
Validity	2 years, renewable	10 years, renewable
Personal effect	Holder and family	Holder
Content	Permits residence, employment and travel	
Conditions of acquisition	<ul style="list-style-type: none"> <li>• Accepted higher education;</li> <li>• Minimum 3 years of field practice certified;</li> <li>• Work contract, with salary three times the amount the usual minimum wages in the given member state</li> </ul>	Acquisition in several ways Employment Family contact Throw drawing Investment Resident since 1972 or before
Other bonuses	After 5 years automatic permanent domicile	After 5 years US citizenship available

Table 1.: Comparison of Blue Card and Green Card<sup>56</sup>

<sup>55</sup> European Council Press Releases: Great News: European Council adopts EU Blue Card! Brüssel, 2009. május 25. <http://www.europeanunionbluecard.com/?p=103> (letöltve: 2011.02.27.)

<sup>56</sup> <http://www.euractiv.hu/belugyek/linkdoszkiek/europai-unios-kek-kartya.> Author's own table

## 2. Illegal immigration

The aim was to carry out the 2008/115/EC European Parliament and Commission directive (Strasbourg, 16.12.2008.) adopted already at the 18.06.2008 that contains returning, steps against illegal migration stressing the necessity of expansive cooperation.

## 3. Border control

In the field of border control the increased role of Frontex is the goal of the Pact. It is planned to establish two regional Agency offices for more effective risk analysis as well as the increasing of the implementations. Thus the Union will be committed to create one more organisation acting in the migration processes either in the south or west besides the existing organisation with its headquarters in Warsaw.

## 4. Refugee matters

This is the field where the Pact brought novelty. In spite of the fact that the problem had already been treated by the first community regulations (Dublin Treaties) as well as the Tampere (2004/83/EC directive, 2003/9/EC directive) and The Hague (2005/85/EC directive) Programs that formulated minimum regulations concerning the refugee procedures. By the adoption of the pact the member states accept to give uniform guaranties to the refugees and to further the creation of a uniform refugee system already planned as well as to aim at the creation of a refugee support office acting at Union level.

The various pilot studies indicated that asylum seekers of relatively similar background could receive refugee status with entirely different chances in the various countries. As an actual example the possibility of acceptance of refugees from Iraq, Somalia and Afghanistan lay between 0 and 90 % depending on which member state they had applied to.<sup>57</sup>

## 5. Cooperation with third countries

In the spirit of directed migration the Pact supports migration for education or work – the regulations so far facilitated the immigration of these two groups. Besides the fending off brain drain the principle

<sup>57</sup> <http://www.bruxinfo.hu/cikk/20091022-ujabb-lepes-a-kozos-menekultugyi-politika-fele.html> (letöltve: 2011. 03. 15.)

of circular migration described above is stressed in the planning of legal migration. The various analyses have discovered that only 5% of the qualified migrants targeted for the EU, 55% go to the USA; the pact wishes to change this trend with the modification of the immigration regulations.<sup>58</sup>

#### 4.4. *The Stockholm Program*

As the continuation of the Hague Program, the European commission adopted the five year plan called Stockholm Program - aiming at an open and secure Europe serving and protecting the citizens - for the further development of the zone of freedom, security and right. Similarly to the Hague Program, it contains priorities, too:<sup>59</sup>

##### 1. *Furthering the rights of the citizens: Europe of rights*

This priority was also mentioned as number one by the Hague Program. Its basic aim is that the fundamental rights should succeed uniformly in every member state and that outside the territory of the EU every EU citizen could apply to the consulate of whichever member state he is staying. The Commission especially considers strengthening the protection of vulnerable groups, especially children and minorities. The widening of the right to free movement, i.e. the extension of the Schengen zone, belongs to the central issues but parallel to the extensions Romania and Bulgaria have to conform to the strict security conditions.

##### 2. *Making the citizens' life easier: law and legislation in Europe*

Already the Tampere Program aimed at the mutual acceptance of judiciary judgements and resolutions by every member state; The Hague Program stressed the importance of the creation of minimum regulations of the legal systems and the equal availability of jurisdiction. The Stockholm Program carries further the efforts toward agreement especially in the field of criminal law and family law within civil law and the foundation and development of common legal education in addition to the existing national ones.

##### 3. *Protecting Europe*

The priority is in harmony with the aims of The Hague Program at a more effective crack down on terrorism and organized crime. It is planned to create a security strategy against crime across the borders that necessitates the further development of information exchange and the realization of permeability between the existing systems, especially Frontex, Europol, Eurojust. The priority also aims at a strengthened cooperation in the field of prevention of illegal activities and prevention of natural disasters.

##### 4. *Links of Europe in a globalised world*

The aim of the priority is the protection of the external borders, their uniform administration as well as the common visa policy. In the first issue the strengthening of the system of Frontex and the specifying of its assignments is of central interest, while in the second the exploit of the possibilities of VIS.

##### 5. *Responsibility, solidarity and partnership in the questions of migration and refugee matters in Europe*

Similar to The Hague Program that of Stockholm, too, stresses solidarity and partnership as well as the importance of legal migration in order to guarantee the continuous flow of working force. With the development of the available instruments it aims at a comprehensive dynamic migration policy. One of its part of it is the development of existing mobility partnerships and the seeking out of new ones; continuous contact with third countries through immigration liaison officers; furthering of circular migration; the development of information networks; development of integrating policies and the revision of the existing ones; facilitating the sharing of information among the member states.

The priority regards the creation of a European Refugee System another of its central topics that shall have to consider the evaluations of EASO, created in 2010, by 2012. The Union plans to deal with the external dimensions of migration too, in which case it supports the countries where the most refugees come from.

<sup>58</sup> (2010/C 115/01.) *Hivatalos Lap C 115*, 04/05/2010 0001 – 0038.

<sup>59</sup> EurActiv.hu: Európai Menekültügyi és Migrációs Egyezmény. 4. February 2009. <http://www.euractiv.hu/belugyek/linkdossziek/europai-menekultugyi-es-migracios-egyezmeny>

*6. Europe in a globalized world: the external dimensions of freedom, security and the success of law*

The program declares that not only internal anomalies can endanger the rights of the citizens but external ones too, be it economic or political crises far away from the EU therefore the task of the Union is to constantly monitor foreign contacts. Besides diplomatic relationships the migration liaison officers have the task to provide information but the priority is a step toward the common foreign policy too. Several geographical regions are pointed out as goals, e.g. the stability in the West Balkans, Turkey, the area of the Black Sea and the Mediterranean region is in direct influence upon the security of the EU, but the economic and political situation in India, China, Afghanistan, Pakistan, Iraq and Brazil can also influence the functioning of the EU.

In contrast to the tendencies so far, the Stockholm Program is interested in one priority only, i.e. migration and refugee questions, the other aims are mostly about the extension and protection of rights and harmony of law. The protection of borders as the right to security is the leading motive of the document; however, basically it is about the features of a common foreign policy and administrative-management and not about common migration policy. For the execution of The Hague Program the Commission issued an executive plan (COM(2010) 171) that listed the accepted tasks. Thus 2010 was the deadline for the modification of 2007/2004/ECK Frontex regulation. In February 2010 the Commission formulated a proposal on the reform of the association's legal background (COM(2010) 61) for the fulfilling its undertaking. 2014 was pointed out as the deadline for the longer range development of the organisation of Frontex.

One of the tasks of the Spanish- Belgian – Hungarian presidency was to start the execution of the Stockholm Program, to fill in the aims with content. Before the Hungarian presidency there was no actual law in the field of migration, the Union was occupied with the strengthening the enforcement and advancement of rights. As part of the migration program the Hungarian presidency decided upon the widening of Schengen as the focal point of its agenda; its realization, however, became highly questionable because some member states of the Union (e.g. France) have declined further extension in the near future. The aim will have to be to arrive at a consensus in

the criteria and deadlines for new states joining the Union. Hungary has formulated goals in connection to irregular migration, e.g. how to deal with the transit of expelled citizens from third countries on land, the starting of negotiations upon an agreement with Belarus about the returning its citizens and the need of uniform legal situation of migrants who must not be repatriated but are not under any international protection.<sup>60</sup>

## 5. The institutions of migration policy

### 5.1 Schengen Information Systems (SIS)

The creation of the Schengen Information System became necessary after the abolition of internal borders. That was the time when the control at the external borders became uniform and the defensive organs of the member states made thorough control to strengthen security. SIS was started on the 26<sup>th</sup> of March 1995, simultaneously with the creation of the Schengen zone.<sup>61</sup>

The system is a database that allows examination for the specified police, border control, alien control, visa, customs and judicial organs, authorities issuing registration documents as well as Europol and Eurojust – strictly attached to authority and task. In SIS information is stored concerning persons and objects (e.g. prohibition of entry or stay, lost persons; objects to be confiscated or to be used as evidence in criminal cases) in the interest of more effective execution of tasks.<sup>62</sup>

With the extension of the Schengen zone and the development of technique there rose the need to develop SIS further. As a result the 2007/533/IB resolution (12.06.2007) of the Committee was made for the creation, operation and use of SIS II. Originally 2009 was planned as the date of its introduction, however, it had to be postponed to 2011-2012; in the operational plan of the Stockholm Program (COM(2010) 171) December 2011 was the date, but owing to technical matters it

<sup>60</sup> [http://hvg.hu/itthon/20101211\\_eu\\_elnokseg\\_ambiciozus\\_cselekesi\\_terv](http://hvg.hu/itthon/20101211_eu_elnokseg_ambiciozus_cselekesi_terv)

<sup>61</sup> Póczik, Szilveszter – Dunavölgyi, Szilveszter 2008:173.

<sup>62</sup> <http://schengen.magyarorszag.hu/letoltheto.html>

is estimated at 2013. At present SIS I++ is in use that is an enlarged form of SIS I that has not brought any actual change in the paradigm of data recording. The innovation of SIS II will be the recording of biometrical data (fingerprints, likeness) and various warnings would be connected automatically that would be operated independent of the country that had recorded the data; parallel to that the protection of the individuals' rights will be strengthened too.<sup>63</sup>

### 5.2 Visa Information System (VIS)

The Visa Information System was created on the basis of the 2004/512/EC resolution (08.06.2004) for making possible the exchange of visa data among the member states. The task of VIS is to improve the execution of common visa policy, the cooperation of Consulates and the consultation between the central visa authorities in order to facilitate the process of visa applications, to prevent 'visa shopping', make the struggle against fraud easier; and also for the control at external border crossings and within the territories of the member states.<sup>64</sup>

The maintenance of the system is financed from the EU budget as the Commission was of the opinion that the task cannot be realized at national level. VIS consists of the Central Visa information system, national interface and infrastructures connecting the two.<sup>65</sup>

After the introduction of the system further developments were realized to make the execution of the tasks more efficient (European Parliament and Council 767/2008/EC regulation 09.072008; European Parliament and Council 8/2009/EC regulation 14.01.009); from the start on the aim was to coordinate it with the later SIS II. According to the action plan of the Stockholm Program it should have started its operation in December 2010, actually it will start in October 2011.

### 5.3 European Migration Network (EMN)

Already the council meeting at Laeken drew attention to the necessity of a European system for the exchange of information about asylum seekers and migrants as well as information from their country of

origin. EMN was created in 2003 as an experiment directed by a commission that started its operation between 2004 and 2006 as a preparatory measure. The Hague Program confirmed the necessity of EMN and in 2008 the institution was created by a resolution of the Commission (2008/381/EC (14.05.2008). It decided that the task of the network is to satisfy the demand for information of the institutions dealing with migration and asylum with up-to-date information in addition to the issuing of information and reports for the public.

There is a commission for the political direction, approval of the operational program, the revising of the results and the suggestions of further commendations for EMN. Each of the member states has a representative in this commission with Denmark and the European Parliament as observers. EMN is associated with national institutions e.g. ministries, research institutes, non-governmental organizations. In Hungary it is the Ministry of Public Administration and Justice that is in contact with EMN through its experts. The task of the contact is to prepare national reports, provide EMN with national information and answer to other member states' requests and form national migration networks. Various information servers also help the work of EMN.

EMN is an institution specialized for collecting, systematizing and distributing of information with the aim to channel the national initiatives, measures and policy in addition to the reports on the refugee processes to make the law-making concerning refugees and migrant more effective..

### 5.4 Frontex

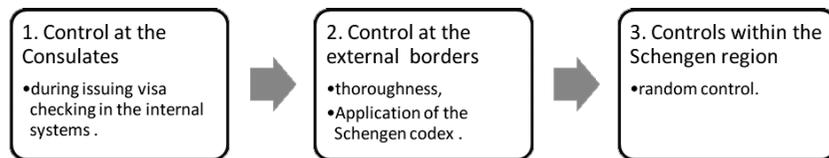
Since the Schengen initiative the member states of the European Union supported the strengthening of the external borders and the abolition of the internal ones. The external border guards have an ever growing responsibility to discover illegal migrants and to control the documents of the legal ones. In The Hague Program the Union has created the Integrated Border Management (IBM) that regulates the entry into the EU in three steps.<sup>66</sup>

<sup>63</sup> [http://irm.gov.hu/tajekoztatok/cikk/Uj\\_tajekoztatok\\_informaciok.htm](http://irm.gov.hu/tajekoztatok/cikk/Uj_tajekoztatok_informaciok.htm)

<sup>64</sup> European Parliament and Council 767/2008/EC resolution (2008. 07. 09.) (VIS) and HL L 218/60 2008.8.13.

<sup>65</sup> Council resolution (08.06.2004) on VIS (2004/512/EC). HL L 213, 15.6.2004, p. 5.

<sup>66</sup> Dr. Kónya József: Az Európai Unió határpolitikája, a határbiztonság és az integrált határigazgatás fejlődésének alternatívái <http://www.konyadr.hu/> [The border policy of the EU, border security and integrated border management, the alternative of its development]



The Council, on the proviso of the Commission. created *European Agency for the Management of Operational Cooperation at the External Borders* (Frontex) (2007/2004/EC council resolution 26.10.2004.) that started its operation at its Warsaw headquarters in October 2005.

Frontex operates on the basis of IBM considering its principles. It helps in border management, endeavours to create agreement between the member states, offers information, expert support to the authorities of the member states but does not interfere in the practical border management because that is the task of RABIT. The Agency keeps close contact with various international organizations and Union partners responsible for the security of borders, as OSCE, *International Organisation for Migration*, *The UNO High Commissioner for Refugees*, *Migration Policy Centre*, *European Police Agency*, *European Police Academy*, *European Anti-fraud Office*, as well as customs cooperation and Phyto-sanitary and veterinary controls.<sup>67</sup>

The major tasks of Frontex are:<sup>68</sup>

- coordination in the management of external borders between the member states at the level of operative cooperation;
- Assistance in the training of national border guards and the development of common training norms;
- risk analysis;
- making notes on the research concerning the control of external borders;
- technical or operative assistance for the member states in case of situations at external borders;

<sup>67</sup> Hortobágyi Dániel: A Frontex és együttműködő partnereinek bemutatása a schengeni határellenőrzési rendszer tükrében. *Biztonságpolitika.hu* publikációi, 2010. 06. 24. [http://www.biztonsagpolitika.hu/documents/1277416041\\_hortobagy\\_i\\_daniel\\_a\\_frontex\\_es\\_egyuttmukodo\\_partnereinek\\_bemutatasa\\_schengen\\_tukreben\\_-\\_biztonsagpolitika.hu.pdf](http://www.biztonsagpolitika.hu/documents/1277416041_hortobagy_i_daniel_a_frontex_es_egyuttmukodo_partnereinek_bemutatasa_schengen_tukreben_-_biztonsagpolitika.hu.pdf) (letöltve: 2011. 03. 16.)

<sup>68</sup> More about Frontex. [http://www.frontex.europa.eu/more\\_about\\_frontex/](http://www.frontex.europa.eu/more_about_frontex/)

- support for the member states during common repatriating processes.

Thus Frontex continuously is on the alert for possible dangers, observes the current migration processes and evaluates them in the frame of the Common Integrated Risk Analysis Model (CIRAM). The model is actually a SWOT analysis that examines the strengths, weaknesses, hazards and possibilities by the same process in order to prevent illegal migration the most effectively while rendering border crossing the simplest possible.<sup>69</sup>

If action is necessary Frontex starts common operations, missions together with the member states concerned. Such are the Hera and Nautilus or Poseidon operations. Hera proved to be the most successful; it resulted in the lessening of the number of illegal migrants from Western Africa *via* the Canary Islands to the EU. The Nautilus program active at the central area of the Mediterranean Sea can be described as a failure because the number of illegal immigrants has considerably increased during the period of its activity.<sup>70</sup> Poseidon operation is the mission at the eastern Mediterranean region in aid of warding off migration arriving to the borders of Greece.<sup>71</sup>

In the field of training Frontex has developed the EU Common Syllabus to realise uniform teaching and examinations and appointed 11 partner institutions to instruct in the application of risk analysis. In addition a two level further training for the execution of higher level tasks is in preparation.<sup>72</sup>

Research-development is also among the major tasks of Frontex, however, not as an internal duty of the organisation, it simply facilitates the exchange of information and technical appliances among the border guards of the member states in order to fulfil common

<sup>69</sup> Origin and Tasks. [http://www.frontex.europa.eu/origin\\_and\\_tasks/tasks/](http://www.frontex.europa.eu/origin_and_tasks/tasks/) (letöltve: 2011. 03. 15.)

<sup>70</sup> Eurosur) (2008/2157(INI)). <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:045E:0041:0047:HU:PDF> (letöltve: 2011. 03. 15.)

<sup>71</sup> Ávár, Imre – Lipics, László: Akcióban az EU határvédelmi csapatai – A RABIT bevetése. [http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban\\_az\\_EU\\_hat%C3%A1rv%C3%A9delmi\\_csapatai\\_-\\_A\\_RABIT\\_bevet%C3%A9se](http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban_az_EU_hat%C3%A1rv%C3%A9delmi_csapatai_-_A_RABIT_bevet%C3%A9se) (letöltve: 2011. 03. 15.) [RABIT in action]

<sup>72</sup> Origin and Tasks. [http://www.frontex.europa.eu/origin\\_and\\_tasks/tasks/](http://www.frontex.europa.eu/origin_and_tasks/tasks/) (letöltve: 2011. 03. 15.)

demands. Parallel to these tasks Frontex tries to ensure the requirements of ethic and human right connected to the various methods.<sup>73</sup>

The agency also has the task of repatriation that was already included into the frame of the Tampere Program (2001/40/EC Council guideline; 2003/110/EK Council guideline; 2004/573/EK Council resolution), however, the main task of the organization is coordination and not practical intervention.

The most sensitive feature of the activities of Frontex is the actual intervention – through RABIT – when the member state controlling external borders may need support by technical and effective force. The operation of RABIT will be introduced below.

The budget of the Agency has considerably increased since its creation. In general it can be stated that the income and expenditure are on par. Fig. 5. shown the finance of Frontex between 2005 and 2011.

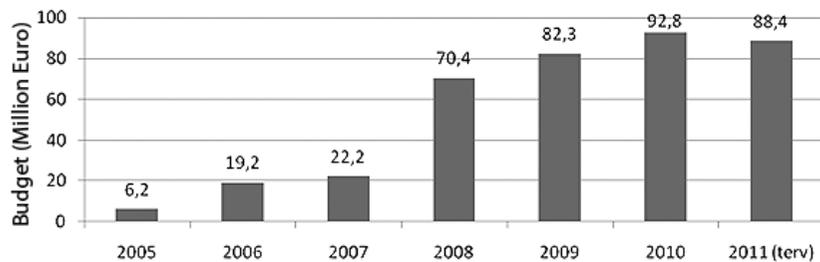


Fig 5.: The development of the income of Frontex 2005-2011<sup>74</sup>

#### The organisation of Frontex

Frontex is a communal organisation that has the rights of a legal entity; at present it has 272 members, delegated national experts, temporary and contractual employees on the basis of the regulations valid for the office-holders of the Union. It is directed by the *Management Board* consisting of one person per member state as well as 2

representatives of the Commission; the members are elected for two years of service. The Management Board meets at least twice a year, its resolutions need absolute majority. Its task is to appoint the *Executive Director* proposed by the Commission; accepts the yearly report of the Agency and forwards it to the Parliament, the Council and Commission; accepts the Agency's yearly work plan that it forwards to the above authorities; develop the decision making procedure of the director and other regulations of procedures; accepts the budget of the Agency; has the right over the disciplinary matters of the executive director and his deputy; accepts the personnel policy and organisational structure of the Agency.<sup>75</sup>

In the execution of his duties the *Executive Director* is independent of governments and of the management too. His duty is to prepare and execute the resolutions and programs and activities adopted by the management board; directs Frontex according to its code of practice; prepares a yearly work plan and activity report for the management; acts as the employer of the personnel; participates in planning and executing of the Agency's budget.<sup>76</sup> The *Deputy Executive Director* takes over the duties of the director in his absence; otherwise guarantees the continuous execution of the daily tasks. The person for the post is also appointed by the Executive Board.<sup>77</sup> Further divisions are for *Internal Audit* and *Executive Support*. Both could be compared to a staff, the former examines the effective and exact use of the sources and evaluates the programs; the other has tasks in planning; takes care of the external relationships with third countries; helps in the exchange and collection of information; executes duties in controlling and quality assurance as well as guarantees the transparency of the organisation.<sup>78</sup>

The Agency is divided into three departments. The departments cover the major tasks of Frontex on the one hand and complete the

<sup>75</sup> 2007/2004/EC decree (26. 10.2004; HL. 349 , 25/11/2004 P. 0001 – 0011.

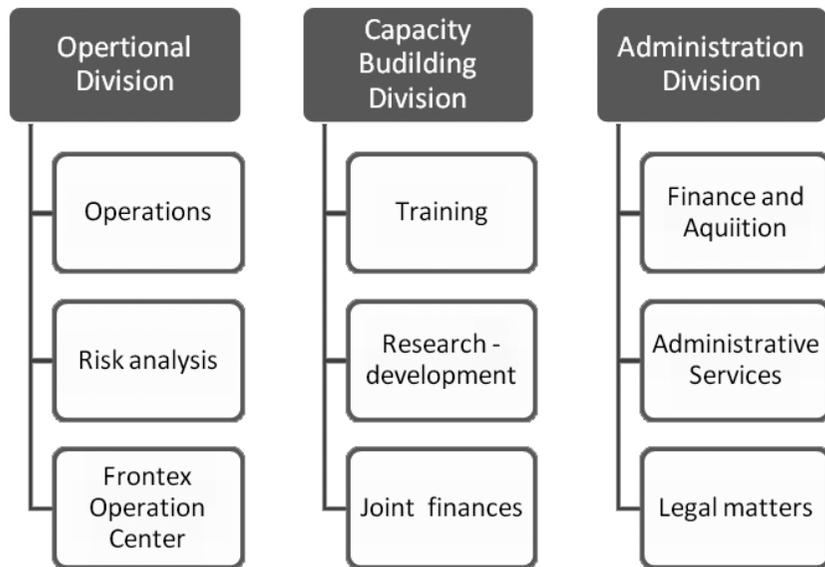
<sup>76</sup> Ibid.

<sup>77</sup> Deputy Executive Director. [http://www.frontex.europa.eu/structure/deputy\\_executive\\_director/](http://www.frontex.europa.eu/structure/deputy_executive_director/) (letöltve: 2011. 03. 16.)

<sup>78</sup> Internal Audit. [http://www.frontex.europa.eu/structure/internal\\_audit\\_and\\_qualit/](http://www.frontex.europa.eu/structure/internal_audit_and_qualit/) (letöltve: 2011. 03. 16.)

<sup>73</sup> Ibid.

<sup>74</sup> Budget and Finance. [http://www.frontex.europa.eu/budget\\_and\\_finance/](http://www.frontex.europa.eu/budget_and_finance/) (letöltve: 2011. 03. 16.) Author's



structure with necessary supporting fields necessary for the organisation on the other.<sup>79</sup>

### 5.5 RABIT

RABIT (863/2007/EC European parliament and Council decree (11.07.2007)) are the Rapid Border Intervention Teams of Frontex that intervene in actual crisis situations, offer physical help in protecting the border of a given country; the interference must always be short term. RABIT primarily serve the interests of the southern countries, Spain, Italy and Malta most affected by the migration waves coming from Africa,<sup>80</sup> but the support of the border control of all member states is important for the entire EU too; it renders easier to find illegal elements. During their intervention the teams provide

<sup>79</sup> Structure. <http://www.frontex.europa.eu/structure/> (letöltés: 2011. 03. 16.)

<sup>80</sup> Zámbo, Katalin: A Frontex szervezete és működése. In: Tanulmányok a „Quo Vadis rendvédelem? Szabadságjogok, társadalmi kötelezettségek és a biztonság.” című tudományos konferenciáról (Pécs, 2010. 07. 24.). XI. kötet, 2010. [The organization and operation of Frontex]

the control of borders and they protect the green borders where it is easiest to discover illegal entry. Their major tasks are:<sup>81</sup>

- control of cross-border traffic
- patrolling
- control of travel documents
- interrogation of suspects

The composition of RABIT is not constant, Frontex, by using the national databases, is operating a database of 500-600 experts and in case of a crisis situation border guards with appropriate training and experience will be selected for the solving the situation. Every expert has a so called profile composed of basic training (experience in the Schengen border control), competence (basic control, cross-border traffic control, document examination; border control at port, airport and land; risk analysis) and other optional capabilities (e.g. managing skills, profile forming; dealing with dogs of service; command of several languages; knowledge of marine law, etc.)<sup>82</sup>

The members of RABIT are paid by their own country, they are not in Union employment, during intervention they have to observe the regulations of the country in question as well as the EU laws; thus they are responsible for their work both to the given country and the Union.<sup>83</sup> The border guards may use force authorized by the member state and their own country, fully respecting human rights.

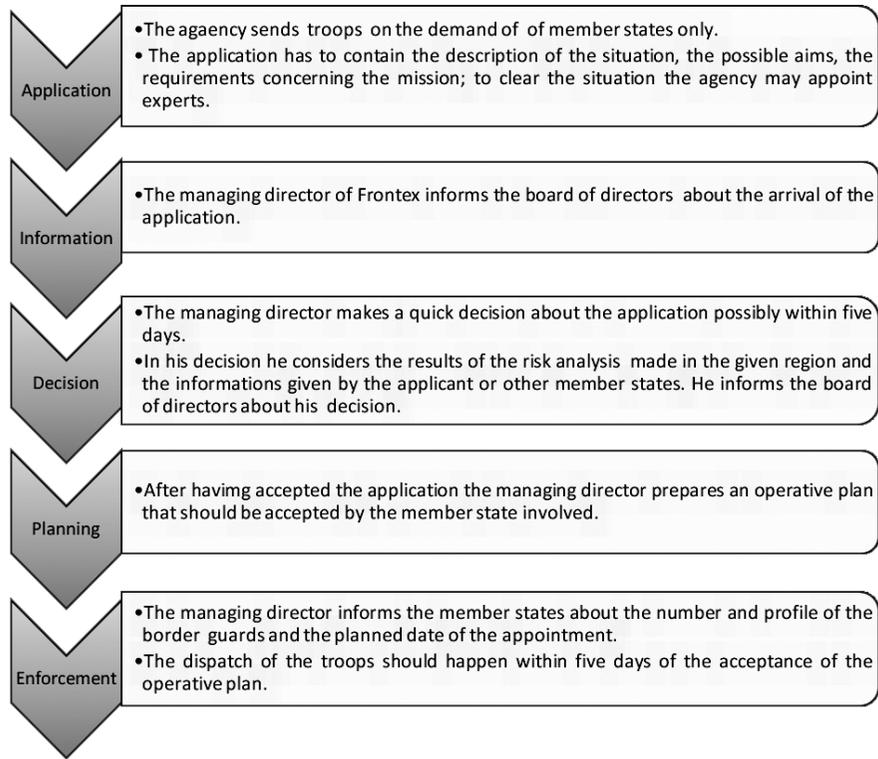
RABIT is a process bound to conditions as shown below:<sup>84</sup>

<sup>81</sup> Hortobágyi, Dániel: A Frontex és együttműködő partnereinek bemutatása a schengeni határellenőrzési rendszer tükrében. Biztonságpolitika.hu publikációi, 2010. 06. 24 [Frontex and its cooperating partners in the Schengen border control system] [[http://www.biztonsagpolitika.hu/documents/1277416041\\_hortobagy\\_i\\_daniel\\_a\\_frontex\\_es\\_egyuttmukodo\\_partnereinek\\_bemutatasa\\_schengen\\_tukreben\\_-\\_biztonsagpolitika.hu.pdf](http://www.biztonsagpolitika.hu/documents/1277416041_hortobagy_i_daniel_a_frontex_es_egyuttmukodo_partnereinek_bemutatasa_schengen_tukreben_-_biztonsagpolitika.hu.pdf)] (letöltve: 2011. 03. 16.)

<sup>82</sup> Ibid.

<sup>83</sup> On the Creation of the Rapid Border Intervention Teams (RABIT) and modification of 2007/2004/EC Council regulation: 863/2007/EC European parliament and Council decree (2007. 07. 11.)

<sup>84</sup> Ibid.



RABIT teams were used first in Greece in October 2010 to control the Greek – Turkish borders. In the previous years the influx of migrants through Turkey became considerable with arrivals from Afghanistan, Palestine and Somalia. The reason is that there is no deportation agreement between Greece and Turkey.<sup>85</sup> There is the possibility of new action in Italy and Malta to manage the growing number of migrants due to the processes in the northern African Arab states; Operation Hermes is in action in the region with Lampedusa (Italy) as its headquarters.<sup>86</sup>

<sup>85</sup> Ávár, Imre – Lipics, László: Akcióban az EU határvédelmi csapatai – A RABIT bevetése. [http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban\\_az\\_EU\\_hat%C3%A1rv%C3%A9delmi\\_csapatai\\_-\\_A\\_RABIT\\_bevet%C3%A9se](http://www.biztonsagpolitika.hu/?id=16&aid=954&title=Akci%C3%B3ban_az_EU_hat%C3%A1rv%C3%A9delmi_csapatai_-_A_RABIT_bevet%C3%A9se) (letöltve: 2011. 03. 15.) [RABIT in action]

<sup>86</sup> Frontex – Hermes Extension 2011. [http://www.frontex.europa.eu/hermes\\_2011\\_extended/news\\_releases/](http://www.frontex.europa.eu/hermes_2011_extended/news_releases/) (letöltve: 2011. 03. 16.)

### 5.6. European Asylum Support Office (EASO)

The Commission proposed the creation of EASO in February 2009 in order to eliminate the considerable differences between the refugee systems of the member countries, facilitate the legislation and agreement of jurisdiction of the Community and as RABIT, give operative assistance to the countries that are facing exceptional amount of applications for refugee status – in accordance with Priority 5) of the European Immigration and Refugee Pact.<sup>87</sup> EASO held its statutory meeting on the 26<sup>th</sup> of November 2010 in La Valetta, the capital of Malta considerably involved in the questions of illegal migration and refugee matters. In addition to the tasks appointed by the Commission EASO has been given important role in the creation of the common European refugee managing system (the deadline being in 2012) through collecting and systematizing information and making reports.<sup>88</sup> The *management board* for planning and monitoring consists of one representative each of the member states, 2 members sent by the Commission and one member without vote representing the United Nations Refugee Agency (UNHCR). There is an *executive director* elected for five years responsible for daily administration and legal representation. The director is supported in his duties by the *executive committee* formed of the management with the participation of the UNHCR representative. The organisation can form work-teams to fulfil its tasks and serves as a consultant forum for civil organisations at Union and member state levels.<sup>89</sup>

According to the Stockholm Program the duties of EASO is to identify those in need of international protection among the varied migrants and to cooperate with Frontex and other Union institutions in every possible field.<sup>90</sup>

<sup>87</sup> European parliament and Council decree 439/2010/EU (2010. május 19.). HL 132. 29/05/2010. P. 0011-0018.

<sup>88</sup> EUROPA – Press Releases <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/10/1610&format=HTML&aged=1&language=HU&guiLanguage=en> (letöltve: 2011. 02.27.)

<sup>89</sup> EUROPA – Summaries of EU legislation: European Asylum Support Office. [http://europa.eu/legislation\\_summaries/justice\\_freedom\\_security/free\\_movement\\_of\\_persons\\_asylum\\_immigration/jl0022\\_en.htm](http://europa.eu/legislation_summaries/justice_freedom_security/free_movement_of_persons_asylum_immigration/jl0022_en.htm) (letöltve: 2011. 03.02.)

<sup>90</sup> COM(2010) 171. Bruxelles, 20.04.2010.

*Summary and Future*

Migration and refugee policy became a major issue of the legislation of the EU around the turn of the millennium; after Amsterdam Agreement had included the cooperation in internal and external jurisdiction into communal regulation, the delineation of the sphere of authority for freedom, security and right could be started. There were three comprehensive programs made: Tampere, The Hague and Stockholm for the prevention of illegal migration, the definition of the frames of legal migration and the creation of common minimum regulations of refugee matters. Also among the major objectives there was the extension of the rights of migrants with the aim of bringing them closer to those of the citizens of the Union. The execution of the programs brought with it the narrowing of national authorities and this is why the accepting of a law or a guideline or a common institution can be the result of lengthy debates. It is laudable, therefore, that there have been important steps forward in the field of migration policy, there were important development in harmonization of laws concerning legal and illegal migrants in the national regulations. There have been several institutions created for the informative and operative support of the authorities of the member states; for the uniform management of refugee affairs a common refugee system will be created; the common Union interests have been established; the need for solidarity among the member states has been recognized in supporting the nations providing for the security of external borders.

In the forming of the future of migration policy it is especially important to strengthen the position of the immigration liaison officers through information given to the citizens of third countries, by obtaining – providing with information that serve the purposes of preventing illegal migration and helping legal one. The introduction of the Blue Card may become one of the most important economic legal institutions in aid of legal migration, in obtaining qualified work force. The issuing of the cards can further the realization of the Lisbon aims besides the legalization of the migrants' employment, in addition it would not endanger the position of the job-seekers of the member state either because competitive wage offer is the condition of obtaining the card. The European Asylum and Support Office will also start its activity that can give much needed support to the

southern countries that are involved in the migrant influx caused by the uprisings in Northern Africa. The importance of Frontex will increase, too as well as the operative intervention of RABIT to manage illegal migration, to protect borders as experts and in practice.

The common management of migration is endangered by the tendency that due to the mass migration reaching Lampedusa there are increasing number of member states that are considering the temporary re-arrangement of their borders to ward off migrants. Italy and France are the major supporters of the possibility of the moratorium of the Schengen agreement in crisis situation (the former as a transit country, the other as a major target country of the refugees). In significant countries too, with Eurosceptic and anti-migration citizens there is a growing wish to re-arrange the borders, e.g. Denmark has prepared and accepted the order for random border and customs control.<sup>91</sup> The Danish notion questions the very reason of existence of the Union because the Schengen zone secures the basic principle of the free flow of goods, persons, capital and services. The answer to be given to the present migration challenge could definitely influence the future of the common migration policy, either strengthening it or weakening the common interventions.

<sup>91</sup> HVG: Recseg a schengeni rendszer. 2011. május 13 [The Schengen system is shaking]. [http://hvg.hu/vilag/20110513\\_schengen\\_belso\\_utaz\\_asi\\_szabalyok](http://hvg.hu/vilag/20110513_schengen_belso_utaz_asi_szabalyok)

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Ágnes Ózer

## Dual citizenship in historical context

### Abstract

*The author from the region of Voivodina is of the opinion that - as it became evident by the rigid refusal during the referendum in 2004 - the grant of dual citizenship or its denial has been the reflection of the social situation and problems; what is the relationship between the inhabitants of the regions and the mother country, what image has developed about the parts of the Hungarian nation cut off and now living in neighbouring states and what is the attitude towards them.*

It is five years that the Hungarians of Voivodina – together with those parts of the nation, who are living in the regions separated from Hungary by the treaty of Trianon, had to face the fact that the majority of the inhabitants of Hungary, the mother country, did not wish to throw in their lot with the Hungarian nationals living beyond the borders of the country, in Upland, Transcarpathia, Romania and the former Yugoslavia (Slovenia, Croatia and Voivodina). Some had been surprised by these facts, others just acknowledged the point of view of the mother country, the definite 'no', the rejection. The latter ones probably did not depend so much on the distribution of the material help arriving from Hungary (the way of the distribution and the choice of recipients - with rare exceptions - have been mysterious). These people keep observing impassively the official Hungarian attitude and the one of the Hungarian public, that might not be entirely independent of the official one but not necessarily identical with it, about the compatriots torn out of the nation without their consent 91 years ago and have remained trapped as citizens in various states.

If the present author should say where she belongs and whether the then rejection have caused her pain or disappointment in the past five years the answer is a short 'no'.

The order set by the Trianon peace treaty that had closed the situation caused by the defeat in WWI was one of the most decisive

events of the 20<sup>th</sup> c. for Hungary and the Hungarians and it has not changed by the beginning of the 21<sup>st</sup> c. either.

What the adjustment of the borders concerns there were no considerable changes for the mother country either after WWII. or by the breakup of the Yugoslave state (that was created in 1918) that lead to local wars in the 1990s. Of the Hungarian communities remaining in the successor states, only those noticed changes that have been living in the southern region. With the seceding of two member republics of the former federative state of Yugoslavia, Slovenia and Croatia, the Hungarians in the southern region were broken into even smaller communities and are now living in three states. The Hungarians thus remaining in the now independent Slovenia, Croatia and Serbia have shared the life of the citizens of these new sovereign states.

The destiny of the Hungarians living in the Republic of Slovenia seems to have been solved; the development in Croatia signals a positive trend by the nomination of Slovenia to EU membership irrespective how the Hungarians in Croatia consider their situation. The development concerning the destiny of Hungarians in Voivodina, however, might seem stagnant as it greatly depends on Serbia's international situation as the latter had been accused of being the instigator of the war of the 1990s. Allegedly the situation and destiny of the Hungarians in Voivodina is not as to be wished since the region is still suffering from the prejudices and reservations against Serbia that has been prevented it to join the EU. In theory the Hungarians in Voivodina could have profited from dual citizenship similar to the Hungarians in Transcarpathia. In 2004 a favourable vote for dual citizenship could have considerably improved their position in foreign policy as well as increased their weight in internal politics.

The negative result of the 2004 referendum indicating the attitude of the mother country and the majority of the population was especially important for the Hungarians in Voivodina. The news, articles and the chronology of events on the question of dual citizenship published in 2003-2004 testify that the Hungarians of the mother country, believed to be homogeneous, had misgivings especially against the Hungarians in Voivodina, even if the Hungarians in Romania, who are the most populous among the minorities, shared the same feelings. In the opinion of Imre C. Ferencz everything was humiliating for the Hungarians left beyond the borders that

happened in the mother country concerning dual citizenship.<sup>1</sup> In the case of Serbia and Voivodina the Hungarians of Voivodina were the only Hungarian community that was refused dual citizenship. It has weakened their situation in Serb politics but started an instinct of self-organization among the Hungarians of Voivodina to show some critical attitude toward the mother country and develop their capability for independent political activity.

The indifferent attitude of the mother country is not recent, it has its historical roots in the 1918 change of statehood then after the events of 1944-45 too.

Looking back it seems that the actual Hungarian governments were too ready to easily give up this 'outer region lacking in local Hungarian consciousness and customs'<sup>2</sup> that could be explained by the economic situation of the Hungarians of the region, the non-existent or only weekly present middle-peasantry, the lack of a political active middle class. After the change of statehood the Hungarian government helped the Hungarians in Yugoslavia by economic aid and political advice. While the personalities who fled from the annexed regions to Hungary were given positions, e.g. István Bethlen became the head of a secret ministry to deal with matters concerning Transylvania, if only for a short time, no such appointment was offered to persons from the southern region showing an order of importance among the regions;<sup>3</sup> that was manifest itself in the different amount of economic aid too.

In addition to the bad relationship between Hungary and the newly created Yugoslav state there was the proclaimed ideal of the party of the Hungarians in Yugoslavia (Hungarian Party) that the Hungarians would not use international forums to enforce its rights, but trusted in the democratic and modern world view of the Serbian-Croatian-Slovenian peoples and hoped for the solution of the situation in political cooperation with the Yugoslav nation.<sup>4</sup>

<sup>1</sup> Ferencz, C. Imre. *Romániai Magyar Szó*, 2004. november 30.

<sup>2</sup> A. Sajti, Enikő: *Impériumváltások, revízió, kisebbség. Magyarok a Délvidéken 1918-1947*. Budapest, 2004, Napvilág Kiadó, p. 33. [Changes of state, revision, minority Hungarians in the southern region].

<sup>3</sup> *Ibid.* p.37.

<sup>4</sup> *Ibid.* p.45

Characteristically Budapest never supported the foundation of a mutual Yugoslav-Hungarian party and found injurious when the Hungarians of Co. Baranya tried to approach Belgrade. The publications with left-wing contributors were also suspect<sup>5</sup> and were blamed with the deception of the Hungarians [of Yugoslavia – Ó.Á.], thus trying to avert the weakening of the influence of the mother country. The reason of the fiasco of Magyar Párt [Hungarian Party] at the 1925 elections was ascribed to the lack of cohesion and ‘Transylvanian spirit’ though in reality it was the result of the fear on the part of the majority nation as the minority was constantly accused of revisionism and retribution for it was always held out as a prospect in reply by the actual Yugoslav state power. The suspicion and accusation of revisionism has been still haunting the Hungarians in Yugoslavia, in Serbia that cannot be stopped by any reasonable argument.

Irrespective whether the imagined ‘revisionist’ intent manifested itself in the mother country or among the Hungarians in Voivodina the majority nation retaliated by collective punishment for them, revising their rights and threatening with the prospect of dissolution of their existing institutions. The Hungarians in Yugoslavia had to consider the reaction of the mother country too because with the borders between them again; it was forgotten that it was not by their own decision that the parts of the nation torn away had found themselves on the other side of the border. Thus independent of historical eras be it between the two wars or after 1944 only those were deemed good Hungarians who accepted and carried out the political will of the mother country thus proving their fidelity to the nation.

The Hungarians of the southern region and especially those who were living together with Serbians did not count Hungarian enough in their spirit. The lack of trust was most perceptible after April 1941. In spite of the fact that the inhabitants of the southern region automatically became Hungarian citizens on the 16<sup>th</sup> of December 1941, the civil servants were mainly replaced by those coming from the mother country. The school system was also disrupted and 1300 teachers were sent there to educate the young pupils to be true

<sup>5</sup> especially *Magyar újság* (Eszék) and *Bácsmezei Napló* (Szabadka)

Hungarians and make Serbian and German children into honest Hungarian citizens.<sup>6</sup>

The new Hungarian power recognized the existence of Hungarian leaders who were considered weak links for the Hungarian purposes and tried to get rid of them acting in the spirit of the slogan of ‘Let’s be better Hungarians than before’. Not only the Hungarian war propaganda but public opinion too and not only in words called the Hungarians in Yugoslavia *csetniks* and the co-existence with the Serbs made them suspect in the first place. The above phenomena could be observed in the reaction of the mother country to the massacres of 1944-45 in the southern region that was similar to the attitudes at the change of statehoods of 1918 too. Thus contrary to the fear of the Yugoslav communist power there was no intention for border revision on ethnic basis on Hungarian side and Hungary did nothing against the military administrative steps e.g. against the internments started on the 20<sup>th</sup> of November 1944 and the drafting for forced labour of Hungarian men between 16 and 50 years of age; later on the Hungarian state and church leaders remained at the level of ‘satisfactory information’.<sup>7</sup>

After 1948 the deterioration of the Yugoslav – Hungarian relationships, the change of direction of the YCP, the accepting of the ‘humane socialism’ and the changes in the minority policy of the Yugoslav state had important influence upon the situation of the Hungarian minority. Thanks to the spreading of the western bourgeois values, the possibilities of schooling and education the Hungarians in Yugoslavia were able to make up for their lagging behind that was characteristic for them in the period between the two wars. The increasing possibility of education strengthened the intelligentsia who were ready for independent thinking. That fact and the relative prosperity induced various reactions in the inhabitants of the mother country living under increased Soviet control following the suppression of the 1956 revolution. Not only the Hungarian intelligentsia in Yugoslavia, freer thinking and becoming self-conscious for the times, were treated with reservation because of the assumption that they were less loyal to the mother country, but the differences developed

<sup>6</sup> A. Sajti 2004, p.244.

<sup>7</sup> A. Sajti 2004, p. 330.

in aesthetic understanding was also noticed.<sup>8</sup> The official Hungarian cultural policy stressed not only a centrally directed declaration of uniform Hungarian consciousness in contrast to universality and several centres, but strictly controlled and occasionally punished its own dissident intelligentsia that claimed mental relationship with the Hungarians beyond the borders. Just as the spiritual contacts between Hungarian intelligentsia was not welcomed over the borders either according to Lajos Kántor, Hungarian literary historian in Romania.

However, the official Hungarian cultural circles were in very good relationship with those members of the Hungarian intelligentsia in Voivodina who were members of the Yugoslav party apparatus, had special functions in the party and state management and thus carrying confidential posts could effectively control the activities of Hungarian institutions, newspapers in Yugoslavia and at the same time moulding the official opinion to enforce the minority policy of the Yugoslav Communist association. In the second half of the 1960s these were the acceptable, officially welcomed 'good Hungarians' for the cultural politicians of the mother country.

The past orientation of the mother country have been reflected by those cultural, historical and folklore works, too that had left the area of the southern region uncharted. That empty spot was filled out and 'coloured' by the institutions and scholarly literature of the southern region that became self-conscious and busy in important scholarly activity in the 1970s without any aid from the mother country.<sup>9</sup>

The situation and attitude has changed following the change of regime in Hungary and in the turbulent times when the war broke out after the breakup of Yugoslavia. The Hungarians of the south became involved against their intentions in the crisis carried and their situation reached a low point comparable to the times of the change of statehood and 1944-45. Their life was at danger during the Yugoslav wars and the following financial crisis left the Hungarian communities depending on the help coming from Hungary, that momentarily

<sup>8</sup> Especially the attitude of the official Hungarian cultural policy toward the writing of a history of the Hungarian avant-garde literature is an example.

<sup>9</sup> Vékás János *A kisebbségi magyar közösségek a XX. században* (Budapest, 2008) [Hungarian minority communities in the 20th c.].

was in an economic upswing, and through could try to influence the 'mental independence' of the south developed in 90 years.

2003 and 2004 were critical years for Hungarians in the southern region and the possibility of the realization of dual citizenship filled them with some hope, and may be with greater expectations and need than in the other Hungarian communities beyond the border.

The definite negative result of the referendum and the rejection it meant if possibly disappointing, was not entirely unexpected for the community that had undergone almost every form hardships but did not lose its heart. For them it was history repeating the same lesson and they did not believe in miracles anymore.

Before the referendum over dual citizenship the two representative parties of the Hungarians in the southern region collected subscriptions to remind the Hungarians in the mother country that dual citizenship was not merely a manifestation of belonging for those in the southern region but could be a question of life and death. That time the parties of Hungarians of the southern country that were organized on national basis (VMSZ and VMDP) managed to collect 50 000 signatures of Hungarians supporting the vote for dual citizenship. Now the way the Hungarians in Voivodina are considering their future is mirrored by the present data: for list about supporting the new form of elections the Hungarian National Council collected more than 100 000 signatures in a month. It may be signalling that the lesson of the past 91 years has been understood, that in spite of hopes and general national feelings, however decreasing in number, they have to stay and live their lives as Hungarians beyond the borders, in this case in the southern region. This is the realization that is making every Hungarian living in regions broken out of Hungary better Hungarians than anyone. Because depending solely on their own strength, surviving all the hardships, remaining on the land of their birth they could remain Hungarians

From this point of view the vote for or against dual citizenship, the image of the part of the nation living beyond the borders that had developed in public thinking in Hungary that produced the negative answer, the question of their attitude toward it and us mirrors the social present and problems of the mother country and its citizens.

# **Minority Culture**

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*Réka Zsuzsanna Simon*

**„Every majority should learn minority languages”**

*Interview with Orsolya Nádor*

**Abstract**

*These days, when the language rights, the moral arguments are not enough to convince the majority to invest money in the minority language education, the importance, the value of the*

*language economics are really high. In these interviews I try to get answers to many questions: How can be maintained a minority language in the specific conditions what surround it? How can be kepted the linguistic diversity, linguistic heritage, the minority language alive in the most effective way, using the latest ideas of language economics? How is viewed in this Eastern- European region the discipline of language economics? What we know about it? The minority language education itself hinders the acquisition of the majority language? What decides how much money will spend the majority of a country for the minority language education? What is known about the market values and not market values of a minority language? The language diversity helps or not the business area?*

1. How does the language of instruction, the culture in the mother tongue define identity and its development?

It is evident that there is no identity without the identity of the mother tongue, without culture in the mother tongue. Culture in the mother tongue can be very spontaneous, it develops naturally through the acquisition of the language, but if it made conscious it can greatly help the speakers to their identity. If I am familiar with the linguistic structure of the language, I learn about its literature then I can get nearer to the Hungarian identity. That can be observed

by students coming from the western diaspora. Their identity seems fairly strange looking at it from the Hungarian point of view. It is not an identity-type usual in the Carpathian Basin but one where the mother tongue is missing but there is an enormous nostalgia after that mother tongue. Before the mother tongue, as the language of their origin, can find its place in their minds they have a strange double identity. They have great nostalgia toward the Hungarian one but their dominant identity is that of the country they come from; the English identity or that of America or South America are all different. As they absorb consciously the linguistic, literary, historical or folklore culture the identity coming from the language of their origin, the 'root identity', becomes stronger. It can grow to the point that there are some who do not want to go back anymore. Fortunately this kind of Hungarian identity without the Hungarian language is not significant in the Carpathian Basin as yet though there are already tendencies. I believe that language loss in the diaspora and at such places where there is a strong dividing line between the languages and the Hungarians live along the border where the own educational system is not as developed as e.g. in Széklerland, the phenomenon would appear sooner or later.

2. What is your experience, what is the present-day European attitude towards bilingualism, multilingualism?

There are states that are members of the European Union and there are such that are not. There are countries that accept linguistic pluralism without necessarily signing a Charter or any other international document and there are such that did sign it but do the opposite of what they have signed to accept. The leading idea of the Union is that there is linguistic pluralism in Europe and it is its greatest value. This is correct at the level of principle and it also works. All the resolutions and recommendations (these are recommendations and not laws) emphasizing linguistic pluralism are more or less in order. There is, however, some flaw e.g. does the given country admit that there are minorities in its territory or does not. Usually the French are pointed out as an example but the Ruthens in Hungary could also be mentioned; for a long time it was forbidden to refer to them and were ethnically classified as Slovaks. In the 1980s it could not be said

that Komlóska is a Ruthen village because what is Ruthen then; it is Slovak and that is that. It means that we could also find shortcomings at home. But there are countries e.g. Norway, Sweden or Finland where linguistic pluralism has received emphasis. It is difficult to tell how positive it is or not. If we observe the linguistic policy of Finland, e.g. in Turku with its 6% Swedish minority everything is signed in Swedish too; in general the Swedish minority is about 5% in the entire Finland. But there are many small Swedish communities around Helsinki where the use of the Swedish name on signs has been authorized only recently. So there are showcase settlements like Porvoo, a Finnish – Swedish settlement. The bus is marked in Finnish and Swedish Porvoo/Borgå; at the schools the Swedish language is taught. The Finnish students are rebelling against it saying, that they want to learn a more useful language. It is an absolute gesture. It is also mentioned frequently that as a regional language Swedish has an important role in the northern area. It is true but the Finnish students believe it would be more useful to learn some other language or they should not be a subject of the final examination. This is the case when the language policy of the state and the will of the citizens do not meet. They learn Swedish but never use it. It is connected to the fact that the prestige of Sweden and therefore the Swedish language was high until recently but nowadays it seems the Finnish self-consciousness is rising, the Finns are increasingly proud of being Finns (it was not always so) and the Swedish language is not so important anymore. It is an interesting duality. But I could mention Norway too. There are other countries too, e.g. in Spain, where allegedly everything has been righted by the Catalan language and culture thanks to their receiving autonomy. The most recent legislations and state measures seem to contradict it.

It is an interesting question how the EU member states act since every one of them is supporting linguistic pluralism in principle. There is the Charter for Languages. The signing of the Charter is a gesture because it does not oblige the state for anything. There is a historical analogy: after World War I. there was an especially block on linguistic policy in the minority protection agreement of Saint-Germain. The states declared that they would not restrict the use of the mother tongue, the right of education and the use of language in church services of minorities that lived in their territory. At inter-

national level it was in order, but the realization was at the level of individual states and in Czechoslovakia there came the regulation that under the 20% minimum there was nothing. That was not in the international agreements. It is not in the Charter either, there are no percentages in it. Still the states set limits for economic reasons or else for political ones. How justified the percentages are depends on the economic vitality of the individual countries. If we examine a rich one, like Finland nowadays, it can afford the luxury of having classes for small minority groups. It is also important that Sweden has considerably been supporting education in Finland. It is no problem with them, what is with us, to send a number of books to various places, to make so many stipends available per year. For Sweden it does not raise any problems. If we look at our region, the Eastern-Central European region of the Carpathian Basin, it turns out that if a small school somewhere in Romania asks for 10 volumes of one of the set texts and 8 of another because the existing ones fell apart, they get it, of course. But this is only one school but if eight-ten schools of the county come up with the same demand it means difficulties because there are no more copies to be given away and Romania was never famous for its generosity towards its minorities. Returning back to the original question: what is the attitude toward multilingualism. It can be stated that some countries aim more overtly at assimilation others more tacitly, in spite of having signed the international agreements. Why it is and how it is always depends on the given country. Hungary, especially after Trianon, has tried to give an example to be followed by our neighbours. But it is no secret that between 1945 and 1962 there were no schools for the minorities in Hungary. There were generations without institutional education in the mother tongue and identity. Some could not go to kindergarten for minorities because there was none for a long time, some received only such education in their mother tongue that would be unthinkable e.g. for a Hungarian in Transylvania, that the mother tongue was taught at a language class, some talk about their literature, history, people, but the other subjects would be in the majority language because the pupils would not understand it in their mother tongue. That was the situation of the minorities in Hungary; their language had no social value. Even now with the minority law, thirteen ethnic minorities are ensured of their education in the mother tongue but the question is how many

schools exist there for Armenians? Or there are the Greeks. The Greek minority is a very recent group, they are not indigenous at all, it is more a gesture. They have assimilated so completely that Beloianis, the village they settled down, has lost its sense, everybody refers to it as Ivánca and there are hardly any children to learn Greek. In the case of the Hungarians beyond the border the assimilation is not that advanced but there are warnings. From the linguistic point of view the question is what type of bilingualism it is. If it is additive, i.e. when the mother tongue has its own prestige, its own functions and the other one too. And there is usually a third language involved too. In Europe it is the English language, with its own domain of use and prestige. In the case of a bilingual person or of a one who lived in minority, English would mean a special category. In the case of the minorities in Hungary it is a trans-positioning bilingualism, a loss of language that probably is already difficult to reverse. How could be the processes slowed down or reversed? May be if the majority would learn the language of the minority. We are upset to hear that if someone goes into the office say at Beregszász to do his business and the law ensures that he can do it Hungarian but it proves impossible because there are no forms in Hungarian. Why are there none? Because none was made. It means that minorities should not wait for the majority to prepare for them the forms in the minority language. It has to be prepared and a motion started that it should be accepted or at least bilingual forms would be needed. If a Slovak or Serbian of Hungary goes into the office of one of the Budapest self-governments, or Germans, there are districts where there are German nationalities living, they would hardly find a clerk who would be able to talk to them in their local minority dialect only in the literary language. Since old people cannot learn it, they would talk in Hungarian. There are such problems in Hungary too and in Hungary the nationalities are not oppressed. It is one thing how the state guarantees the rights but it is also important how the law is carried out. The controversy between *de jure* and *de facto* is there.

I try to urge that the majority should learn minority languages. It is true a concrete aim should be there and there is also the question of usefulness. If persons belonging to the majority learn the language, culture, history of a minority they can find an explanation for many things, can imagine the spirit of the others. For example when those

minority education and language laws are made that are somewhat of discriminative character, the picture is not black or white, there is a duality between the requirements of politics and everyday life. For example if a businessman or people with regional relationship with Hungary, a Romanian or a Slovak, would go to a language school to learn Hungarian irrespective of their country's severe law to facilitate assimilation. Unfortunately there is hardly any interest in the courses teaching the languages of the neighbouring countries held by the Institution of Slovaks or the Romanian Institute. The students are very enthusiastic at first then they disappear. It is much worse than in the case of learning Hungarian. There is an interesting duality in there.

3. Why do you think that regionalism might be the way out for the minority education in the East-Central European countries?

I think because of the elevation of prestige. If I send my children to a school where they can learn besides English and German Slovak, Romanian, Ukrainian as a free elective third foreign language, of course the one relevant in the region, it could offer possibilities to avoid unemployment. It is evident the economic relations would sooner or later create the need for joint enterprises along the borders – there have already existed several – or there might appear enterprises of foreign ownership. It would be advantageous if there are persons who could be employed because they speak the language. A foreign correspondent could have an important role e.g. with a knowledge of Slovak or Ukrainian when living in Miskolc. Such persons would be potential employee for foreign firms settled down there. I believe it is going to be important on the other side too e.g. a child from a mixed marriage would be sent to a Hungarian school in a neighbouring country; the great majority of such children are sent to Slovak or Romanian schools now, the motivation being that they are living there, want to make good there, one of the parents is Ukrainian, Croat, Slovak or Romanian, thus they have the advantage of being socialized bilingually therefore it seems better to be educated in the majority language, Hungarian can be learned otherwise, by reading, watching Hungarian television etc. It would endanger identity, not necessarily that of the second generation but that of the

third certainly. But if there is usefulness involved, if the regionalism strengthens I could imagine that the parents in a mixed marriage would consider to send their children to the Hungarian school and not in the majority school, not in all the cases of course but about 20% seems realistic. May be the child has no head for academic studies but will be someone with a secondary school education and would have better chances if say a Hungarian would settle own in that region and then they would be able to find work with the knowledge of Hungarian, understanding the locals as well, thus they could have advantage at the work force market.

4. In principle is there a limit how much and what kind of functions are allotted to the minority languages?

In principle there are no limits. If we consider the international recommendations, when there are documents written by various committees sooner or later all the member states join them voluntarily or under pressure and we all know that there are consequences therefore in principle there are no limits exactly because the principle of the Union is that the aim is a multicultural, polyglot Europe where the languages are on equal standing; but we also know that there are some that are more equal. There is no international legal obstacle in the way of minority languages to have functions in the majority states. It is in the practice where the obstacles appear when it reaches a lower level. When it is not anymore a question of principles but a decision made by economic factors, e.g. how much it costs to maintain a minority school, how much the training of its teachers, how well they would be able to teach since they will be educated in the country of the majority language and no, say, in Hungary; it is similar to the training of the Slovenian minority language teachers who are educated in Hungary and not in Slovenia. It is an expensive thing. It is a philosopher's estimate but it could cost more than a semester at the medical university because board and lodging and the whole training have to be included. And if we take the rights seriously the minorities would need not only teachers but lawyers, doctors, veterinarians, politicians and economists too. Therefore it is advantageous to have the facilities in the birth country, e.g. the young people of belonging to the Hungarian minority can go to the

Selye University in Komárom, to Kolozsvár or to the University Sapientia in Transylvania, it seems probable that at Eszék, too, will open possibilities, and in Voivodina too; and let us not forget about the Ferenc Rákóczi II. College in Beregszász either. In Slovenia the situation is not as simple anymore. There the language change has reached a level that the few children who really want to be educated in Hungarian are sent to Szombathely. In Hungary the situation is satisfactory in the field of nationality kindergarten teachers, general and secondary school teachers but not in the other fields. The universities of the neighbouring countries only could help those members of the nationalities in Hungary who want to be educated to be engineers or doctors in their minority mother tongue.

##### 5. What are the features of a well-developed language policy?

There we have to think about several fields. One is administration, the other education and the third that has not been mentioned even in the international documents is collective rights. Minority language use has always been regarded as personal right. It is collective in its character but if one asks a legal expert or tries to read about it in the literature it turns out that it is not. It is a difficult question. If it is declared that it is a collective right then it is compulsory even if there are, say, just two children then they have to be educated in their mother tongue and the whole curriculum should be provided at that. There is minimal chance for that in Hungary and the truth is that not even in Sweden in the last couple of years, since Sweden is usually mentioned in connection to collective rights, that there even immigrants are given collective rights. However, that is a separate category and it is special because there are no laws concerning immigrants, only indigenous inhabitants. Who is accepted as an indigenous inhabitant is regulated by the laws of the given country. There are no international documents directing that such and such a minority must be accepted. It will be decided by the country itself whether yes or nay and they will develop a system of criteria that allows the minimum of ethnicities to be accepted as minorities.

Returning back to the three aspects that are the major ones to be considered. What level of schools are necessary, how the mother tongue should be presented there or how expedient it is. There are

a number of psychological analyses finding that the first four years of grade school should be basically taught in the mother tongue. However, if it is the wish of the parents for the child to find its way in the majority society, the majority language should be taught effectively not the way it is done nowadays but as the language of the surroundings. There are things here it is possible to rely on the children's actual knowledge but it must not be presumed that that is on par with the mother tongue. The beauties of that major language and culture should be shown; if the children are well acquainted with the majority language and culture and not the idea is strengthened in them that they are forced to live in a bilingual situation probably additive bilingualism would be the preferable for the minorities too. It is the key problem of language policy and it has to be achieved that the additive bilingualism should become desirable for the community. To be able to achieve it the minorities should be given the necessary tools for it. The case with language policy is that there is always someone who directs. And who is it that directs? It always depends on the governing party of the majority system; also what is that party's attitude towards the given minorities and it should also be considered that the minorities themselves are not homogeneous. It is the question who among them is in conversation with the government, what is their own politics, their language policy because minorities can have language policy too; it is another question how fully they can enforce it. The government is in possession of the power, the other is a tolerated part in the mechanism of power. Whether it is a tolerated, supported or prohibited minority, the use of the mother tongue depends on the political winds. Romania is a good example. The role of the Hungarian Romanian Democrat Party (HRDP) is unquestionable, it had indisputable merits after the fall of the Ceausescu regime, then there was a period when there was silence about HRDP, then there were inside changes, there were inside strives, rearrangements, new associations developed. It was evident that everybody has their own ideas. When such a party comes part of the power than it becomes a factor in home and foreign policy, and then it can talk about politics, even about minority education and language policy. Because a minority could have a policy to no avail, nobody would be interested in the ideas of a group that has no place on the political scene. Administration. What it is that should or could be achieved.

The employment of bilingual clerks should be pressed for but bilingual clerks do not grow by themselves. The minorities should achieve that there be persons from their group where they have an interest, to have a member in the local self-government, mayor's office, police for the possibility of dealing in the mother tongue. It is the responsibility of the minority, the politics of the minority that there should always be someone who is motivated by this policy to become e.g. a policeman or fire-fighter or ambulance crew member.

6. Is it possible to say that the laws concerning language use are already made differentiated at the European Union level?

It has already been mentioned. There are international documents that get signed sooner or later but when and how these will appear at the level of the individual countries depends on which party or coalition is the governing power. After accepting the Charta there could be a law created relating to the minorities but it will be of no use if that coalition will lose the next elections and the whole system would be upset because the new government overrides what their predecessors had said and done. Thus it depends on which party has the power and how the country's economy is doing. If the economy is shaky, if there are serious economic problems e.g. high rate of unemployment, it is easy to take out on the nationalities, as we could experience it for decades. It would be favourable if these laws would be made in a more subtle way. There could be general mandatory ones (with possible punitive sanctions) for everyone independent of the above mentioned situations, then comprehensive minority and language supporting programs and a minimal program where every country could put together a package of elements of choice suitable to their traditions and legislation.

7. Which difficulties are confronting a government during the process of language planning?

One is the economic problems, the other the traditions of the coexistence of minorities and the majority nation, how tolerant they are toward each other. The general the practice is, at least in the countries I have visited, in regions with mixed population, that the tradi-

tion was to be tolerant toward each other; the conflict situation was usually created by the majority population that was the newcomer. They did not feel secure whereas security and self-consciousness are very important. If someone does not feel safe they try to stress their power in against the others, be it a football match or a meeting of the self-government.

8. According to Francois Grin, economically speaking, languages have two kinds of values, market and non-market. What role does it play in the development of the directions of language policy?

If Hungary – and the neighbouring countries too - will be able to strengthen the regional policy then the marketing value of the languages – not only that of Hungarian but also that of Slovak, Romanian, Ukrainian, too – will increase in the country of the others.

9. What methods could help to assess the effectiveness of the realization of language policy?

Whether it is spread and accepted as was intended by the given language planners, i.e. it is not an uncertain element in education and does not depend on the actual economic situation of the country. Thus no school would be closed down because the self-government does not has the money to run it but it always have the means at their disposal to finance it as long as it is necessary. This is a very important aspect. But also it is the one that a language using community wants toward the preservation of its language. It is only an external matter but it has to be wished from the inside too. If the speech community is strong enough in adhering either to the mother tongue or to bilingualism and can regard both as an asset, both have practical values, it would probably cause no problem. Those who live in bilingual regions should live in additive bilingualism and not in transposing one. This should be the major aim. The measure of efficiency could be the state of the community's bilingualism, whether it is dominated by the mother tongue or by the majority language. How convincingly do the parents pass down the mother tongue, whether they get support from the educational system and additive bilingualism could develop or they are on the way toward language

loss and when that last could happen. There is research to find out whether transposing bilingualism is on the growth or the community shows a preference toward additive bilingualism. Since at the moment we are just talking in general I can say that the latter leads to the deterioration of the mother tongue. If an different language and culture, that of the neighbours and those in power, have to be learned and the minority understands its value, moreover it is taught in a manner the children learn it with pleasure, bilingualism will be successful and will enrich the speakers' personality. But we know it is not the case, the children do not learn with pleasure those languages because they are not taught properly. The neighbouring countries had more than 80 years to find out how to do it, how to teach children efficiently. Nothing has happened. The only places where something seems to have happened are the two former member states of the old Yugoslavia, present day Voivodina in Serbia and Slovenia; but it is the merit of Yugoslavia, the Yugoslav language and minority policy, where the Serbians taught Hungarian as an environmental language. Thus there was a tradition, therefore the Hungarians were taught Serbian in a different way than nowadays. The previous year I had a course on language policy at the Áron Márton College and the students brought up interesting questions about the present practice, e.g. why Hungarians do not learn the Serbian language in Serbia. It seems something has been forgotten, there was a good tradition, something had started but was swept away. Unfortunately the wars did much harm this way too. The bilingual education in Slovenia has received much (justified) criticism form the experts but viewing from Hungary at the beginning of the 1980s it seemed, at least at the surface – that it was a really democratic education where both languages were present at the same class. The pitfalls became obvious only when one went close enough.

#### 10. How profitable is linguistic diversity for present day business life?

It has also been mentioned earlier. Business life has two major languages English and German. It depends on the type of business, what is the mediating language there and where is the mother firm. At multinational firms German or English are the major languages and it is preferable that the employees have some knowledge of

the country the firm settled down at least at a level that is enough for survival, too. If the business persons learn a couple of words or phrases in the language of the neighbouring countries it is a kind of a gesture of goodwill. The basic importance of it is not to understand the wording of a contract in that language or not; or it is important for a Romanian businessman that the contract written in Romanian should be translated into Hungarian. This is what the persons in the second line are for; for example a young person from Transylvania who knows Romanian well. Such instance may help the business to success. Simply the fact that they were approached in, say, Romanian, or Slovakian or Hungarian can be loaded with success very much and may lighten the constantly present ethnic tensions that frequently break out in linguistic aggression.

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*Réka Zsuzsanna Simon*

**“Minority language education itself doesn’t  
hinder the acquisition of the majority  
language”**

*Interview with Attila Z. Papp*

1. Considering the quality of education in our days what kind of educational models are there in the EU member states?

It is important to know what education is, whether it is general or higher education. The quality is fairly well institutionalized in the case of higher education. There are numerous international institutions that inquire into the questions of the quality of education in the whole higher educational systems. This has been institutionalized at international level, but, as far as I know, at the level of general education there have been no such systems created yet though they exist at national levels. It is also relevant what models of educational policy they have been attached to. I would not be able to mention any relevant typology. I can only talk about what I think and what I have experienced. One of the important aspects of the quality of education is whether the general educational system is centralized or decentralized and how well it is connected to the local community, what role do the self-governments play or do not play at all; e.g. there is a difference between the Hungarian system and the Romanian one where inspectors have a certain role. The general trend is to transfer direction or decision to the lower levels but there are also such intermediate institution e.g. in the UK where education has been kept in hand at a certain level.

As to Hungary the general opinion is that it is a pity that the system of supervisors had been dismantled and now there is not outside evaluation. It had several reasons but newly there are discussions that it should be altered. In Romania the system of supervisors is there to serve as outer evaluators but as far as I know they cannot

completely fulfil the role, it is more like an administrative organ that cannot be regarded as real evaluators.

In connection to centralization and decentralisation it is also important how financing is operating. Here again various models could be mentioned: whether the budget of the schools is coming centrally or to what extent are they supported by the local community; whether there is a normative system or not. The question could be placed into these dimensions. There are still other things, too, to talk about, e.g. the countries could be arranged according to their PISA results that show a northern and southern division. The northern countries have shown better achievements than the southern ones. In between there is a Central European region that is literally medial i.e. mediocre: Hungary, the Czech Republic, Slovakia, and Austria and there is the category of those of 'also run': Romania, Serbia, Bulgaria. Ukraine did not join PISA.

These are the trends that could be considered from the point of view of quality too. If the aim of education is to hand down certain competence this survey shows what is the situation in Europe.

## 2. What means would render these educational policies to work?

In general the question is what it is we want to achieve through the educational system. Usually there are two levels of interference with educational policy, or else two ways or two models. It has to be decided which level is aimed at; whether we want to get from the middle stage to the lower one or the other way round, i.e. there are the bottom-up or the top-down models. In this respect all the countries have their own traditions. In the French system the developments are created centrally, the Romanian system is similar. But there are other ways of interference, e.g. when the self-governments are more effective. In such cases the question is whether the strengthening of the lower level would effectively lead to results at system level. These are the major existing models. Certainly there is no uniform solution. What I observe is that – similar to the developments in Hungary - there is a swinging movement from the one to the other and back. There are political discourses or regimes that plan to strengthen e.g. the local levels. At the beginning of the 1990s the self-governments were given a free hand; today it is believed to have been a mistake and now the

wish is to hold the reins centrally; e.g. financing is planned to be taken back to the central level. I have no idea which is the better solution, I personally prefer middle solutions. Central or not, schools have an environment, there is a local community that must have a say into the internal life of schools. Since it is about education it has an output beyond one single locality. The levels have to operate under certain control. It is in order if many things are determined at local level, however, it is also important to have a national curriculum but such mechanisms and procedures are also necessary that allow for external evaluation that help schools to fulfil their dual functions, that of being part of the local life and achieve results vertically too.

## 3. If language policy should be defined how would you go about?

It could be called the language politics i.e. politics in its original meaning. I have read a furious article about higher education and the writer stated with the passion of certain linguists that practically the whole European higher education strengthened the efforts of colonization by the English language, even EU is one of the tools of this colonisation since almost every documents, albeit written in various languages are primarily written in English. It threatens with the haunting vision of language death that the English language replaces every other in higher education. I do not agree; in my opinion higher education or the entire education is operating at national levels and the fact that a small portion of it is becoming international would not lead to the death of education in the national languages. Globalization is important; it is a matter of give and take. There are documents produced only in English, but it does not matter because if there is a paper about a given topic only in English than it has to be read in English. The question is how it will be adapted later on. I do not think globalization is dangerous. I do not believe either that the mobility programs of Erasmus would endanger education in the language of the nation states. I know Erasmus students at the University of Economy and they did not strike me as if they knew only English and would take all in consequence.

At the level of general education the directions of language policy depend on which country we are talking about.

The starting point must be: if there is a demand on the part of the minority to use its own language in education, the majority state has the obligation to support it. It is not necessarily restricted to indigenous minorities, but migrant minorities, too, can claim the right, but on the other hand it may be a rightful expectation of the majority state to require certain linguistic competence from the minorities in the majority language. And if we are considering economic levels the state has its interest in the use of the majority language, apart from the questions of assimilation, culture, symbols, ethnicity, simply for economic reasons; if someone cannot speak the language of the country they could be in disadvantageous position at the market of working forces; could become unemployed more easily in need to be supported by the state. Thus, out of sheer economic considerations the state has its interest in the use of the majority language. There may be exceptions; if there is any possibility for vertical minority careers i.e. if a person belonging to a minority can take such a minority course, either connected to the region or depending on the size of the community, that does not end up in unemployment, in such a case, provided the state guarantees the conditions either legally or financially, the above scenario would not be so acute. For example if someone completes his studies at Sapientia in Csíkszereda and then finds some work in the neighbourhood, he is going to do well; if he does not speak Romanian, in theory it would not hurt him too much as he would not depend on it and it would not involve any costs for the state either. The state has to accept the existence multi-culture at a certain level. The problem is not whether it is legally guaranteed or not. There are hardly any nation states that would not have signed the Charta of Language right or would not provide with the regulations to ensure it. It is primarily not a legal question, because that is what the international contracts are for, but how it is specifically realised. Multi-cultures must be accepted by a nation state because if a community wants to use its language officially it has to be supported to some level. The classic example is that of the migrants in Sweden where it is made possible for a group of five or more non-Swedish persons wishing to use their own language in their education they can do so within the official educational system. In general this is not the practice in western countries, Sweden is the exception.

4. What are the most important features of a well prepared language policy?

Starting out from what has been told above naming them one by one, the first is to have legal background. There should be a genuine intention to set these legal backgrounds into life. If the minorities have a nation state the support has to be strengthened by bilateral agreements and in addition to professional, language political programs that effectively strengthen its revitalisation. However, it is effective only if the language-political intention does not stop at schools, the persons belonging to the minority should be able to put their education in their mother tongue to good use at the work force market, in public administration. There should be possibility to live with the linguistic right if the national minority community deems it important. The legal situation in the states of Europe is generally adequate but jurisdiction is not always successful because it depends on actual politics and the actual governmental majorities may be willing to realise the linguistic rights or may not. The Hungarian education in Transcarpathia is a striking example. In Ukraine it is an entirely linguistic question; it is not about the Hungarians at all, even if it seems like that from Hungary. In Ukraine there is a Russian speaking minority of considerable size, and whether the Hungarians in Transcarpathia can learn in Hungarian or not frequently depends on whether the actual and frequently changing and rather unstable governments are of pro- or anti-Russian feelings. If it is pro-Russian, the legal framework would be modified, such features would be built into the application of language use that are favourable to the populous Russian minority, and since it is the same country, it would help the Hungarian language education too. If the government is like it was under Timosenko that concentrates on the strengthening of the Ukrainian national identity, it would damage the language rights basically that of the Russian minority and but also that of the Hungarians. Although Ukraine has international agreements about the question and has agreed to various things in the Chart of Language Right but the realization depends always on the actual politics.

5. In the European practice how important is the question of external achievements, internal success and efficiency when drawing up language policy?

I would risk saying that the planning of language policy is hardly in any relationship with the external achievement of the schools, or with the question of efficiency or success. I say that because I have recently studied the PISA results and have written about it too. I have suggested these results to be analysed from the linguistic point too. I have compared the 2006 results of various countries. There are various relations. In the questionnaire there is one question 'do you speak a different language from that of the test or of the country.' The results can be treated in this respect too. The trend is, considering all the countries, and especially the EU countries, where the otherwise eminent Finland is no exception, that those students do worse at school whose language used at home is not the state language. There is no information about the language of education in the report; not all the countries offer such data, but as a trend it seems clear. In the case of most Western-European countries this may mostly refer to immigrants and their school achievements, however, the Swedes in Finland do no better. In the Carpathian Basin, in Romania, in Serbia, the trend is the same. If we consider the performance of Hungarians, in Romania their general school performance is weaker than that of the Romanians at the competence measurements. It is found difficult to believe and there are all kinds of protests questioning the tests, blaming the schools the questionnaires were filled in, wondering about the language of the tests, etc. In Slovakia the situation is different, there are detailed data about whether the Hungarian pupils, who are using Hungarian at home, are educated in Hungarian or not. They are not much behind the Slovakian students and in the field of interpretation the Hungarian schools are better than the Slovakian ones. The international survey could offer a detailed analysis of the topic, however, I have not found any such study. There has been only one that considered the school achievement of immigrants but the question of language was not a central question either. This why I have said that language policy and efficiency at school are not in close relationship because those who deal with language policy are not interested in these problems. And the reverse is true too, because till 2006

the question on the language of instruction was not included in the questionnaire, questions about language use appeared first in the 2009 PISA inquiry.

Should I deal with language policy, I would introduce something like the measuring of competence used in Hungary in minority education. It would be useful to know at institutional level how those minority schools where Hungarian is the language of instruction, are achieving and this knowledge could help the development of various minority schools. Such networking intention does not seem to be in the mother country and beyond the borders the Hungarian educational policy has not yet noticed its necessity even though the regulations of the given countries would render the introduction and the carrying out of such measuring possible (cf. the new Romanian educational law). In the USA there are numerous essays on the ethnic aspects of school achievements but language is not always in the centre of interest because it usually is settled with the conclusion that the African-Americans are what they are and of the Hispanics it is known that they are low-achievers. But what are the reasons and how could it be changed by linguistic political measures has not been treated. There are statements on the ethnic background without explanation.

6. In your opinion what decides the amount of finances the majority state invests in minority language education?

It is an interesting question. There are various models, e.g. in the Romanian higher education that has been extended to the general education as well; it requires relatively much investment because of the introduction of the multiplier of 2. It is possible that it had already been there earlier too, in an economically different form. A couple of years ago normative financing has been introduced in Romania, since then there is the multiplier of 2. Every subject has a given multiplier, e.g. subjects of arts have bigger multipliers; in Hungary it is 3, but e.g. in Romania the film subjects have 8. In Romania there is the extra multiplier 2 for the subjects taught in the Hungarian language. Teachers' training is the basis with 1, pedagogy, sociology, economy are the least expensive subjects because they do not need laboratory equipment. A general education in pedagogy with Romanian as the

teaching language costs  $x$  sum, and everything in Hungarian is multiplied by two. There is something similar introduced in general education too; in 2005, 2006 there were about eight so-called pilot-counties which were the first ones to agree to introduce the financing system. Romania is therefore doing quite well, because e.g. in Estonia where there is a populous Russian minority the multiplier was increased to 1,3 and that caused uproar among the Estonians. In Romania both Romanians and Hungarians have accepted that the multiplier is two. But then the situation is that there is the law and there is its application. The problem at the University of Babes-Bolyai is that though the multiplier has been agreed upon, the inside distribution of the money is uncontrollable and the Hungarians have no say in it. When the debate was about independent universities and faculties, there was basically an economic aspect in the background even if it was not openly expressed; those within the system are well aware of it. If there is the legal framework, an educational institution, especially a higher educational one, complies to the legal framework. In this sense the expansion of higher education in Hungarian was possible because it was in the interest of the institution, the University Babes-Bolyai, to introduce as many subjects in non-Romanian language of instruction as possible since it brought in more money. Distribution is decided upon internally. The case of the University Sapientia is important from the point of view of the question of language and financing that has not yet been properly discussed; it is in the Romanian state's interest that Sapientia should function, function well and has as many students as possible. The support of the institution does not come from the Romanian state but from the Hungarian budget. Usually it is not openly discussed that about 40% of the sum arriving to Sapientia from Hungary for upkeep and wage costs is spent on taxes. It is 1,5 or 2 billion HUF and it is very convenient for Romania to receive say 500 million HUF without having to do anything for it simply allowing the University Sapientia functioning in Hungarian. Thus it is the interest of the Romanian state the system to remain. Albeit the sum is not considerable compared to the budget of a state still is sufficient to finance some other small Romanian universities.

Of course actual politics decides how much capital the majority state invests in the instruction of minorities in their mother tongue. If there is a government in power that is less tolerant toward educa-

tion in minority languages it can try to infringe the financial conditions.

7. What is your opinion, does education in the minority language help or hinder the learning of the majority language?

It is a Transylvanian question. In itself education in the minority language does not hinder the learning of the majority language. I want to stress that the learning of the majority language does not depend on schools. There could be a very good Romanian language teacher e.g. in Szeklerland, but if the pupil goes to town and does not use the language than the majority language cannot be mastered. I know from my own example that while I lived in Szeklerland I could more or less speak Romanian sufficiently till I finished school; after all I was being taught for several years. But I learned the language properly when I lived in Romanian surroundings, e.g. in the army and at Romanian universities. That I was not able to learn the language during my school years was not the fault of the school but my surroundings, I did not use it. Admittedly I did not have good Romanian teachers, but had they been good I am still not certain I would have known the language better.

8. When we are talking about language education in the minority mother tongue how effective are moral arguments in persuading the majority?

I believe moral arguments are not enough and it is useful to produce a system of arguments that suggests the strengthening of the other's interests or is built upon it. It can help the matter if the whole problem could be presented in a way showing that it is financially advantageous or beneficial for special reasons. Moral arguments frequently turn into emotional ones and it is not always effective. It is true for every argument that it helps if there are several points made and the party to be persuaded is made interested.

9. Has the attitude toward language teaching in the minority mother tongue changed in the past decades?

If it has changed in Europe, I cannot judge it unfortunately, I do not know anything about it. In the Carpathian Basin or in the neighbouring countries it has changed because the legal conditions facilitated the changes. The states have financial interest in it for two reasons. One is that it is not good to produce masses of unemployed speaking minority languages; the other is that the new financing system makes it profitable for the state too if there is education in the minority language. In the neighbouring countries there have been changes but I cannot say whether it has happened in Spain too. It is a fact that the Catalonians received increasing autonomy in the past fifteen years. The education in the mother tongue could have expanded too, but it is an ambiguous situation because the question is how far it is education in the minority mother tongue in a region where Catalanian is the majority language. Parallel to all that there are other linguistic fault lines too. Within Belgium the Flamish - Wallonian and a small area with German minority; this again is different because it is not certain which is the majority language. The country is tri-lingual, or there is multi-lingual Switzerland. What I personally know about or have researched from various points of view is that the development has been widening in the case of Hungarian minorities. It is statistically demonstrable that in spite of decreasing trends in demography the proportions of schooling are increasing in the case of the Hungarians living beyond the borders. At the beginning of the 1990s not quite the half of the Hungarian nationals were instructed in Hungarian at secondary schools. In 2002-2003 it was already about 75% thus there is development in this respect made of course possible by the legal framework assured by the majority.

10. How profitable is linguistic variety for the business life in our days?

I believe it is positive. The way I interpret linguistic variety is that there should be a lingua franca, say, English and further it is preferable to have multi-language markets. There are suggestions e.g. to teach the majority speakers minority languages and that is possible

on business level; e.g. to teach business Hungarian to Romanians. If we consider international markets, English is unavoidable, but parallel knowledge of other languages means the more languages one knows the more business one can participate in. It is true within the Hungarian language too, Miklós Kontra would be able to elaborate on it. I usually say that I know various Hungarian languages the Szekler, that of Kolozsvár, or the Upland, etc. Intercultural understanding within the same language could be important too. If someone goes on research to Voivodina and does not know the meaning of 'község' could be in difficulty. It is different from that of in Hungary or in Romania, where it means a 'small town' in Voivodina it has the meaning of 'district' [Cf. the different meanings of "township" in England, Canada, Australia, and South Afrika. V.K.]. Such local differences must be kept in mind if we want to step outside of our world. But from the point of view of minority and business it is of great importance. Recently there was a survey about the Romanian cultural and economic elite. Again it turned out that the Romanian economic elite was better in competence than the cultural one.

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Anita Márku

## Situational choice of codes among the Transcarpathian Hungarians

### Abstract

*The topic of the languages used in Ukraine is getting prevalent as more and more literature has been published in the recent years on it. In the life of a minority, like the Transcarpathian Hungarian community, the question of language choice is interesting not only in the case of the Ukrainian and Russian language, but also concerning their own language, which is the minority language (the Hungarian) and the majority language (Ukrainian/Russian). In this study which is based on a representative questionnaire research (N=387) we review briefly the language choice of the Transcarpathian Hungarians. We examine their strategies of language choice in the official, public and private sphere.*

### 1. Introduction

In the recent years there have been an increasing number of writings about the language use in Ukraine. The scholarly essays and volumes explain the spheres of the usage of the two most used languages, Ukrainian the state language and Russian the largest minority language, by sociological models based on the empirical research. This problem is in the focus of the thematic volumes: *Nyelvpolitika és nyelvi helyzet Ukrajnában: elemzés és ajánlások* (Ed. Besters-Dilger 2008 [Language policy and language situation in Ukraine: analysis and recommendations]) *Nyelvi helyzet Ukrajnában: konfliktus és konszenzus között* (Majboroda & Al. 2008 [Language situation in Ukraine: conflict and concensus]). In their monograph Hanna Zaliznyak and Larisza Maszenko (Zaliznyak - Maszenko 2001) point out that according to a survey the Russian language is still dominates in the everyday usage instead of Ukrainian in Kiev (Chernichkow

ed. 2010b, cf. Masenkov 2004). In its 2003 research extended to the entire region of Ukraine, the International Sociological Institution in Kiev discovered that in the various regions of the country the dominance of Ukrainian and Russian is different: in the western and central regions Ukrainian is the dominant language, in the north-eastern part Russian is gaining ground but there are many people speaking *Surzhyk*<sup>1</sup> too. In southern Ukraine the usage of Ukrainian is low and the Russian language dominates (Cserniczkó ed. 2010b: 21).

In the life of a minority as the Hungarian community in Transcarpathia language choice is not restricted to choice between Ukrainian and Russian but between the its own minority language, Hungarian, and the majority language(s), Ukrainian/Russian, too.

The data of the recent 2001 census shows the co-existence of several minority groups: Ukrainians 80,5%, Hungarians 12,1%, Romanians 2,6%, Russians 2,5% and Roma 1,1%. Thus in everyday situations it frequently occurs that the majority of the Hungarians of Transcarpathia have to switch codes and use another language or language variety in addition to their first language in order to effectively communicate. The languages do not have the same functional weight. At the various levels of language use there is a division of functions: at some stages the first or second language of the speakers is dominant, at others they are overlapping. The present paper is a survey of the strategy of code choice, of language use in the official, public and private spheres of Hungarians in Transcarpathia.

## 2. The research

In 2009-2010 the Antal Hodinka Institute carried out a research by questionnaires about the language use based on samples taken from social strata of the Hungarians in Transcarpathia. When planning the research there were 27 settlements chosen by strict criteria (gender, age, education and type of settlement) and the stratified

<sup>1</sup> *Surzhyk* is a widely used mixed language based on Russian vocabulary and Ukrainian grammar, a contact variant of Ukrainian and Russian. The number of its users is estimated 10-18% of the 46 million inhabitants of Ukraine. (cf. Khmelko 2004, Lenets 2000, Bilaniuk 2004).

samples were taken from 387 informants. Below the research will be referred to as *Rétegezett 2009*.

Of the 387 participating informants there were 167 men (43%), 220 women (57%). Villagers 234 persons (61%), town-dwellers 107 persons (28%), those living in other urban settlements 46 persons (12%). Most of them had secondary school certificates i.e. they were without special qualifications.

The majority of the informants claimed to be Hungarians (86%); Ukrainian nationality (13%); and 1 person each Russian and Roma, 2 persons with Hungarian-German identity.

Those with Hungarian as their mother tongue represent the majority (94%); of the Ukrainian nationals, too, many claimed to have Hungarian as their mother tongue. There were 17 persons (4%) with Ukrainian as their mother tongue while there were 50 (13%) Ukrainian nationals.

The informants were asked to fill in a questionnaire consisting of 58 questions inquiring about language usage, language choice at various spheres, identity, bilingualism (lexical borrowing, code switching) and attitudes attached to them in overt and covert manners.

## 3. Language choice at the various language spheres in Transcarpathia

Language choice is influenced by several factors: the linguistic and social background of the participants, their mastering of the language, linguistic attitude, the topic of the conversation; also by the social function of the conversation (whether solidarity or exclusion) and of course by the situation, scene/environment too in which the conversation is taking place (Grosjean 1982: 136, Borbély 2001: 118).

The scene of the language use tries to model the norms of language choice of a speech community on the basis of typical participants, typical topics and typical scenes connected to them (Bartha 1999: 97). Fishman (1972) said that every community has general abstract stages of linguistic use that are social-cultural developments which fix the characteristic features of the various situational types according to implicit rules in institutionalised forms. Such are: participants,

place, topic and the codes (language, variety) attached to them. He enumerated five prototypes of spheres of language use: home, friendship, church, education and work (cf. Borbély 2001:116).

István Csernicsekó and the members of the Hodinka Antal Institute have made surveys of the strategies of language choice among the Hungarians in Transcarpathia. Csernicsekó used a different grouping in his 1998 survey and set three spheres of language use. Based on the responses of 144 informants on the questionnaire he found that Hungarian was the dominant language in the *private sphere*. In the *public sphere* (communication with acquaintances, watching television, shopping, post office, surgery, workplace, etc.) the use of the three languages (Hungarian, Ukrainian, Russian) were about equal. In the *official sphere* the proportion of the use of Hungarian was the lowest (cf. Csernicsekó, 1998; Csernicsekó ed. 2003: 68–83, Márku 2008).

Planning the research these three divisions were taken as the basis, supposing that going from *informal toward formal the proportion of the use of the Hungarian language will decrease and that of Ukrainian/Russian will increase*; there is a *division of roles between the languages*: at some stages the Hungarian at others the Ukrainian language is dominant.

#### *Official and public sphere*

To the question of the questionnaire what language(s) are being used in the various spheres and situations the most frequent answers are given in Figs. 1. 2. and 3. in percentages. The Russian and Ukrainian languages are considered together in the questions.

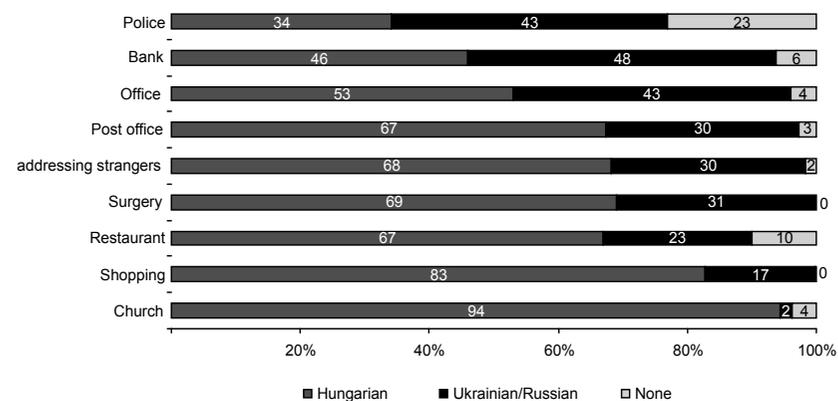


Fig.1. Spoken language use at the communicational spheres (Rétegzett 2009, N=387, in %)

The official sphere does not contain office administration only but such institutions and places are included, too that are stages of official communication regulated by written and unwritten laws (constitution, language law) and community norms.

The results have proved the hypothesis: the percentage of the use of the Ukrainian language is the highest in the official stages (office, surgery, bank, post office, etc.). It is also apparent that Hungarian is also used in such occasions; the earlier studies (Csernicsekó 1998, Csernicsekó Ed. 2003) and personal experience indicate that it is usually restricted to the spoken level even though in theory the law rendered bilingual administration possible. According to the laws in force the Hungarian language can be used besides the state language in official administration at places with absolute Hungarian majority (over 50%) (Csernicsekó 2010b: 101–103, Beregszászi–Csernicsekó 2004: 23–71, Csernicsekó ed.. 2010a).

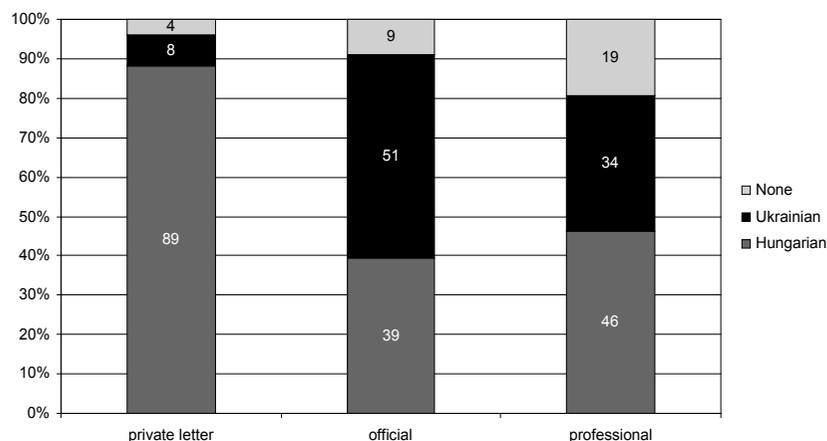


Fig.2. Written language use in the various communicational spheres (Rétegzett 2009, N=387, in %)

Fig. 2. clearly indicates that basically the state language is the language of official administration, half the informants write applications, official documents in Ukrainian but 39% of the informants use the Hungarian language, too, for such purposes

In the summer of 2010 the Hodinka Antal Institute commissioned two interviewers to ring up the self-government offices of 48 settlements with Hungarian inhabitants<sup>2</sup> inquiring whether applications to be handed in the self-governments could be written in Hungarian. The self-governments contacted were all in settlements where the proportion of the Hungarian inhabitants is over 50%, i.e. there should theoretically have been possibility to use the Hungarian language in all the offices (Csernicskó 2010b: 101–103).

The result of the telephone inquiry was that of the 48 self-governments only 28 were ready to accept applications written in Hungarian.

The results of the inquiry support the results of earlier surveys (Karmacsai 2004, Csernicskó ed. 2010b): that on the spoken level administration in Hungarian is possible at most settlements with Hungarian majority but it is problematic in the written form. The

<sup>2</sup> All the self-governmental offices with absolute Hungarian majority were approached, however, several of them could not have been reached during the two months of the program, may be due to summer leave.

written administration in Hungarian is further made difficult by the fact that bilingual (in Hungarian and Ukrainian) forms, brochures etc. are rarely available. Bilingual inscriptions are more frequent but still fewer than necessary (Csernicskó szerk. 2010b: 101–103).

The language use of the professions too, is divided: the majority of the informants have been writing professional texts in Hungarian, 34% in Ukrainian/Russian and 19% does not use either language for such purposes. The language of private letters is Hungarian only.

There was a question about the reading habits too. The use of Ukrainian is higher in the case of official documents and operating instructions otherwise Hungarian is the dominant language.

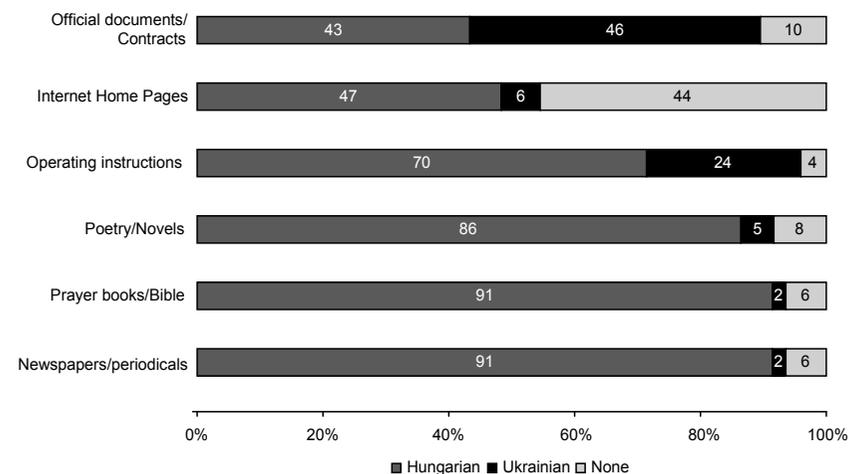


Fig.3. What language do you usually read in (Rétegzett 2009, N= 387, in %)

#### The role languages in the private sphere

The questionnaire had two questions about language use within the family: on the one hand the informants were asked to give information about what language/s they used talking to their relations and friends in their childhood, on the other it was also asked what language/s were actually being used by the family members.

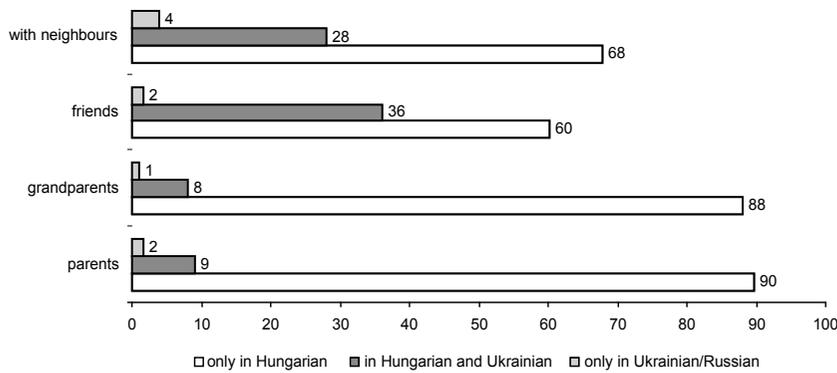


Fig. 4. Language use of informants in childhood (Rétegzett 2009, N= 387, in %)

The answers indicate that the language of family socialization was mainly in Hungarian. Communicating with friends 36%, and neighbours 28% the language use was considerably mixed (Hungarian and Ukrainian).

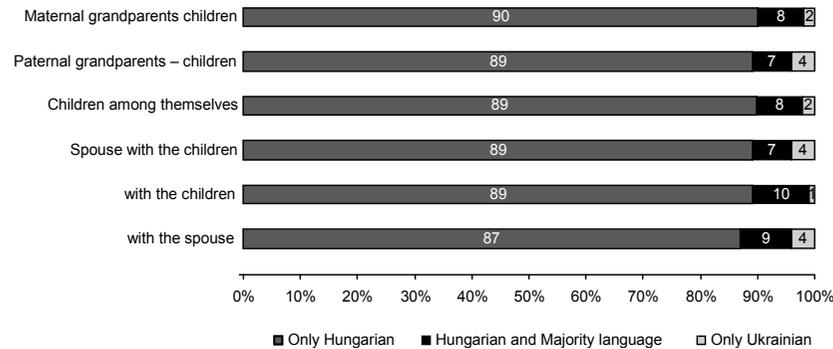


Fig. 5. Language use within the family (Rétegzett 2009, N= 387, in %)

87-89% of the informants speak Hungarian only with their spouses and children. The language used with the children is almost always Hungarian in the entire family (89-90%).

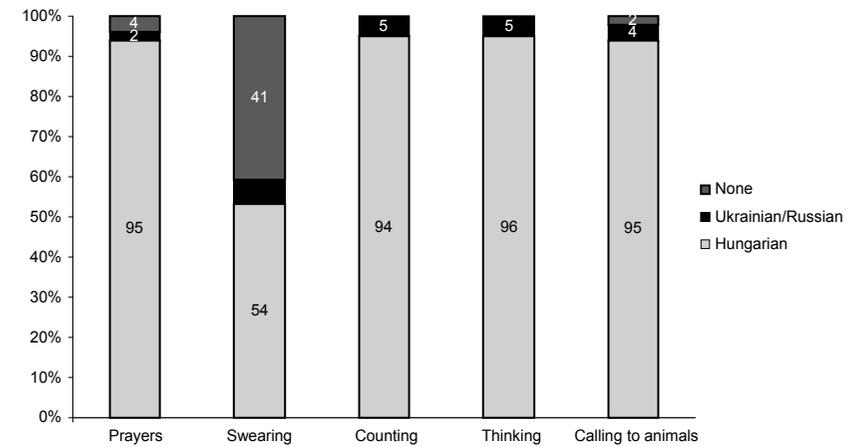


Fig. 6. Language choice in the notional sphere (Rétegzett 2009, N= 387, in %)

In the notional sphere the Hungarian language is dominant. Almost all the informants say their prayers, call to animals and count in Hungarian. 41% of the informants do not swear at all, 54% in Hungarian and 6% in Ukrainian.

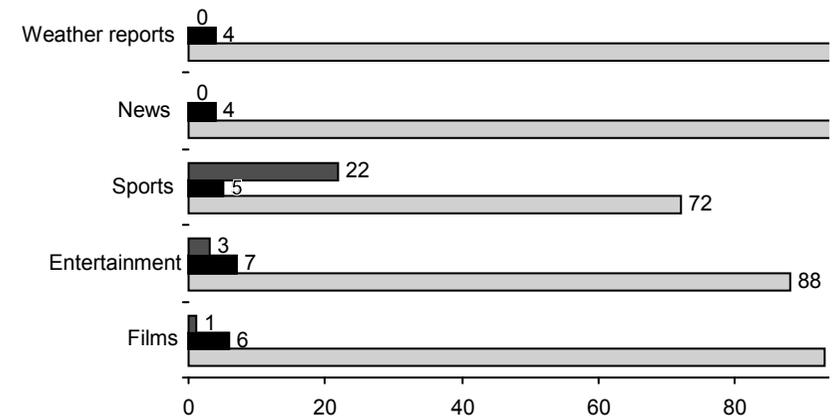


Fig. 7. What language do you chose to watch/listen the programs of TV and radio below? (Rétegzett 2009, N= 387, %-ban)

Fig.7. is about the language choice of media consumption of the informants. The dominance of the Hungarian language is conspicuous again: the informants prefer news, weather reports and films in Hungarian. However, Ukrainian appears in every type of programs too. The data also revealed that there are very few of the informants who are interested in foreign language programs, only 2% of them listen to/ watch films and 1% sports programs in foreign languages.

**Summing up** it can be stated that as we go toward the informal spheres the proportion of the use of Hungarian grows and that of Ukrainian decreases, i.e. the data justify the hypothesis. Mixed language use is characteristic of the spheres that are outside the private sphere proper and those ones that are not regulated officially which language is mandatory in the given situation. It means that in the public sphere both languages are used. In the private sphere (family contacts, private correspondence and of the so called internal spheres of language use as counting, thinking and calling to animals) Hungarian is used almost exclusively.

There is a division of tasks between the languages of bilingual communities in certain situations, in communicational stages the minority language, in other situations the majority language is used.

While in Ukraine, that is divided linguistically, politically and culturally, the battle for positions is between the Ukrainian and the Russian languages and the researchers are mainly interested in the communicational radius, spread and usage of those two languages, the Hungarians in Transcarpathia too, constantly face the problem of language choice. The question is important because a minority language lives as long as it is spoken. In other words while the demographic, political, economic and cultural sources are battling against each other, the Hungarian language can only survive in Transcarpathia if the spheres increase where the Hungarian language can be used.

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Lajos Kántor

## History viewed from above and below

### Abstract

*The author analyses five novels written by Hungarian writers living in Romania who have chosen historical topics of the distant or near past: Tibor Bálint: Zokogó majom [Crying monkey] (1969), János Székely A nyugati hadtest [The western army] (1979), László Csiki Titkos fegyverek [Secret weapons] (1990), István Szilágyi: Hollóidő [Ravens' time] (2001), Andrea Tompa: A hóhér háza [The hangman's house] (2010)*

*There is a city in front of me past the woods, past the summer meadows and it shrinks into some deep indelible lines like a Houfnagel engraving. It is like an old engraving. In such moments I believe to be standing at the side of a smoky faced prince holding the reins of his horse. The cricket is sounding, there is a falcon circling above and the prince is looking contemplatively at the city. László Cs. Szabó*

The volume *Fellegek a város felett* [Clouds above the city] I compiled for the National Textbook publisher in 2004 had the sub-title *Literary portrait of a period: Kolozsvár, 20<sup>th</sup> century*, and it was introduced by the above quotation. The book was part of the series ‘European School’ of historical, political social studies. The reason I have quoted Cs. Szabó here is that I believe he can quite exactly indicate the special relationship between history and literature – from the point of view of the author.

The present paper is not about Kolozsvár, not only about Kolozsvár (though my birth place has probably the central place). In reply to the present invitation I try to show how history has been presented

in some books I have chosen from the works of Hungarian authors of Transylvania and Romania published in the recent years or decades.

It is necessary to add some explanations. The books to be presented were published in various cities, moreover by publishers in various countries. *Kriterion* is registered in Bucharest but it became known through its sub-editorial office in Kolozsvár; *Magvető* is in Budapest; *Kalligram* is known in Pozsony and Budapest – for its publication of authors who were born and living in Transylvania. Tibor Bálint and János Székely died in Transylvania, István Szilágyi awarded with the Kossuth Prize is still working there as a member of the national board of the Writers' Association of Romania (his book was published by *Magvető*); László Csiki is travelling along the route of Széklerland – Bucharest - Kolozsvár - Budapest, in my opinion toward immortality, though we shall have to wait a couple of years after his death for it to be accepted; his oeuvre is connected to *Kriterion*, *Utunk*, *Korunk* and now *Magvető*. Andrea Tompa is our youngest first-book author, she is the vice editor-in-chief of a theatrical periodical published in Budapest whose novel has been published by *Kalligram* in Slovakia. The collection of my examples has unwittingly points to the presence of history, beyond the 'accidence' of the publishers, representing the near past or the remote past.

My second explanation relates to the genres. It has to be mentioned that not only several of the present day Hungarian prose writers of Romania have chosen their topics from certain periods or personalities of the universal or Transylvanian, Hungarian history (e.g. Csaba Lászlóffy, the librarian of the Teleki Téka who has been trying his hand in a variety of genres, or Mihály Sebestyén) –but it is also important to explain that in poetry and drama inspired by history there have been especially memorable oeuvres. In the lyric poetry of Aladár Lászlóffy and Domokos Szilágyi past centuries meet the present; the plays produced (or not) in theatres of András Sütő, Géza Páskándi, János Székely, László Csiki and István Kocsis are addressed to the people of our days as they connect their dramatic stories and parables to the past.

Now I am going stop with the explanations. However, I cannot go past literary history without mentioning the debate of 1929 and 1930 known under the title *Profess and accept* that condemned the 'dangerous fashion' of historical topics in the Hungarian literature of

Transylvania. The debate was started by Kuncz Aladár, prose writer of European horizon, editor of *Erdélyi Helikon*, and directed from the background, the speakers of the debate Sándor Kacsó, Gábor Gaál, Áron Tamási were concerned that literature was leaving the contemporary present and would not face the conflicts of the Transylvanian society, condemned this turn to the past as a cowardly escape.

Eighty years past *Profess and accept* we can declare that the authors mentioned in the introduction: János Székely, Tibor Bálint, László Csiki, István szilágyi and the young Andrea Tompa (the successors of Géza Tabéry, Károly Kós, Mária Berde, Sándor Makkai) do not represent the exodus from present day society in their novels; the least so because they had to experience history as their most personal affair. This is true in the case of Isván Szilágyi's

*Hollóidő* [Ravens' time] too, albeit in the story- playing in some of the decades of the Turkish conquest – personal matters are far more indirect than in the case of Székely who was a pupil of military school during WWI., Tibor Bálint who experienced the Romania of Gheorghii-Dej and Ceaușescu or Andrea Tompa, who knew Kolozsvár in the 1970s and 80s.

They have picked out a given historical moment, a period of life from their own past and formed the motives of their personal stories into a novel of development. The aim was not so much a testimony as a confession if it is permissible to mention set aims in connection with artistic works. 'The basic experience of the present generation of men was the war (and at the same time that was the decisive fact in our history). The truest model of our past and world was the soldier. Who does not understand that, cannot understand us.' wrote János Székely in the recommendation to *A nyugati hadtest* [The western army] in 1979.

The young hero of the first person story is sent from the military school of Vásárhely behind the front to the retiring regular army. Thus the western army cannot be imagined to be a historical documentation of the army, nor the description of a front line, notwithstanding it hits the reader with the force of a document, the moral-psychological document of the circumstances making a man out of a Transylvanian teenager, an authentic, deeply personal description of the war years. Trainers and those trained to obedience, horses and their riders (it is about horse training), fugitives from every walk of

life, people on the move driven away from their localities, prisoners of war in lagers are the characters in the stream of stories building up a novel; there are gems among them, e.g. the one titled *Pálinkás* is a psychological feat, the description of the struggle between the tortured boy and his tortured horse.

László Csiki, too, writes about the strange world experienced by a child, the strange relationship between children and grown-ups at the level of civilians in *Titkos fegyverek* (1990) [Secret weapons], Civilian life could also provide with the kind of trauma similar to that of the military student thrown into war, who was made to ride a horse with weapon in hand without proper training. In Csiki's novel a mother and her small child start out from a Székler village to faraway strange regions and when they return about a decade later they look round in the empty station building (where the radio is blaring, and a rousing speech sounds from somewhere) the village revisited seems to them as 'the leftover bit of food at the rim of the plate waiting for the youngest boy who had left to see the world.' Pieces of memory emerge about the post war Bucharest from a child's eye view. There is the special effect of view the Hungarian child sees peering out from the parquet floored laundry room of the tenement in the Romanian capital; he can hardly communicate with his surroundings; there are the memories of the old home, its gilded remoteness is confronted with the events in the street that he could barely understand. The grown-ups around him, too, are living in a double world. One small momentum of the enchanting narrative of the novel (images of history): the child had brought a book on King Mathias from home, there is the portrait King Mihail on the wall of the schoolroom than it is taken down, and then there is the mother's official application ending with 'Long live the fight for piece!' with the signature in childish handwriting: widow of Ferenc Rákóczi II.

War and peace was connected by Tibor Bálint in his epic novel *Zokogó majom* [Crying monkey] (1969) may be not on Tolstoyan scales but with epic talent, that remains one of the most significant novels of the Hungarian literature in Romania that has been translated into several languages. The sub-title 'The sufferings of a lackadaisical family' indicates that the story bridges over several periods treats it objectively but without keeping a distance. Tibor Bálint has written a novel of development; the main character, Kálmánka, from

the outskirts of Kolozsvár is himself. The sceneries can clearly be recognised; there are lively characters living their lives. But the life and blood of history is also present in a special way, in the form suitable for the 20<sup>th</sup> c., there are no lengthy descriptions but newspaper cuttings, in the form of small advertisements. The headlines reappear again and again dividing the novel into time pieces too: 'Hitler: Germany is ready to cooperate with everyone but will retaliate every assault with weapons'; 'I have not come with the olive branch of piece – said Gyula Maniu at the station of Kolozsvár'; 'The second world war has begun! England and Germany are at war since eleven o'clock am., France and Germany since five o'clock pm.'; 'Nationwide collection to help the soldiers' families – request of the wife of the governor to the Hungarian society'; 'The Jew who had stolen butter and bacon for his daughter will be tried'; 'The battle of Stalingrad has been ended'. All these are incorporated into the history of the lackadaisical family (in Kolozsvár), the anti-Jewish law, the flight of the highest administrators to Budapest and of course there follows a new set of 'small adverts': 'The draft of the new regulations for collective farms'; 'Fight for the execution of the five year plan in four years!'; 'End the American atrocities in Korea!'; 'Josif Visarionovits Stalin has died'. The new news accompany the changes in the life of Kálmánka; we learn that he is already called Comrade Vincze, is a journalist of the industrial section of a local daily and is lectured on watchfulness by his boss and then is later fired. The former pupil of the College of the Reformed Church enters the archive of memorable heroes as the survivor of an un-heroic age who tried to remain honest.

There is a sequel of the story in another novel by László Csiki: *A céda nyúl*. [The wanton rabbit] (1990). The time is the last years of the Ceausescu dictatorship, about the end of the 1980s and the definition of honesty is more complicated; of course it is not about the dictator and his top servants but the terrorized small people ensconcing in their private lives who find themselves stumbled into suspicious situations. The child hero of *Titkos fegyverek* has grown up and is living in the vicinity of the 'equestrian monument of the great king', has a flat, owns 'such a telephone' (i.e. that is one better to hide when unannounced visitors come). There comes a visitor unannounced whose historical – literary-historical ancestors could be compared to the 19<sup>th</sup> c. exile-racketeers after the Hungarian war of independence.

In the centre of the novel there are no major characters but agony, fear and hopeless expectations.

And now a great leap into the present. 2010 is the date of the publication of a first novel by Andrea Tompa who was born in Kolozsvár in 1971. Similar to the *Zokogó majom* it is a chronicle of a family in Kolozsvár and a development novel, too and is an exciting reading in the best of senses for those who do not want to separate literature and history. She starts experiencing the history of her native city as a young girl; there are several generations living together in this family, people of various nationality, experts of ups and downs with lives full of vicissitudes. Andrea Tompa herself (the characters bear their real names in the novel), though very young, suffers from the changes; the remnant of the Hungarian course she went to was dispersed at her school and she being faithful to the philological class lives her everyday bi-lingual life. In reality *A hóhér háza* [The hangman's house] is more than the story of two decades, more than a novel of Kolozsvár albeit it can be read as a document of the local history of the 1970s-80s up to the December days of 1989. It is a pity that Andrea Tompa's novel will not probably gain such a wide interest as the writings of Herta Müller (also emigrated from Transylvania) who is following an entirely different style. It is not proper to compare the work of a fresh new author to that of a (fresh new) Nobel prize winner. But it would be worth our while to meditate over what the writer György Dragomán, a fellow Transylvanian, expressed in his introduction to the 2010 Hungarian edition of Müller's *Der Fuchs war damals schon der Jäger*: 'Herta Müller's precise prose draws the reader into the game, makes him part of the system'. Andrea Tompa, too, draws the reader into the game with her flowing prose, makes us part of the system nevertheless she did not include its head, the dictator (and his worthy companion) in the plot of the novel as Herta Müller has - though indirectly - successfully done.

It would be worth trying to ponder upon why the literary description of the near past is more successful when it is treated from the so-called worm's perspective than if e.g. the Caucescus had been at the centre of the narration. Daniel Bănulescu published a book: *Cel mai bun roman al tuturor timpurilor* [The best novel ever] in 2008. The Romanian author, honoured with many international prizes, has written a good, adventurous novel about the dictator (who is still

being esteemed by some in Romania and who caused terrible harm to the country), about its 'golden age' and his downfall –the book started being written in Vienna in 2002 and quite certainly is not the best ever novel. Just as Tibor Bálint failed to create an outstanding figure of Hamudius in *Bábel toronyháza* [The highrise of Babel] (1996) in comparison to any of the characters of the *Zokogó majom*, or László Csiki to get over the system and his eponymous head that had forced him to leave his birth place. Undeniably there are excellent chapters in *Ajakír* [Lipstick] (2008) worthy of Csiki's talent and there are some memorable episodes in *Bábel toronyháza* (however, those are not about Hamudius).

Of my examples I have left *Hollóidő* (2001), the classic historical novel of István Szilágyi to the end. It plays in the far away past and could be the example of an invented past in our most recent literature. It is a created literary world built upon history – as it is familiar from Zsigmond Móricz's epic and László Németh's psychological-social prose. And where Szilágyi is truly worthy of the great predecessors is his linguistic imagination, his language creating talent (although he could not compete with them in readability). The researcher of history, of course, could not make any use of it. Maybe Professor György Poszler has written the best analysis on Szilágyi's book comparing it with his earlier excellent novel *Kő hull apadó kútba* [Stone drops into drying well] set into the world of Szilágyság. As a conclusion to our train of thought and our examples Poszler's statement could be repeated: 'The first (kő hull...) is the analysis of a historical-social segment – specific in space and time. The second is the analysis of history itself – abstract in space and time. To be precise, it is to show that the historical-social segment can be analysed. History itself cannot be interpreted. In the first the given historical situation is brutal; in the second (*Hollóidő*) the whole history is.'

# **Minority policy and minority rights**

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*Csaba Pákozdi*

## **Collective rights and the concept of “nation” in the new Fundamental Law of Hungary**

### **Abstract**

*The new Fundamental Law of Hungary has become subject of extensive political and juridical disputes. One of the main issues of these debates is the question of the reference to collective rights. The Fundamental Law constitutes not only a new framework for the State, but it can be considered also as an initiator for a more complex concept of the Hungarian Nation. The approach seems to be in line with the Recommendations of the Parliamentary Assembly of the Council of Europe.*

The new Fundamental Law of Hungary has become subject of extensive political and juridical disputes in the past months; there are also various legal questions hidden under the surface offering topics for researchers and experts of international law and diplomacy. The Fundamental Law proclaimed on the 25<sup>th</sup> of April 2011 regulates such issues too that have not been mentioned in the current constitution, e.g. responsibility for the Hungarians living in neighbouring countries in aid of creating their community self-governments and enforce their community rights. In addition the nation concept of the Fundamental Law reflects a shift of the paradigm, the earlier ethnic-historical nation concept is changing by preserving the values up till now enriched by the elements taken from the political nation concept. The amalgam of the two is a seeming contradiction in reality the birth of a new nation concept can be witnessed that legally fits into the accepted European processes of nation development.

## 1. Collective rights

Article D) of the Fundamental Law expresses that ‘Bearing in mind that there is one single Hungarian nation that belongs together, Hungary shall bear responsibility for the fate of Hungarians living beyond its borders and shall facilitate the survival and development of their communities; it shall support their efforts to preserve their Hungarian identity, the assertion of their individual and collective rights, the establishment of their community self-governments and their prosperity in their native lands, and promotes their cooperation with each other and with Hungary.’<sup>1</sup> Interpreting the Fundamental Law there is frequent reference to the so-called ‘European standards’ in connection to the community or collective rights; it is a frequent element of the political discourse, however, it is important to establish what is regarded as European standard: whether it is the practice of the states, or the principles represented in the practice of the institutions of the Council of Europe and in the international agreements and recommendations accomplished within the framework of the CE. The latter do not regulate exclusively the protection of minorities; the areas governed by them do not comprise the whole scale of legal protection. Several member states of CE on their part accept the collective rights of minorities that also appear in their own legal system as well as in their bilateral agreements. (Cf. the rights of ethnic groups in Austria or the regulations of minority protection in Slovenia and Hungary). There was a survey using a questionnaire by the Venice Committee about the minority protection systems of the states whether based on collective or individual rights published on the 20<sup>th</sup> June 1994. According to the report it can be ascertained that 13 member states of the CE have accepted collective rights as a supplementary means of minority protection.<sup>2</sup>

One of the most important legislative achievement concerning minorities of the CE has been the Framework Convention for the

<sup>1</sup> [http://www.kormany.hu./download/4/c3/30000/THE\\_FUNDAMENTAL\\_LAW\\_OF\\_HUNGARY.PDF](http://www.kormany.hu./download/4/c3/30000/THE_FUNDAMENTAL_LAW_OF_HUNGARY.PDF)

<sup>2</sup> KOVÁCS Péter: *Nemzetközi Jog és Kisebbségvédelem*. Osiris, Budapest, 1996, p.175. [International right and minority protection]; European Commission for Democracy Through Law, Replies to the questionnaire on the rights of minorities. CDL-MIN(93)10 Prov III.

Protection of National Minorities accepted in 1995. Though the protection of national minorities has been named at several instances, the accepted text of the Framework guarantees the protection of minorities through the right of individuals belonging to a minority. Nevertheless the international laws of minority protection do not exclude the possibility of collective legal protection either, as from the onset of the preparation of the Framework there was reference made to collective rights that has gradually been left out of the argumentation. Judging from the *travaux préparatoires* the primary suggestion was explicitly on the footing of collective rights and there were debates among the experts representing the member states over the concept of individual or collective rights.<sup>3</sup>

Though the agreements through CE are on the basis of the protection of individual right, however, it does not make the idea of collective protection of minority rights unacceptable or illegal that would guarantee a wider title for the minorities than individual protection and is known in the legal system of several member states of the CE.

The approach of the recommendations formulated by the Parliamentary Assembly of the Council of Europe (PACE), however, is already not exclusively that of individual rights. According to Recommendation 1492 (2001) on the rights of minorities ‘[t]he Assembly again stresses the importance of effectively protecting the rights of minorities in Europe. It considers that adequate protection for persons belonging to national minorities and their communities is an integral part of the protection of human rights and is the only way in which states can reduce ethnic tensions that might give rise to more widespread conflicts.’<sup>4</sup>

The recommendation 1735 (2006) of the Parliamentary Assembly on the ‘concept of nation’ formulates in connection of collective rights

<sup>3</sup> Several experts took the view that, when discussing the list of undertakings which could be included in the draft framework Convention, collective rights as such should be excluded. Several other experts were of the opinion that it would be better to see on a case-by-case basis whether collective rights should be formulated. It was underlined that this distinction might not be of significant importance for a framework convention which would include mainly State obligations.” Ad Hoc Committee for the Protection of National Minorities (CAHMIN) 1st meeting, 25 January – 28 January 1994, Palais de l’Europe, Strasbourg. Meeting report CAHMIN (94) 5 para. 20., Strasbourg, 1 February, 1994.

<sup>4</sup> Recommendation 1492 (2001) Rights of national minorities, para. 1.

that '[t]he Assembly notes that within the very complex process of nation building and of the nation-states' birth, the modern European states founded their legitimacy either on the civic meaning of the concept of 'nation' or on the cultural meaning of the concept. However, while the distinction between those two meanings is still to be identified in some of the Council of Europe member states' constitutions, the general trend of the nation-state's evolution is towards its transformation depending on the case, from a purely ethnic or ethnocentric state into a civic state and from a purely civic state into a multicultural state where specific rights are recognised with regard not only to physical persons but also to cultural or national communities.'<sup>5</sup>

'The Assembly also notes that since national minorities as such do not have legal personality they cannot be legal subjects and therefore they cannot be parties to contracts or covenants. However, they must be the object of collective protection and their members must enjoy the capacity to act, either as individual legal subjects or within the framework of various entities with legal personality, in defence of the respective national minorities' identity and cultural rights. These rights are not territorial or connected to territory and their recognition and protection must be legally organised both at the level of each nation-state concerned and at transnational (international) level.'<sup>6</sup>

## 2. The concept of nation

One of the critical elements against the Fundamental Law is connected to the concept of nation that has mainly been manifested in the (self)-definition of the Hungarian nation and in the sphere of the position of nationalities. The central element of the critiques is the question of nation based either on political (citizenship) or ethnic (origin, cultural belonging) definition. Both theories have appeared in the Fundamental Law considering the Hungarians living beyond the borders and thus without Hungarian citizenship they are also the members of the Hungarian nation (ethnic nation) as well as the

<sup>5</sup> Recommendations 1735 (2006) The concept of 'nation'. para 7.

<sup>6</sup> Recommendations 1735 (2006) The concept of 'nation'. para 10.

nationalities being the members of the political community as nation-forming factors (political nation). The two notions do not contradict each other, as is supported by Recommendation 1735 (2006) of PACE that in Paragraph 5. claims that '[t]he Assembly has acknowledged that in some Council of Europe member states, the concept of 'nation' is used to indicate citizenship, which is a legal link (relation) between a state and an individual, irrespective of the latter's ethno-cultural origin, while in some other member states the same term is used in order to indicate an organic community speaking a certain language and characterised by a set of similar cultural and historic traditions, by similar perceptions of its past, similar aspirations for its present and similar visions of its future. In some member states both understandings are used simultaneously to indicate citizenship and national (ethno-cultural) origin respectively. To this end, the term 'nation' is sometimes used with a double meaning, and at other times two different words are used to express each of those meanings'.<sup>7</sup>

The first sentence of the National Avowal of Faith of the Fundamental Law is 'We, the members of the Hungarian nation' could be based both on the cultural (ethnic) or political concept of nation especially that the conclusive sentence of the Avowal is 'We, the citizens of Hungary, are ready to found the order of our country upon the common endeavours of the nation.' Paragraph 7. of the National Avowal promises 'the intellectual and spiritual unity of our nation torn apart in the storm of the last century. The nationalities living with us form part of the Hungarian political community and are constituent part of the nation.' The text here reflects the situation created by the historical developments causing the Hungarian nation to be torn into parts and represents the cultural (spiritual and mental) nation concept but stresses that the nationalities living in Hungary are considered as constituent part of the political community without trying to assimilate them to the Hungarian 'ethnic nation'. According to Paragraph 9. of the Recommendation: 'These national minorities or communities, often created as a result of changes in state borders, which represent a constitutive part and a co-founding entity of the nation-state of which their members are subjects as citizens, enjoy their rights in order to preserve, express and foster their national

<sup>7</sup> Recommendations 1735 (2006) The concept of 'nation'. para 5.

identity, as provided in Assembly Recommendations 1201 (1993) and the Framework Convention for the Protection of National Minorities (ETS No. 157) and the European Charter for Regional or Minority Languages (ETS No. 148).<sup>7</sup>

There is no difference in the wording, the Fundamental Law illustrates the present situation of the Hungarian nation, stresses the acceptance of the nationalities and testifies the consideration of its own nation concept.

Article D) of the Fundamental Law is in accordance with the above as it regulates the responsibility for Hungarians beyond the borders (in the ethnical sense of nation whose members are not necessarily Hungarian citizens). It does not affect the existence of the political community that consists of the citizens of the state and that can be called 'political nation' conforming to the Recommendation of PACE 1735 (2006).

Paragraph 7. of Recommendation gives a better illustration of the question: 'The Assembly notes that within the very complex process of nation building and of the nation-states' birth, the modern European states founded their legitimacy either on the civic meaning of the concept of 'nation' or on the cultural meaning of the concept. However, while the distinction between those two meanings is still to be identified in some of the Council of Europe member states' constitutions, the general trend of the nation-state's evolution is towards its transformation depending on the case, from a purely ethnic or ethnocentric state into a civic state and from a purely civic state into a multicultural state where specific rights are recognised with regard not only to physical persons but also to cultural or national communities.'<sup>8</sup>

The right of belonging to a cultural nation independent of the 'nation of citizenship' as well as the effort for the possibility of the choice of citizenship appears in Paragraph 12 of Recommendation: 'The Assembly believes it necessary to strengthen recognition of every European citizen's links with his identity, culture, traditions and history, to allow any individual to define himself as a member of a cultural 'nation' irrespective of his country of citizenship or the civic nation to which he belongs as a citizen, and, more specifically, to

<sup>8</sup> Recommendations 1735 (2006) The concept of 'nation'. para 7.

satisfy the growing aspirations of minorities which have a heightened sense of belonging to a certain cultural nation. What is important, from both a political and a legal standpoint, is to encourage a more tolerant approach to the issue of relations between the state and national minorities, culminating in genuine acceptance of the right of all individuals to belong to the nation which they feel they belong to, whether in terms of citizenship or in terms of language, culture and traditions.<sup>9</sup>

The Paragraph 16.4 of the Recommendation of Parliamentary assembly 'invite the member states to bring into line their constitutions with the contemporary democratic European standards which call on each state to integrate all its citizens, irrespective of their ethno-cultural background, within a civic and multicultural entity and to stop defining and organising themselves as exclusively ethnic or exclusively civic states'.<sup>10</sup>

The Hungarian Fundamental Law meets the above conditions, its inner logic and wording reflects the requirements of the Recommendation 1735 (2006) of the Parliamentary Assembly of the Council of Europe and at the same time opens the way for the development of Hungary never experienced before that could be described as ethnic-cultural in its character (from the point of view of the Hungarians living beyond the borders without Hungarian citizenship) and opening the vista toward a political nation concept that could integrate into the Hungarian political community those nationality communities that do not consider themselves to be nationally Hungarians as well as the Hungarians living beyond the borders with Hungarian citizenship (too). It is of great importance because the analyses evaluating the political and ethnic nation concept separately (e.g. European Commission for Democracy through Law and the opinion of the Venice Commission on the New Constitution of Hungary) have formulated a different opinion from the above statements and probably from the original aim of the Fundamental Law itself.<sup>11</sup>

<sup>9</sup> Recommendations 1735 (2006) The concept of 'nation'. para 12

<sup>10</sup> Recommendations 1735 (2006) The concept of 'nation'. para 16.4

<sup>11</sup> European Commission for Democracy through Law (Venice Commission) Opinion on the New Constitution of Hungary, Opinion no. 618/2011, CDL-AD(2011)016, 20. June 2011. para. 39-40.

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*Iván Halász*

## **Minority rights in the countries surrounding Hungary**

### **Abstract**

*In the countries surrounding Hungary minority protection declared in the various constitutions are greatly different. Though most of the constitutions were created in the years following the changes of regimes the political attitudes expressed in them vary from total legal inclusion to anti-minority conception of nationalist nation-states.*

Minority rights are important parts of the most modern democratic constitutions. It can be said that even the constitutions of non-democratic regimes deal with the problem – as were included into the constitutions of the pre 1989 party-states. But many other older examples could also be found. The execution of these documents, however, is another matter, it frequently raises serious problems.

If a dictatorship declares the basic minority rights it would not necessarily mean that they would be taken seriously. The regulations about minority rights had the same fate as other documents of dictatorial regimes seemingly democratic that served as mere decorations to hide the real power relations. The important decisions were made at various decision making levels of the dictatorship entirely disregarding these documents.

The last important and comprehensive time of constitution making was after the 1989-1990 change of regimes in the region of Eastern and Central Europe.<sup>1</sup> Some of these constitutions were made somewhat later, e.g. in Ukraine in 1996, in Poland in 1997, in Serbian in 2006, the Kosowo-Albanian one in 2009 and finally the new Hungarian constitution called the ‘Fundamental Law’ in April 2011. The first two documents mentioned above are the constitutions

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<sup>1</sup> Nemzeti alkotmányok az Európai Unióban. Eds. Badó, Attila – Trócsányi, László. Budapest, 2005.[National constitutions in the European Union];

of the change of regime as these were answers to the same challenges and were construed in the same spirit. Their novelty lay in the fact that there were reactions in them to the deficiencies that could be discovered only after several years of democratic existence.

The situation is different in the case of the 1995 constitution of Bosnia that was pressed on Bosnia and Hercegovina by international union after the severe internal conflicts. The constitution of Kosowo was made because Kosowo won its independence and the legitimacy of the constitutional frame introduced by the special envoy of the UN secretary general was not sufficient any more. That imposed document was influential upon the new constitution in many ways. The new Serbian constitution wanted to end the unfortunate period starting in 1990 when the country was involved in war that could not end victoriously. Figuratively it can be said that Serbia had to go through its own Trianon. The new constitution wanted to break with the era of Milosevich that proved unsuccessful and to prepare for the handling of the Kosowo crisis and wanted to found a system of public law adequate to the actual political balance of powers.

The Hungarian 2011 Fundamental Law<sup>2</sup> is different in the sense that it has closed a longer period (there were more than twenty years after the change of regime) and its declared aim was the legal and ideological establishment of a new epoch. May be this is why that in contrast to the text accepted in 1989 that was minimalist on ideology while the new Fundamental Law seems to be fairly full of it. It may be due to the aim that the new fundamental Law should serve a kind of new consolidation of the Hungarian statehood. Its success does not depend on the frequent mentioning of historical aspects and ideological detours but it is noteworthy all the same. However, it is now not about the complex interpretation of the Hungarian Fundamental Law.

The constitutions made after the changes of regimes had minority matters of which there have been many studies published since 1990, therefore it is difficult to come up with something novel. Most of these writings, quite correctly, tried to approach the matter in its complexity and concentrate on the text of the constitutions as well as on the lower level legal norms created according to them – first

<sup>2</sup> in English: [www.kormany.hu](http://www.kormany.hu)

of all on the laws on minorities, language usage, elections and state administration.

The aim of this essay is much more modest – it really intends to concentrate on the text of the constitutions in force and draw some conclusions of them. Further it wishes to examine the spiritual-political conditions these constitutions were created in and at least partially set them in a system. As every such publication it will highlight certain characteristics. The author's situation is made easier by the interesting fact that the regulation upon minorities of most of the analysed constitutions proved to be relatively stable and have not changed much since the changes of regimes.

Concerning the area under scrutiny the focus is on the post-transitional countries surrounding Hungary, i.e. the states that shared a similar fate and problems in the previous decades.

During the changing of regimes it was not only the claim for general democracy pronounced in the region but it went hand in hand with a kind of renaissance of nationalism too. The national feelings and grievances suppressed during the Soviet era came immediately to the surface and caused problems for the domestic and international decision makers. It was a natural reaction to the earlier suppression of national feelings. The west, the winner of the cold war, had to face the need to try to channel these motions otherwise they would prove unmanageable and could lead to tragedies the like of the Yugoslav war in 1991. Therefore they began to urge the states of the region to accept the existing borders in exchange every state had to guarantee a minimum of minority rights at least for their own minorities.

This was the cold war victors' external frame concerning the minorities in the post change of regime constitutions. However, everywhere there were national features, a mesh of ideas of local nation states and minority communities, old grievances and relationships. All the constitutions made at the time (between 1989 and 1992) had this dual frame, the marks of the spiritual duality. Of the constitutions of the period the Slovenian constitution<sup>3</sup>, created in December 1990, was the most considerate about the minorities. As a proof, at the very beginning among the General Provisions Article 5. declares that

<sup>3</sup> in English: [www.servat.unibe.ch/icl/si00000\\_html](http://www.servat.unibe.ch/icl/si00000_html)

‘In its own territory, the state shall protect human rights and fundamental freedoms. It shall protect and guarantee the rights of the autochthonous Italian and Hungarian national communities. It shall maintain concern for autochthonous Slovene national minorities in neighbouring countries and for Slovene emigrants and workers abroad and shall foster their contacts with the homeland.’

What the makers of the constitution meant by the protection and guarantee of the rights of minorities is explained in Article 64 on human and civil rights. Here the legal situation of the two autochthonous national communities is described. The Slovenian constitution guarantees the autochthonous Italian and Hungarian national communities ‘the right to use their national symbols freely and, in order to preserve their national identity, the right to establish organisations and develop economic, cultural, scientific and research activities, as well as activities in the field of public media and publishing’. They also ‘have the right to education and schooling in their own languages, as well as the right to establish and develop such education and schooling.’

According to the constitution a separate law defines the areas where bilingual education is mandatory. The declaration of the Slovenian constitution is quite unusual in the region that not only Slovenes living beyond the borders of Slovenia or in Diaspora have the right to ‘foster their contacts with the homeland’ but the autochthonous national communities and their members living in Slovenia to their own nations of origin and their respective countries. The Slovene state supports the realisation of these rights financially and morally. The Article states that these communities have the right to ‘establish their own self-governing communities in the geographic areas where they live’ also they have right to direct representation in the National Assembly and their rights are regulated by law. It is an important guarantee that ‘Laws and regulations and other general acts that concern the exercise of the constitutionally provided rights and the position of national communities exclusively, may not be adopted without the consent of representatives of these national communities.

The only problem with this generous minority regulation is that it concerns only the two indigenous communities pointed out, Italians and Hungarians; none of these exceed 100 000 persons. Other

indigenous communities are not named, Croatian, Serbian or other south Slavic national nor Germans. There is exception made in the case of the Roma living in Slovenia because the constitution declares that a special law regulates the situation and rights of Roma. Thus there are regulations that could be called minority decrees of general character. These rights are summed up in Article 61., 62., and 63. that ‘everyone’ is eligible to the right to freely express affiliation with nation his or national community, give expression to his culture and use his language and script Further that ‘Everyone has the right to use his language and script in a manner provided by law the exercise of his rights and duties and in procedures before state and other bodies performing public function.’

Slovenian constitution contains a general proviso against general anti-discrimination, and declares any incitement to national, racial, religious or other discrimination and the inflaming of national, racial, religious or other hatred or intolerance as anti-constitutional.

The Slovenian regulation at the constitutional level is complex and detailed. There is no other state in the region under scrutiny that would give so much attention to this question. Thus Slovenian regulation is not only outstanding for its liberality and generosity but for its being so detailed, too. Its only shortcoming is that it makes a difference between the two categories of minorities: autochthonous national communities and not- autochthonous minorities. There are no comparable divisions in any of the other constitutions of the region.

What are the reasons of the selective generosity of the makers of the Slovenian constitution? Probably it could be found in the Yugoslav traditions with its openness for minority rights as well as in the local democratic public feeling. It is also to be remembered that the question of the Italian and Hungarian minorities was not a difficult one in Slovenia in the early 1990s.

The Slovakian constitution<sup>4</sup> accepted in 1992 is an entirely different example. It cannot be said that it is a discriminative one, neither that it is the worst one from this respect in the Eastern and central European region, but there is a characteristic misgiving against minorities in it. The reader of this constitution has the

<sup>4</sup> in English: [www.servat.unibe.ch/icl/si00000\\_.html](http://www.servat.unibe.ch/icl/si00000_.html)

impression that the makers of the constitution were not really pleased to give what they gave; but were giving it because of international expectations and the fact that Slovakia is the country with the largest proportion of inhabitants with strong minority identity, almost 15%.<sup>5</sup>

The Chapter on Basic Rights and Freedoms of the Slovakian constitution accepted in 1992 has a special sub-section on the rights of national minorities and ethnic groups. Mentioning minorities, the text of the Preamble is also important. It does not express directly that they are also considered nation forming element as did the text of the 1949 of the Hungarian constitution accepted in 1989. Article 68. Paragraph 1 declares that 'The national and ethnic minorities living in the Republic of Hungary share the power of the people; they are constituent factors in the State.'<sup>6</sup> There are no such magnanimous statements in the Slovakian constitution, the preamble, trying to grasp the character of the historical moment of making the constitution, states that the Slovakian nation together with the national minorities and ethnic groups living on the territory of the state adopt the constitution as the citizens of Slovak Republic, through their representatives. This indirectly gives the impression of the minorities also having been considered constituent factors.

The Slovakian constitution mentions the basic rights of the national and ethnic minorities such as the rights to maintain and development of their language and culture, traditions and customs, as well as set up and maintain their institutions.

The right to use the minority language in dealings with the authorities is declared in the constitution, however, only following the regulation on the right to master the state language. All the same the right to the education in the mother tongue is declared in the constitution as well as the right 'to participate in the solution of affairs concerning national minorities and ethnic groups'.

These formulations reveal the historical circumstances of the adoption of the constitution, because in 1992 the Slovakian public was fairly suspicious of the minorities and in general was full of national slogans. The distrust toward minorities is expressed by Article 34.

<sup>5</sup> Halász Iván: Bevezetés a modern Szlovákia tanulmányozásába. A modern Szlovákia kézikönyve. PPKE, Piliscsaba, 2008. [Introduction to the study of modern Slovakia. Manual of modern Slovakia]

<sup>6</sup> www.servat.unibe.ch/icl/si00000\_html

Paragraph 3. saying 'The enactment of the rights of citizens belonging to national minorities and ethnic groups that are guaranteed in this Constitution must not be conducive to jeopardizing the sovereignty and territorial integrity of the Slovak Republic or to discrimination against its other inhabitants.' The later consequences of this early distrust e.g. in 2005 the Slovak Constitutional Court declined positive discrimination on national, ethnic or racial basis.

The provisions of the Croatian constitution<sup>7</sup> adopted during the period of changes of regimes have interesting features. There is a dualism in the document. Its long preamble with historical discourse calls the country a nation state, on the other hand enumerates all the minorities thus elevating them to nation forming factors. The other interesting feature is that the Croatian constitution pays little special attention to minority rights, at a most highlighted position – at the very beginning of the big chapter dealing with human and liberty rights Article 14. declares that every 'Citizens of the Republic of Croatia shall enjoy all rights and freedoms regardless of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, education, social status or other characteristics. All shall be equal before the law'. Article 15. contains more detailed regulations that declare that 'Members of all nations and minorities shall have equal rights in the Republic of Croatia.' Their equality of rights is regulated by a special constitutional law. There is a law to ensure – apart from the general law of suffrage - the election of their own representatives in the parliament – Sabor. Finally the Constitution reassures the minorities that 'Members of all nations and minorities shall be guaranteed freedom to express their national identity, freedom to use their language and script, and cultural autonomy.'

The Romanian constitution<sup>8</sup> adopted in 1991<sup>9</sup> declares Romania a nation state among the General Principles. However, it also names several important minority rights since Romania is not an ethni-

<sup>7</sup> in English: www.sabor.hr/lgs

<sup>8</sup> in English: www.cdep.ro/pls/dic/site

<sup>9</sup> Ioan Stanomir et al: A romániai politikai és alkotmányos rendszert elemző államfői bizottság jelentése. Vitaindító. Magyar Kisebbség. Nemzetpolitikai DSzemle. 2010. 1-2. szám Kolozsvár.[The report of the presidential committee analysing the Romanian political and constitutional system]

cally homogenous state, there lives the largest minority of the whole region, the Hungarian nationality community with more than 1,5 million members. The Romanian constitution in force starts out from the unity of the Romanian nation that is regarded the basis of the state. Article 4. Paragraph 2. says that 'Romania is the common and indivisible homeland of all its citizens, without any discrimination on account of race, nationality, ethnic origin, language, religion, sex, opinion, political adherence, property or social origin.' Accordingly the unity of Romania does not necessarily means ethnic-cultural unity. Article 6. of the Romanian constitution expressly deals with the right to identity. According to its point (1)' The State recognizes and guarantees the right of persons belonging to national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and religious identity'. And (2) 'The protection measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens.' Paragraph 2 is a softer version of the clause on 'distrust of nationalities' found in the Slovakian constitution discussed above.

The rights important for the everyday life of the minorities are regulated in random articles of the Romanian constitution. Thus the right of education is found in Article 32. Paragraph 3.: 'The right of persons belonging to national minorities to learn their mother tongue, and their right to be educated in this language are guaranteed; the ways to exercise these rights shall be regulated by law.' Article. 128 on the<sup>10</sup> *Use of mother tongue and interpreter in court* indicates that legal processes will be carried out in Romanian at the courts but members of the national minorities of Romanian citizenship have the right to use their mother tongue at courts too as regulated by the constitution. There is a special Paragraph (4) saying 'that foreign citizens and stateless persons who do not understand or do not speak the Romanian language shall be entitled to take cognizance of all the file papers and proceedings, to speak in court and draw conclusions,

<sup>10</sup> Juhász József: Új alkotmány Szerbiában.[New Constitution in Serbia] [www.balkancenter.hu](http://www.balkancenter.hu)

by means of an interpreter; in criminal law suits, this right is ensured free of charge.'

Finally Article 62. has to be mentioned guaranteeing the representation of national minorities in parliament. According to Paragraph 2. 'Organizations of citizens belonging to national minorities, which fail to obtain the number of votes for representation in Parliament, have the right to one Deputy seat each, under the terms of the electoral law. Citizens of a national minority are entitled to be represented by one organization only'. The paragraph is especially important for minorities with small membership because their participation in legislature is ensured by privileged representation with full powers. Fortunately the Hungarian minority is in no need of it.

Of Hungary's neighbours Serbia has the most recent constitution.<sup>11</sup> This new fundamental law<sup>12</sup> was not the result of democratic public feelings during change of the regime neither amid the waves of national neo-renaissance. The Serbian makers of the constitution were led by the wish to regain their standing after several lost wars and the fall of the regime led by Slobodan Milosewits, secondly to make the necessary gestures that would serve them during the process toward EU integration, and thirdly to prepare for the international regulation of Kosowo, or more precisely to do everything to procrastinate, eventually impede, the proclamation of its independence even by offering special minority rights to those wishing to secede. This might be the reason why the Serbian constitution has been considering the greatest attention to the minority problems in the region and also formulates it most magnanimously. Here are the most references to the collective character of the national communities.

Among the general principles the Serbian constitution declares that 1the Republic of Serbia shall protect the rights of national minorities, the state guarantees special protection to national minorities for the purpose of exercising full equality and preserving their identity.' The second part of the constitution holds the title of 'Human and Minority rights and Freedoms'. The constitution regulates the direct implementation of the guaranteed rights in great detail, the

<sup>11</sup> in English: [www.srbija.gov.rs/...o.../ustav](http://www.srbija.gov.rs/...o.../ustav)

<sup>12</sup> in English: [www.rada.gov/const/conengl.htm](http://www.rada.gov/const/conengl.htm)

possibilities of the restriction of these rights and the character and aim of the guarantees, etc.

In Article 21. the Serbian makers of the constitution gave careful attention to the prohibition of discrimination. Accordingly 'All are equal before the Constitution and law. Everyone shall have the right to equal legal protection without discrimination. All direct or indirect discrimination based on any grounds, particularly on race, sex, national origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability shall be prohibited. Special measures which the Republic of Serbia may introduce to achieve full equality of individuals or groups of individuals in a substantially unequal position compared to other citizens shall not be deemed discrimination'. The last sentence is an almost perfect textbook formulation of the essence of positive discrimination.

Article 47. of the Serbian constitution contains the right to express national affiliation freely; and that 'No person shall be obliged to declare his national affiliation.' May be this is a reaction to the sad experiences of the war years with the formulation of Article 48. 'The Republic of Serbia shall promote understanding, recognition and respect of diversity arising from specific ethnic, cultural, linguistic or religious identity of its citizens through measures applied in education, culture and public information.' The prohibition of inciting racial, ethnic and religious hatred is a similar measure. Article 49. rules that 'Any inciting of racial, ethnic religious or other inequality or hatred shall be prohibited and punishable.' Article 81. on the impetus given to the spirit of tolerance, has a similar aim 'In the field of education, culture and information Serbia shall give impetus to the spirit of tolerance and intercultural dialogue and undertake efficient measures for enhancement of mutual respect, understanding and cooperation among all people living on its territory, regardless of their ethnic, cultural, linguistic or religious identity.'

The most complex portion of the constitution is the subsection 3. on the rights of the persons belonging to national minorities. It is an important innovation that Article 75. explicitly declares that they 'shall be guaranteed special individual or collective rights' and 'individual rights shall be exercised individually and collective rights in community with others in accordance with the Constitution, law and international treaties.' The Constitution also declares

that they 'shall take part in decision-making or decide independently on certain issues related to their culture, education, information or official use of languages and script through their collective rights in accordance with the law.' This means that the national minorities living in Serbia can elect national self-governances to realise their above rights and this way the cultural and educational autonomy can come into being on individual basis in Serbia.

The measures against discrimination have already been mentioned. The Serbian constitution has specially section on the Prohibition of discrimination against national minorities. According to Article 76. 'Persons belonging to national minorities shall be guaranteed equality before the law and equal legal protection.' Further 'Any discrimination on the grounds of affiliation to a national minority shall be prohibited.' 'Special regulations and provisional measures which the Republic of Serbia ay introduce in economic, social, cultural and political life for the purpose of achieving full equality among members of a national minority and citizens who belong to the majority, shall not be considered discrimination if they are aimed at eliminating extremely unfavourable living conditions which particularly affect them.'

The constitution guarantees equality for the members of minorities 'to participate in administering of public affairs under and assume public positions under the same conditions as other citizens.' 'When taking up employment in state bodies, public services, bodies of autonomous province and local self-government units, the ethnic structure of population and appropriate representation of members of national minorities shall be taken into consideration.' The provision represents a system of proportions in the public sector. What is really important is how these generous measures are realized in practice. Article 78. prohibits forced assimilation: 'Forced assimilation of members of national minorities shall be strictly prohibited.' Also in areas where members of national minorities live traditionally and in large numbers 'Undertaking measures which would cause artificial changes in ethnic structure of population shall be strictly prohibited.'

In Article 79. there are rights enumerated in order to preserve characteristics; basically this is where the majority of minority rights are described: right to expression, preservation, fostering, developing and public expression of national, ethnic, cultural, religious specifi-

city; use of their symbols in public spaces; use of their languages and script;’ in areas where the members of the minorities make a significant majority of population, they have the right to ‘have proceedings also conducted in their languages before state bodies and organisations with delegated public powers, bodies of autonomous provinces and local self-government units. They have the right for ‘education in their languages on public institutions and institutions of autonomous provinces; founding private educational institutions; use of their name and family name in their language;’ in areas where they make a significant majority of population they can use the ‘traditional local names, names of streets, settlements and topographic names also written in their languages; complete, timely and objective information in their languages’. Since Serbia is a country where one of the provinces, Voivodine, has authorization for special jurisdiction, the Constitution declares that ‘Under the Law and in accordance with the constitution, additional rights of members of national minorities may be determined by provincial regulations.’

Similarly to the Slovenian constitution discussed above as the first item, the Serbian constitution, too, in Article 80. declares the right of the members of national minorities to undisturbed relations and cooperation with their compatriots outside the territory of the Republic of Serbia.’ The constitution does not mention the Hungarian mother country but compatriots; this formulation is wider and in its way more correct.

Finally there is the Constitution of Ukraine<sup>13</sup> adopted in 1996 to be introduced. The Ukrainian fundamental law was created after long and animated debates and was seriously influenced by the conflict between the head of the state and the parliament. In connection of minority questions the more important aspect is the general social and spiritual medium of the early 1990s when the development of the modern Ukrainian statehood was started. Nation building was the great project of the Ukrainian intelligentsia in the 19<sup>th</sup> and 20<sup>th</sup> centuries. Ukraine is a large and regionally divided country. Modern Ukrainian national identity in the Central European sense could

<sup>13</sup> Tóth, Mihály – Csernickó, István: Az ukrán kisebbségi jogalkotás fejlődése és két részterülete: a névhasználat és a politikai képviselet. REGIO 2009. No. 2. pp. 69-107. [The development of Ukrainian minority regulations and its two sub areas].

develop with difficulty and was only the characteristic of western Ukraine for a long time. Galicia was frequently referred to as Ukrainian Piedmont by authors. The events of WWII. threw heavy shadows on the nation building role of the regions as did the local policy of the Soviet power that had no interest in the strengthening of the Ukrainian identity. It seems that at the time of the declaration of independence in 1991 several important eastern and south eastern regions regulated their own relationships to the Ukrainian national ideology. A great proportion of the inhabitants does not only use the Russian language but consider themselves Russian nationals too. All these had to have their influence upon the new democratic Ukrainian constitution.<sup>14</sup>

The new Ukrainian constitution of 1996<sup>15</sup> does not contain chapters or subdivisions on minority protection, but the provisions most important for minorities can be found at the very beginning of the text among the general provisions and in the chapters on human rights. As in the case of other states of the region that have gained their independence after the changes of regime, the Ukrainian fundamental law, too, gives special attention to the problems concerning nation and nationalities. The constitution has been accepted by the Ukrainian Highest Council (Verkhovna Rada of Ukraine) on behalf of the Ukrainian people, the citizens of Ukraine of all nationalities. It is true, in the preamble the makers of the constitution mention that the independent Ukraine is ‘based on the centuries-old history of Ukrainian state-building’ and on the right to self-determination realised by the Ukrainian nation, all the Ukrainian people. ‘The people are the bearers of sovereignty and the only source of power in Ukraine. The people exercise power directly and through bodies of state power and bodies of local self-government.’ There is ambiguity concerning language use. Article 10. of the Constitution declares Ukrainian the state language. ‘In Ukraine, the free development, use and protection of Russian, and other languages of national minorities of Ukraine, is guaranteed.’ Article 11. points out an interesting task of the state, namely: The State promotes the consolidation and

<sup>14</sup> Tóth, Mihály: Az 1996. évi ukrán alkotmány megszületése. Pro Publico Bono, 2011.No. 1. pp.85-96. [The birth of the Ukrainian constitution in 1996].

<sup>15</sup> Tóth, Mihály: Az 1996. évi ukrán alkotmány megszületése. Pro Publico Bono, 2011. No. 1. pp.85-96. [The birth of the Ukrainian constitution in 1996].

development of the Ukrainian nation, of its historical consciousness, traditions and culture' and at the same time it has to 'promote the development of the ethnic, cultural, linguistic and religious identity of all indigenous peoples and national minorities of Ukraine', too. All kinds of discrimination and privileges are prohibited by the constitution. Article 53. rules that 'Citizens who belong to national minorities are guaranteed in accordance with the law the right to receive instruction in their native language, or to study their native language in state and communal educational establishments and through national cultural societies.'

One of the peculiarities of the Ukrainian constitution is that though Article 2. it describes Ukraine as a unitary state, there is a whole chapter on the status of the Autonomous Republic of Crimea. The national minorities are not guaranteed privileged parliamentary representation. The president of Ukraine should be not only a 'citizen of Ukraine who has attained the age of thirty-five, has the right to vote, has resided in Ukraine for the past ten years prior to the day of elections', but also must 'have command of the state language'

From the above it becomes evident that minority protection is very varied in the constitutions of the countries neighbouring Hungary. Most of the constitutions were created in the same period and show the signs of controversial tendencies – there was the general extension of rights on the one hand and the nationalist and nation-building attitudes on the other. The constitutions of the former members of Yugoslavia differ most from the other countries because these were created not so much for changing the regime but trying to prepare for the joining the European Union. This is why the detailed generous Serbian regulation of minority protection resembles more the new post-conflict Bosnian or Kosovo constitutions than the more restricted ones of the Central European states. When analysing the texts of constitutions the tradition of law enforcement should also be considered that is not uniform in all the states of the region. This is also true of the traditions of keeping or evading the laws by the state offices and individuals. The minority situation of a country cannot be established solely by the formulation of its constitution. Lower level regulation is also necessary but most importantly the proper understanding of the elements of operation of the given society.

*Barna Bodó*

## Regions as political litmus

### Abstract

*In this article I analyse the proposal initiated by Romanian president Traian Basescu concerning the reconfiguration of the Romanian administrative divisions. The problem belongs to the general topic of regionalism in Romania, which in the last 20 years appeared on the political agenda in different contexts. In this case the problem of reconfiguration is a political one, with tensions between different parties and institutions. Our analysis shows that different political actors use the topic of administrative reconfiguration in order to achieve political benefits. Moreover, the president's proposal is not based on professional studies, and a real process of reconfiguration must be connected with debates on the constitutional revision, which is not possible in the present political context.*

### 1. Region and the image of the future

For the Romanian political elite the most important and controversial question in 2011 was the reorganization the country's administration and that of the regions. It was not justified socially as the citizens had to bear the brunt of the difficult economic situation, with the health system lacking sources, the new Labour Code raising social tensions – just to mention the most important public questions. These all are most urging matters but do not lend themselves to public debates that would allow any of the political participants involved to achieve success. Moreover, 2012 is a year of elections in Romania an important matter for every participant of the political life and especially for the governing Democratic Liberal Party that has been searching for a 'positive' issue since there have been several politically-professionally debatable decisions in their crisis-management, not to mention

those that had been inevitably botched<sup>1</sup> resulting in their popularity reaching an unprecedented low.

The preliminaries of the issue go back to the controversy between the president of Romania and the Romanian parliament:<sup>2</sup> in 2007 the parliament relieved the president off his duties and the then very popular Băsescu won the following referendum with flying colours and regained his office. Later the president created committee of experts to prepare a report on the situation of the Romanian political and constitutional system.<sup>3</sup> The committee presented its report in January 2009.<sup>4</sup> At the presentation, in the presence of the important political institutions, the head of the state said that the administrative system created forty years earlier had to be given up. The system consisting of 41 counties and Bucharest as a municipium is cumbersome and in addition there were fictitious development regions aligned to it. He was of the opinion that the actual administrative division of the country was not suitable as it was not created for a free country but for a one that wanted its citizens to be controlled and kept under surveillance; Romania is no longer a police state and does not need so many administrative units and the bureaucracy attached to it. A slimmer administrative system is needed with 9-12 counties in

<sup>1</sup> In May 2009 the Boc-government introduced a compulsory flat rate tax, i.e. the entrepreneurs had to pay a set sum of tax irrespective of their turnover. In consequence about half million small enterprises were closed down and thus instead of gain for the budget the number of unemployed increased.

<sup>2</sup> The charges against the president were that he abused his power, disregards the regulations of the constitution, transgresses his role of mediator between political institutions by grossly interfering with the activity of constitutional institutions. The major party of the opposition was the Social Democratic Party (PSD) initiated the voting (322 yes, 108 nay, 10 abstain) that suspended Traian Băsescu from his office. As the result of the referendum on the 19th of May 2007 with 75% support the head of the state was restored to his . Cf. Andrei Stan: Conflictul dintre președinte și premier (2004-2008) a *Sfera Politicii*, 2009/September, No.139.

<sup>3</sup> The president signed the decision about the so-called Stanomir-committee on the 14th of May 2008. The honorary chairmen were prof. Aurelian Crăiuțu (University of Princeton) and prof. Mattei Dogan (Centre Nationale de la Recherche Scientifique, Paris), chairman Ioan Stanomir (professor of law, University of Bucharest), secretary Radu Carp (docens of political science, University of Bucharest). The Hungarian member of the committee was Emőd Veress (senior lecturer Sapiientia-EMTE).

<sup>4</sup> *Magyar Kisebbség* 2010/1-2. published the text of the report with the analysis of Attila Varga (*Egy elfeledett és félretett Jelentés.*)[A forgotten and ignored report].

the terminology of the actual constitution or regions according to the requirements of a future constitution. The reason is that the regions need a balanced sustainable development. It becomes possible if real local autonomy will be the result of the reorganization.<sup>5</sup> President Emil Boc was talking about the reform of the state, referred to the European Union and the expectations of the citizens – without definite recommendations.

Attila Varga called the Santomir-report ‘forgotten’ in his analysis he published in *Magyar Kisebbség*. Perhaps he would refer to it differently now because the focal topic of the political debates of 2011 was the administrative reorganization described in the report. It is not the first time the question is on the agenda and not the last time either because it can be taken for granted that the present political constellation would not allow the governing Democrat Liberal Party and the head of the state to carry out the realization of the reorganization, that is treated as a political task of greatest importance, in a short time. The problem is whether the regions and the questions of the reorganization represent the real future forming elements and indicate real political intentions or are these merely elements of a political game based on political context? It should also be clarified how the reorganization of administration is connected to the modification of the constitution, as revealed by the recommendations; thirdly, in connection to the reorganization the political participants’ attitude towards the language use of the minorities as a means to preserve their identity is a decisive element for the Hungarian minority.

## 2. Suggestions to the administrative reorganization in Romania

The reorganization of the Romanian administration is a recurring dilemma in the past two decades whether it is necessary at all and when it is how it should be carried out and along what principles. During the preparation of the 1991 constitution the question was already raised but – according to some opinions – the influential elite

<sup>5</sup> <http://www.juridice.ro/38439/raportul-comisiei-prezidentiale-de-analiza-a-regi-mului-politic-si-constitutional-din-romania-update-reactii.html>,

of the near past and Romanian Communists derailed the process, that could be true – but considering the number and type of the questions raised during the preparation of the constitution it seems obvious why the question of the reorganization of the administration was pushed into the background.

It was in the second half of the 1990s that the question of the administrative system and its reorganization appeared in connection with regionalisation the first time.<sup>6</sup> In 1998 the Romanian government commissioned a team of experts from the ministries with the participation of foreign experts<sup>7</sup> to prepare a study on the development of a regional policy for Romania's integration into the EU. The major problems the so-called Green Charter discussed were the disparities and differences in development among the various regions and these became the focus of interest and the ways how the administration should be working was left out of consideration. The survey became the basis of the Romanian policy of regional development, the solutions suggested in it provided the background for the later decisions and laws. There were commentaries published in connection to the introduction of developmental regions<sup>8</sup> but there has been no wide ranging social debate. There were suggestions that included the reform of administration as well but it was the topic of a parallel agenda and the two were not connected albeit the Polish example could have been followed.<sup>9</sup>

*The 2001 Memorandum of the Provincia Group*<sup>10</sup> is noteworthy with the recommendations by members of the Romanian and

<sup>6</sup> D. Sandu: <http://sites.google.com/site/dumitrusandu/regionalizare>

<sup>7</sup> the members are not known the contemporary press talked about Danish experts

<sup>8</sup> Cf. the special issue of *Magyar Kisebbség*: Réka Horváth and Emőd Veres: Regionális politika és területfejlesztés Romániában [Regional policy and area development]; Barna Bodó: Régió és politika [Region and politics] in: *Magyar Kisebbség*; Emőd Veres: A regionális fejlesztés szabályozását meghatározó tényezők Romániában, [The decisive features in the regulation of regional development in Romania] In *Kisebbségkutatás* 2006/1

<sup>9</sup> <http://cursdeguvernare.ro/regionalizarearea-romaniei-modelele-europene-de-regionalizare-cum-s-a-reorganizat-polonia.html>,

<sup>10</sup> The group was founded in 1999 as a joint platform of Romanian and Hungarian intelligentsia, its organ *Provincia* was published in Romanian and Hungarian parallel. Cf. Gusztáv Molnár: *Az erdélyi kérdés* [The question of Transylvania] 1977 both in Hungarian and Romanian; A. Mungiu-Pippidi: *Transilvania subiectivă*, Humanitas, 1999.started the debate.

Hungarian intelligentsia on the reform of the Romanian administration. For them the basic element is the regional model, governing at the middle level and with the historical, economic, and social-cultural identity of the country's provinces as decisive features.<sup>11</sup> The document was offered for public debate and presented to the Romanian Parliament that did not reflect on it and there was no sign that it had been considered at all.

*The primary goal of the 2003 amendment of the constitution was the joining to the EU but several of the parties had suggested discussing the constitutional reform of the state too.*<sup>12</sup>

In its spirit the proposal signed by the Pro Europa League is not far from the initiatives of the Provincia Group. The collective led by Smaranda Enache organized several meetings on the administrative reform of the country with the participation of university professors and civil social leaders and prepared a proposal as a result. They considered necessary to create administrative regions that are based on the historical ones. The objective was set to decrease the differences between the regions and suggested to start the reorganization in 200. The proposal was published in the organ of the League (Buletin Informativ PEL 2005/11-12. November) also sent to the parliament and also left unanswered.

The 2006 proposal of Valeriu Stoica is worth mentioning, too.<sup>13</sup> The most notable momentum of the study offered for public debate written by the former minister of justice is that he defined twelve steps the reorganization should take, i.e. the problem cannot be solved under or because of political pressure. In his analysis Stoica pointed out that the central power had continuously broken local autonomy. He was of the opinion that real regional autonomy could only be developed if the regions in question are of sufficient size and strong enough economically and financially. There are several questions following these remarks: e.g. what does it mean 'large enough'

<sup>11</sup> The *Memorandum* was signed by 13 public persons on the 8th of December 2001 and presented to the Romanian Parliament. The signatures later were increased to 100.

<sup>12</sup> Cf. the debate in *Magyar Kisebbség* 2002/3: Varga Attila: A román Alkotmány módosításának időszerűsége. [The timeliness of the amendment of the Romanian constitution]

<sup>13</sup> [http://www.cadi.ro/docs/valeriu\\_stoica\\_reevaluarea\\_constitutiei.pdf](http://www.cadi.ro/docs/valeriu_stoica_reevaluarea_constitutiei.pdf),

and economically ‘strong enough’? But the author created further problems with his remark that in Romania’s case either counties or regions/provinces are necessary, the parallel creation of the two are not justified by the size (big? small?) of the country. He suggested ten regions with Bucharest and its area as one of the regions, but no further details were given.

These are the preliminaries of the present initiative. There is a law concerning the reorganization of public institutions and offices,<sup>14</sup> it does not directly deal with the question of reorganization though it is connected to it. In the explanation of the bill there is reference made to the crisis, inflation, decrease of the economic production, deficit of the budget and as a remedy for all the problems the reorganization of the administrative institution has been offered, as a means to lessen budget expenses, to more effectively support the business sphere.

In September 2011 the situation hardly differs from the one at the beginning of the year when the head of state had formulated his proposal as a categorical expectation; there has been no concrete step forward, no proposition worked out along the proposal. Since no detailed program has been published most probably there is none.<sup>15</sup> On the other hand the press is full of various ideas and maps. Probably it was in June when reorganization was most frequently talked about, that was when the head of the state invited the members of parliament of the parties to meet and almost every political participant felt the need to air his opinion.

A completed detailed plan should not be expected of the head of the state because that is not his task; and it is also questionable for the president to aggressively keep the problem of reorganization on the agenda.

<sup>14</sup> accepted by the Parliament 2009.329. Published in the official gazette No. 2009/761.

<sup>15</sup> Andrea Paul-Vass, state councillor of Emil Boc head of state made the statement that the government were working on both the amendment of the constitution and the reorganization of the administration... The reorganization should happen before 012. The only aim is to get access to the total sum of the EU money between 2014 and 2020. [http://www.e-politic.ro/Palatul-Victoria/Andreea-Paul-Vass-propunerea-de-reorganizare-administrativ-teritoriala-apartine-si-Guvernului\\_118485\\_6.html](http://www.e-politic.ro/Palatul-Victoria/Andreea-Paul-Vass-propunerea-de-reorganizare-administrativ-teritoriala-apartine-si-Guvernului_118485_6.html),

As a prime minister Emil Boc’s acts are controversial in connection to the question. He has stated that the reflections coming from the European Union are positive and the reorganization is necessary without fail if Romania wants to get all the financial sources available from the Union. However, the press has cited the standpoint of the EU Commission’s Directorate General for Regional Policy that the sums available had been measured according to the local reality. Moreover, the reorganization would be harmful because the 2007-2013 support program was based on the present situation and every change on the way would prove troublesome.<sup>16</sup> In answer to the specific proposal the head of the government has again made confusing statements because he referred to the earlier proposal of the opposition party (PSD) the members of which declined the meeting with the head of the state in June. The 2003 memorandum of the Social Democrats contains elements that are acceptable for the PDL too, but again nothing more is known.<sup>17</sup>

The Social – Liberal Union published a document in June containing a not too detailed concept of the administrative system and regional development.<sup>18</sup> There is an enumeration of general points of views as the aim of the reform (working local authorities, local development, the growth of the capacity of local administrations to obtain sources) and it is not clear either whether the regions to be created would be side-by-side or above or instead of the counties. In this case the restructuring is planned as a long process till 2016.

The present answer of the Democratic Alliance of Hungarians in Romania (DAHR) is negative to the restructuring. Its reason is that the reorganization suggested by the majority parties would negatively change the language use and cultural conditions for the Hungarian communities – thus different solutions are necessary. DAHR, too, has prepared a map for the reorganisation to show an acceptable concept where northern Transylvania is one region starting from Szeklerland through the counties of Bihar and Szatmár. This map – justifiably –

<sup>16</sup> <http://stiri.acasa.ro/social-125/comisia-europeana-fondurile-ue-nu-au-legatura-cu-impartirea-administrativa-154325.html>,

<sup>17</sup> <http://www.n24plus.ro/stiri-social-politic/reorganizarea-administrativ-teritoriala-a-romaniei-pune-pe-jar-scena-politica.html>

<sup>18</sup> <http://www.cipriandobre.ro/download/Viziunea%20USL%20privind%20administratia%20publica%20si%20dezvoltarea%20regionala.pdf>,

reminds the Romanian politicians to the second Vienna decision and they regard it as a returning of history, therefore strictly refuse the idea. Apparently they are not ready to see the point of the proposal: it is not the past DAHR and the Hungarians want to return to but are attached to the political conditions assuring the preservation of their identity. President Bănescu has offered a proposal with compromise for the DAHR they should accept the proposition of the governing party about the delineation of regions that does not consider ethnic boundaries, and in 'exchange' the two independent Szekler counties, Hargita and Kovászna, could stay as before without any attempt at their unification, standing under direct supervision of the government.<sup>19</sup> He does not believe in the existence of Szeklerland and has called it a lie. The decision making organization of DAHR has declined every notions other than their own proposal about 16 regions of development and suggested the reorganisation of the administration to be postponed. They argued that the question of the developmental regions and the general administrative reform have to be divided and especially the latter needs postponement. That caused a standstill in the governing coalition because without the DAHR there is no required majority for the government to operate.<sup>20</sup>

In the meantime new groups announced their disagreement with the reorganization; there were counties, e.g. Co. Bihar where the county council held out the prospect of a referendum if the government intended to act without first consulting the population.<sup>21</sup>

### 3. Arguments and points of view

The first question concerning the reorganization is whether there is any real political intention to realize it. The answer could be looked for in the considerations and arguments raised in justification for the administrative reconstruction.

Since the reconstruction was put to the agenda through the study prepared on the bequest of the head of the state, the Santomir

report should be re-considered. In spite of the fact that the analysis contained several valid arguments for the necessity of the reorganisation of the Romanian (constitutional) system the kind of arguments and the logic of the analysis closely reflected the events of the time it was composed (the president's suspension) i.e. the style of the Report is adapted to the person who had commissioned it.

The theme of the administrative reorganization characteristically follows the political style of Traian Bănescu aiming at surprising the political opponent. It was so successful that the debate stuck in the rut of political slogans, the dialogue run out before it could begin effectively. The analysts<sup>22</sup> blamed the head of the state that his questions were faulty at several levels: it was impossible to keep the problem of the constitutional reform on neutral ground, and that it was treated as a campaign matter;<sup>23</sup> that it considered 10 out of the 23 chapters of the Report i.e. not the entire report, only portions of it were highlighted. There were questionable arguments and remarks in the president's speech introducing the Report. He stated that the actual administrative division of the country was no more tenable because it was not created for a free country but for the citizens to be controlled and kept under surveillance.<sup>24</sup> It means that he did not (wanted to) understand the essence of the question: the division of the administration serving the purposes of dictatorship happens if the attachments and expectations of the local communities are not accepted and no institutions are created to express them. In the administrative system of Romania the county-borders were the only elements unchanged, the institutional system dated from after 1989 as the law was made in 1991. The actual situation was more like the enforcement of central plans since the local communities had not been involved in the social debate over the regional reorganization, it is the suggested reorganization that shows forcible elements. The other questionable remark of the president was on the relationship between democracy and bureaucracy when he stated that Romania was no longer a police state and did not need so many administrative

<sup>22</sup> Andreea Pora: Controversele revizuirii Constituției, In *Revista* 22, 2009.January 16.

<sup>23</sup> The presidential elections were held after the publication of the Report in 2009.

<sup>24</sup> The statement was not correct even in the 1968 context because the Szekler counties were created in answer to local protests.

<sup>19</sup> Cf. his statement in B1 Television on the 23th of June 2011.

<sup>20</sup> <http://www.e-nepujsag.ro/op/article/megalakult-az-%C3%BAj-szkt>,

<sup>21</sup> <http://www.ziare.com/oradea/stiri-actualitate/bihoreni-vor-fi-chemati-la-referendum-pentru-a-si-apara-judetul-2277524>,

units and the bureaucracy attached to it. A scientific axiom had been disregarded namely that democracy is more costly than dictatorship, the institutional framework of democracy is much wider than that of dictatorial systems. The verdict was that the head of state had no valid arguments.

The government had no idea, nor communicational strategy about the reorganization, moreover the head of the state is the president of PDL at the same time.

The major governing party, PDL promoted the reorganization, but for what purpose? There had been no instance in the history of the party when it would have different opinion from that of the head of the state. The arguments – to get the EU money, decrease the budget expenses – are secondary and (sometimes their veracity too) questionable.

The president covertly treated the problem as a campaign issue and probably there existed a scenario within the party how through the change of the political elite accompanying the restructuring the local political conditions could be plied to collect more votes for the governing party that would conveniently exceed its genuine support during the elections.

The opposition did not need any arguments to turn down the administrative reorganization, and stated only as much as to show that they had formed their opinion but did not find the problem important enough.

In another proposition (Stoica) the size of the country was pointed out as a decisive feature in the reorganization. In itself it is not an argument, only if there are clearly formed plans about the relationship between the central and local administrations after an analysis of the operation and performance of the local administrations.<sup>25</sup> The analysis of the Pro Democratia Association in Bucharest edited by Árpád Tódor declared that the formation of regions has sense if they are accompanied by the increase of the competence of local powers, if regional parliaments are created. In other words reorganization is not a question of areal redistribution but that of the tasks distrib-

<sup>25</sup> Cf. the publications of the Pro Democratia Association: *Reforma constituțională în România – aspecte teoretice și istorice*, 2008; and *Reforma constituțională în România - Teme, dezbateri și propuneri*, 2008.

uted among the various administrative levels. If there is a clear idea about that, the institutions can be planned and the relationship between them established. The 'drawing of maps' is the last step.

When planning the administrative system the ideological frame could also prove to be decisive. In one of his essays Emőd Veress (Veress 2006) cited Emil Cernea, the Romanian professor of legal history who declared about the former Hungarian Autonomous Province (HAP) that the formation of regions justified the fear of the consecutive Romanian governments from employing the idea of excessive administrative decentralisation. Indeed the creation of HAP generated enmity among the Hungarian minority toward the striving for unity of Romania by refusing its authority, by openly expressing the loyalty toward Hungary, by rejecting the use of the Romanian language as the state language. That is why it was terminated. The Hungarian analyst has an entire different opinion. First of all talking about the fear of decentralisation on the part of the Romanian government at the threshold of Romania's joining the EU means the misunderstanding of the historical developments. It is important to view the political context of the creation of HAP from the point of view of the minorities. The primary analysis started out from the possibilities available during the era and the aims of the political participants, and the essay of Stefano Bottoni explains what was the meaning of 'autonomy' from the Hungarian and the Romanian point of view in 1952 (Bottoni 2003). According to Bottoni the 1950 Romania's administrative division was entirely modelled on Soviet examples i.e. it was not the 1952 re-division was the adoption of the Soviet model though at the time Moscow sent concrete 'recommendations' concerning the new constitution and the minority regions.

The question of primary importance for Bottoni was what justified the creation of the province the nationality problem had officially been solved for four years. Since there could have been no question about autonomy it offers the classic example for symbolic politics. Why needed the Romanian central leaders HAP as a political tool? Bottoni should have elaborated on the problem of the 'enclave'. In the discourses about autonomy there are several motives that indicate the administrative split of the Hungarian minority community in two: those left outside of HAP could retain their Hungarian identity with greater difficulty. Bottoni's very detailed research could not

discover any such documents that would indicate that the leaders of the Communist party had been aware of the fact that by the creation of HAP the manoeuvring room had been increased for the majority. It is known that the creation of HAP meant the 'solution of the nationality problem at a higher level' directly upon Soviet influence and order. In consequence the Hungarians living outside of the area of HAP could be treated differently. E.g. in the 1950s bi-lingual inscriptions was general – that could be discontinued without Moscow or anybody else saying a word about. Bottini remarked that the development of industry in the 1950s and the migration accompanying it had changed the ethnic image of the towns of Transylvania and the gradual closing of the educational and higher educational institutions with Hungarian as their teaching language outside HAP had already started at the end of the 1950s. The more-or-less covert motivation for the creation of HAP and its being tolerated for a short time became acceptable for the Romanian leaders in a wider context. HAP thus was a political tool that brought surplus in language use and culture for one third of the Hungarians but the majority of them it was a loss.

This is a question that keeps unavoidably returning in connection of every administrative reorganisation.

#### 4. Conclusion

In my analysis I have not touched on the processes of administrative reorganisation discussed in the literature<sup>26</sup> since it was not its theoretical frame that was important for me but the aspects of the emergence of the proposition in the political context and the consequences for minority policy.

The answer to the first question is: the preparation of the reorganisation of the regional administration is not ready, there have been no necessary studies made, there is no accurate scenario, the proposi-

<sup>26</sup> Several foreign and Hungarian authors can be cited, importantly there are scholarly studies by Romanian authors too: Mircea Preda: *Actuala organizare administrativ-teritorială a României este perimată?*; or the analysis of the Bucharest Institute of Public Policy: A. Ghinea-A. Moraru: *Considerente privind procesul de descentralizare în România, reforma administrativ-teritorială*.

tion is not based on valid concepts of the future that would indicate political intentions, thus it is a political game built upon political context. The question of the reorganisation of the administration has been separated from the question of the amendment of the constitution because there is not enough time to carry it out before the next elections, there is no constitutional way for it. The ideas of the government are not about regions but about mega-counties thus the name used in the constitution has remained and the realization does not depend on the emendation of the constitution.

The third question was about the guarantee of the minority rights that is most important question for the minorities. In spite of the fact that the Stanomir-report treats the issues concerning the rights of minorities correctly as it warns to observe the ethnic borders and historical traditions; Romania, too, has ratified<sup>27</sup> the documents of the international regulations on minority protection which (concerning the reorganisation of the administration the question of the protection of minorities must be considered), however, during the public debates there was no reference to them on the part of the majority and also there is talk about political segregation because of the HADR-proposition.

The political debate of 2011 was kept in such a frame that was inevitably harmful for the minorities.

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<sup>27</sup> There is reference to the European Charter of Regional or Minority Languages and the Framework Convention for the Protection of National Minorities.

Veress, Emőd (2006) A regionális fejlesztés szabályozását meghatározó tényezők Romániában, In *Kisebbségkutatás* 1 sz. [Defining aspects n the regulation of egonal development in ÚromanianG

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## History of Minorities

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*Maria Kurdi*

**Addition to the Portrait of the Political Thinker: István Bibó's Analysis of the Conflict in Northern Ireland and Its Possible Solutions**

**Abstract**

*This study is concerned with István Bibó's article about the Northern Irish crisis, which was written in 1976. First it discusses the place of the article in the oeuvre of Bibó, referring to some recent critical comments especially on the author's view of how the crisis could be contemporary point of reference. The conclusion is that Bibó's article is not only a thoughtful discussion of the Northern Irish situation and its historical background, but it is valuable for the development of Irish Studies in Hungary in an intercultural context as well.*

In the oeuvre of István Bibó the 1976 essay titled 'The question of Northern Ireland in light of an impartial political tribunal' seems to be exceptional at first sight because the questions of political theory, history and society analysed by the author concentrates on the problems of a distant country. However, if we consider the methods of his treatment of the topic it becomes evident that in spite of its unusual focus, Bibó's essay fits seamlessly into the row of his works dealing with national self-determination, the possibilities open for ethnic minorities, the responsibility of the international communities of nations representing the major part of his interest. The 'Northern Irish Question' is one of the author's case studies that can be connected to a longer essay 'The lameness of the international community of nations and its remedies'. In the latter writing he described that in the decades after WWII. it became evident through a succession of conflicts, how perplexed was the international community of nations, how it proved to be lacking in principles, inventions and results during the really crucial international political debates, especially in controversies about state-forming and conclusive decisions over territories. He found the most serious shortcomings in the case of

the basic well-grounded reasons in the solutions. In the case of the renewed Arab –Israeli conflict he offers the content and ways of the realization of a final peace-plan considering the sequence of the steps to be taken, and he takes special care what additional steps could be taken if for some reason the peace plan should be halted<sup>1</sup>. The case studies display the methods, how the principle of self-determination, impartiality and independence should appear in the international court of arbitration based on the political power of judgement and not by laws.<sup>2</sup>

Reflecting on Bibó's oeuvre it is the essay of Mihály Aladár Dobrovits: 'István Bibó's international conflict theory. The conflicts of Cyprus, Near East and Northern Ireland' that analyses Bibó's text in question in detail though the exhaustive comparative analysis is focused on the other two areas. The parallel discussion comparing topic and time is justified because Bibó himself considered the conflict of the three regions and their remedies in the same terms. According to Dobrovits, Bibó's essay was born in a moment when it became evident that the two national communities not only were unable to handle the conflict alone but any kind of solution seemed only possible to have been conceived by some kind of dictate without the participation of the conflicting parties. Looking back, Dobrovits criticizes Bibó's suggestions for a solution the gist of which he saw in the need for the modification of the Irish-British borders defined in 1922 and that not according to historical but to ethnic facts, even if the new border would be uneven, dotted with Protestant enclaves in Catholic regions and *vice versa* and the border could cut through settlements too. The plan was hardly realisable was open to criticism according to Dobrovits because besides some political theorists nobody had seriously considered such a solution and it had not been adopted by any political party in its program (apart from some extreme right – mainly British – programs.<sup>3</sup> Gábor Kardos's essay is another summary of

<sup>1</sup> Ibid. pp. 389-398

<sup>2</sup> Kardos Gábor: „Bibó István nemzetközi konfliktuselmélete. A ciprusi, a közel-keleti és az északír konfliktus”. In: *Rubicon* 2004/4: 47. [István Bibó's international conflict theory. The conflicts of Cyprus, Near East and Northern Ireland]

<sup>3</sup> Dobrovits Mihály Aladár: „Idegenként összezárva: Bibó István esettanulmányai Észak-Írország, Ciprus és Izrael konfliktusairól”. In: *Világosság* 43. 2-3 (2002): 51-52.

Bibó's writing on Northern Ireland together with the analyses of the conflicts of Cyprus and Near East. While the author lauds Bibó's capacity in recognizing the situation in the case of Northern Ireland too, concludes about Bibó's suggestion for the division of the region that the actual political developments had taken a different course.<sup>4</sup>

In the present paper written on the occasion of the Bibó-centenary it is intended to give further aspects to his essay on the Northern Irish crisis. On the one hand it wants to draw attention to its merits so far left unobserved by the previous commentaries and analyses and also to some arguable points and shortcomings, too. Dobrovits claims that the events since the Publication of Bibó's essay and especially the Belfast Treaty, signed in 1998, should be taken as the proof of Bibó's analysis,<sup>5</sup> while I shall refer to the ideas of a contemporary Irish politician also left unrealised that do not render Bibó's suggestion so unrealistic. On the other hand I also wish to point out that in Bibó's essay certain aspects of the concept about the settlement of the Northern Irish conflict and its consequences have proved to be pointing ahead and in the later processes they have received roles in one way or another. Thirdly I want to make an excursion to indicate how Bibó's writing has remained especially topical and is providing an important message and inspiration for new approaches of comparative Irish studies that could offer Hungarian researchers successful contributions at international forums.

In the introduction to his essay Bibó modestly remarks that, as a distant voice, he gives his opinion in an international debate that formally is the internal affair of the United Kingdom and the affair of the western world and thus he hazards to make statements that had already been made by others.<sup>6</sup> Reading the text with our present knowledge of the situation, however, it becomes evident that the author had reliable information about the historical dimension of the Northern Irish question and enough sensitivity in writing about the irreconcilable stand points of opposing parties: the Protestant majority and Catholic minority. Already the title suggests that

<sup>4</sup> Kardos 2004:49.

<sup>5</sup> Dobrovits 2002:51.

<sup>6</sup> Bibó, István: „Észak-Írország kérdése egy lehetséges pártatlan politikai döntő bírósági döntés fényében”. In: *Különbség*. 403. [The question of Northern Ireland in the light of an impartial political tribunal]

Bibó deals primarily with the historical, social and cultural components of the Northern Irish problem in order to find solutions for the conflict. According to Gábor Kovács, Bibó was mainly interested in the process of democratic transition thus he deserves the attribute as the 'specialist of regime changes'. The major part of his intellectual endeavours were directed toward the development of the possible varieties of transition and the avoidance of the pitfalls of these transitions.<sup>7</sup> For Bibó the Northern Irish crisis starting in the late 1960s and later becoming ever more acute seemed to be such a situation to be solved in 1976 when he wrote the essay.

Being short, the essay is very concise and is divided into sub-chapters containing the aspects discussed. Thanks to its flexible construction these are in constant dialogue with each other and in the various sub-chapters together light is thrown on the different communal features and goals of the conflicting Catholics and Protestants, inhabitants of the same land, citizens of the same country.

The background of the problem is mapped out in the part 'Relevant facts', with an excellent selection of the complicated data, because, as Bibó remarked it is necessary to review the important facts relevant for the problem in order to make decisions about them. He summed up these facts in seven points starting with the religious differences since the 16<sup>th</sup> c. when the majority of England's and Scotland's population turned toward Protestantism while Ireland remained almost entirely Catholic under English rule that was at first loose and full of revolts.<sup>8</sup> There is only a well-chosen short line in the essay summing up the early, 16<sup>th</sup> c., conflicts that count as the dividing line in the history of the two nations' relationship. Maybe it would have been worth the author's while to mention the political reasons leading to the 17<sup>th</sup> c. Protestant settlements, too.

The sub-chapter gives an informative summary about the creation of the independent Irish Free State in 1922, with the exclusion of six Ulster counties that became an independent part of the United Kingdom called Northern Ireland but the involuntary arrangement

<sup>7</sup> Kovács, Gábor: *Az európai egyensúlytól a kölcsönös szolgáltatások társadalmáig. Bibó István a politikai gondolkodó*. Budapest: Argumentum Kiadó, Bibó István Szellemi Műhely, 2004: 465. [From the European equilibrium to the society of mutual services. B.I. the political thinker]

<sup>8</sup> Bibó 1976:406.

proved to become the hotbed of problems concerning the practising power and later even leading to civil war. Discussing the tension created by the varied ethnic and religious composition in Northern Ireland, Bibó pointed out the following important features summed up in his facts mentioned as number five and six: since Northern Ireland was created to contain the majority of the Ulster Protestants, there were included Catholics too, about 1/3 of the population, and the number of Catholic inhabitants has been continuously growing since the establishment of the territory thanks to their better productivity; in consequence the attitude of the Ulster Protestant majority became gradually keener. The increasing demand of the Catholic Irish for political and parliamentary participation and strengthened by their demographic growth presented a danger for the Protestants in power and though they have not reached total majority, but together with the radicals of the country and those inhabitants who did not necessarily identify with Ulster Protestantism, could create a situation that would endanger Protestant majority in parliament and as well as the Northern Irish political and national identity of the self-conscious Ulster citizens.<sup>9</sup>

When depicting the facts, the author did not find it important to mention data of historical importance, but points out the processes that by the creation of the part-country deepened the problems of the relationship between nation- groups of differing ethnicity, religion and culture deeply rooted in their past. According to Gábor Kardos, Bibó had maintained his basic tenet in connection of Northern Ireland too, that the debate is about development of nations, creation of state, discussion over territory and it is not a religious, i.e. cultural controversy.<sup>10</sup> I myself have found that the Bibó-text itself contradicts this statement, if only partially. Identity and territory are closely connected ideas and values in Northern Ireland and considering the deepening chasm between the communities of different religion and culture, it is no mere chance that Bibó tried to find the solution in the geographic rearrangement of the territory.

In the portion of the essay 'The Illusions of the Ulster Brits and the Illusions of the Irish' he declares that the conflicting demands of

<sup>9</sup> *Ibid.*

<sup>10</sup> Kardos 2004:49.

Ulster Protestants and Ulster Catholics to fulfil their own wishes are equally irrational. Bibó uses the word *chimera* for these demands to exactly express how difficult it is to understand the roots with their historical burdens. He writes that it was frequently established about the Irish that for them there exists no difference between history and present and they can enumerate recent grievances and such of 300 hundred year old ones as if both happened just recently. But it is understandable because the Irish have the same grievances for 400 years or more – in contrast to the varied history of other nations – and in a sense it is still the case.<sup>11</sup> In contrast to the Hungarians, we could add. In an interview George Szirtes, poet of Hungarian origins honoured with the T.S. Eliot –prize, who arrived to England as a child in 1956, explained that he was invited as a resident poet by Trinity College Dublin in 2000. He believed the invitation was due to the fact that he was not really English but of English and Hungarian double identity. During his stay in Dublin he was asked to give talks on nationalism. Szirtes, as probably was expected of him, compared what he considered to be the defining features of Irish nationalism with the situation in Hungarian history. In his arguments he pointed out that the intensity of the former was due to the fact that the Irish had one important enemy, the English, during their long history (if not counting the Vikings) while the Hungarians had several such enemies thus their negative attitudes against their oppressors was more divided.<sup>12</sup> In his characterization of the special historical experience of the Irish among the nations of Europe it appears that Bibó had forecast one of the most important notions of the later Dublin talks of Szirtes.

Analysing the Protestant demands Bibó remarks when dividing of the historical Ireland in 1922 the borders were delineated in the interest of the Protestants to ensure that even the small dispersed groups of Protestants should stay within Northern Ireland even at the cost of considerable Catholic population. The result was that the national identity of the Ulster British got into danger, and as a consequence the shortening of the human rights and suffrage of the

minority was the price of the conservation of the Ulster Protestant power in Northern Ireland. While the Protestants have vehemently been adhering to their power, the demand of the Irish Catholics that the whole island should become unified in one state was also irrational, it was a demand that was meant as a kind of reparation of the injustice, the 17<sup>th</sup> c. settlement of the Ulster Protestants. It is evident that the injustice committed 300 years before ceased to be 'reparable'. However ready the Irish were to consider the injustice relevant, and kept complaining about and insisted on keeping it in evidence, it is evident that a present integral 'remedy', the chasing of the Ulster Protestants back to their ancient country would be a similar injustice.<sup>13</sup> Thus Bibó gives an exact account how irrational and fanciful the demands of both parties were, moreover how incompatible, thus the contemporary Northern Irish situation seemed unpromising and its further deterioration impossible to be checked by British military intervention.

The definition of nation and national identity and their relationship has great importance in Bibó's oeuvre. Gábor Kovács said that according to Bibó political intention, territorialism and the existence of the state are fundamental for the development of a nation because a nation is a historic product. Within national identity, adds Gábor Kovács, as if continuing Bibó's train of thought, the members of a community are not only in relationship with one another but also with a given territory, thus national identity is linked to a certain territory.<sup>14</sup> The connection between nation, national identity and territory is a very complex question not only in Northern Ireland but in the entire Ireland since the settlement of the Protestants and later, too, because of the division of the country. In Western Europe the borders of the territory of the states as a frame for national identity were more or less stable since the end of the Middle Ages.<sup>15</sup> Though Ireland is in the western part of Europe it is an exception. Besides the analysis of the cultural chasm between the communities living there, the realization of this contradiction explains that Bibó dedicates a special paragraph for the relationships concerning nation.

<sup>11</sup> Bibó 1976:410.

<sup>12</sup> András Gerevich: „Hungarian Roots, English Traditions’: George Szirtes on Becoming an English Poet”. *The Hungarian Quarterly* 42 (Winter 2001): 103-104.

<sup>13</sup> Bibó 1976: 411.

<sup>14</sup> Kovács 2004:357,3 62.

<sup>15</sup> *Ibid.* 362.

At the beginning of the sub-chapter ‘Conflicting groups: religions, classes or nations?’ Bibó argues that though there exist prominent religious and class differences in Northern Ireland these can be found in other countries too, thus they could not be the real reason for the unprecedented conflicts. Thinking further he reaches the conclusion that in this case the conflict broke out between politically defined groups with common historical, political experiences thus it is the confrontation between *nations* or *parts of a nation*. The Northern Irish Catholics belong to the Irish nation, the Protestants are a part of the British nation.<sup>16</sup> Bibó’s explanation suggests that among the seemingly homogenous nation living on the Irish island the Protestants are a separate group, and this, in fact, is historically true. The description of the division as being strict and unchangeable, however, raise the question whether it would be possible to approach the problem from a different angle by widening the nation-concept that has been limited to national identity. Bibó did not alter his concept that he developed during his career and gives his essay a more practical turn. The methods he proposes for a solution may be in the name of ‘anti-speculative alignment’ as László Percz had ascribed his attitude, that implies that for Bibó every theory has to grow solely out of the interpretation of reality and should return back to it: therefore the theory that broke away from reality and cannot return to it is a false theory.<sup>17</sup> Bibó did not come to the idea of the reunification of the Irish nation, but it seemed obviously necessary to him to contemplate the practical steps to ease the conflict. His thoughts were motivated by the search for the possible directions of the dangerous no-win situation costing in lives he described in his essay.

The medicine metaphor of the longer essay ‘*The lameness of the international community of nations and its remedies*’ on the Northern Irish situation is also apt. The topic is another unsolved problem and Bibó offers a kind of recipe what could offer the principles and conditions to solve and settle the disputed questions for good. ‘The Question of Northern Ireland’, the first sub-chapter suggests that

<sup>16</sup> Bibó1976: 407, 408.

<sup>17</sup> Percz, László: „Az antispekulatívitas jegyében: Bibó István filozófiai előfeltevéseiről” In: Dénes Iván Zoltán, szerk.: *Megtaláni a szabadság rendjét. Tanulmányok Bibó István életművéről*. Budapest: Új Mandátum Könyvkiadó, 2001.p. 39. [In the sign of anti-speculation: István Bibó’s presuppositions]

the realization of the right to self-determination should have become a procedure in the strictest sense of the word to serve an effective solution in such a way that a court of arbitration should develop to manage the political debates that would gain the support of the great powers too. Bibó found it necessary to mention that impartiality is the basic condition of the appropriate working of a really realizable political arbitration.<sup>18</sup> He recommends the earliest possible creation of an impartial court of arbitration in the portion of the essay titled ‘*The necessary principle, power and procedure to the settle the problems of Northern Ireland*’ Especially his ideas about the settling are interesting for us. In Bibó’s opinion the political court of arbitration should be created by the United Kingdom because being an interested party it could not take part in helping to solve the problem by the use of force. In the composition of such a court it could be decisive that the inhabitants of the British Commonwealth and other Anglophone countries stand nearer to the one or to the other party. Canada, for example, as the nearest dominium could send Protestant and Catholic arbitrators; the same way the public sphere of the United States could also participate with its English and Irish sympathies. It was difficult to say how the court of arbitration itself was to be created for lack of appropriate precedents or permanent courts. He contemplated to leave it to one of the organisations of the United Kingdom or to some other political forum that could have appointed Protestant and Catholic representatives in the USA and Canada to be chosen from by a political organisation of the Irish and the Catholics of Northern Ireland one each; these two persons then would elect a president.<sup>19</sup>

Planning the above Bibó proved to have been a prophet because during the process toward reconciliation in Northern Ireland the participation of the wider Anglophone world, as well as international help was necessary, because the internal political powers were unable to fulfil the task due to the un-surmountable controversies. It is true, Bibó’s suggestion was based on the proportion of Catholics and Protestants especially that his information about the sectarian conflicts of the 1970s made him unable to observe the problem inde-

<sup>18</sup> Bibó 1976:403-404.

<sup>19</sup> Bibó 1976: 405.

pendently of its religious and ethnic aspects. On the other hand he accurately saw that without the help of the USA (i.e. a great power) the process of solution cannot become successful as it was proved by the coming years. Accepting the role of mediator the Clinton-Administration delegated Senator George Mitchell to Northern Ireland who proved worthwhile in moving the negotiations from their standstill, he presided over the debates about disarmament and was present at the creation of the Belfast 'Good Friday' Treaty.<sup>20</sup> Earlier President Jimmy Carter tried – in vain – to offer American investments as a premium for an acceptable solution of the Northern Irish question.

Later such powers joined the process of settling the Northern Irish problem that Bibó could not have foreseen. Róbert Surányi wrote summing up that the British and Irish governments started working out a complex solution in several steps with the assistance of the USA and the European Union that was gradually realizing the decisions of the Belfast Treaty signed on the 10<sup>th</sup> of April 1998.<sup>21</sup> Of course, Bibó could not foresee the creation of the European Union and its political power, neither those ideas the Irish philosopher Richard Kearney wrote about in the early 1990s, namely that in the context of the changes Europe would opt for regions. The situation of Northern Ireland necessarily had to change.<sup>22</sup> No doubt the weakest point of the Bibó essay is that he did not consider the Irish government in any acceptable role in the solution of the Northern Irish crisis. In the subchapter 'Conflicting standpoints' he keeps referring to it as the Irish Free State, although its name was changed to Irish Republic in 1949 when it left the British Commonwealth. It is also arguable that he believed the political ideas of the Catholics of the north and south to be the same, stating that the Irish who are mainly Catholics both

<sup>20</sup> Pál, Monika Éva: „*E pluribus unum?*” *Az 1998-as Nagypénteki Egyezmény: konfliktuskezelés Észak-Írországban*. PhD értekezés, kézirat. 127. [The 1998 GoodFriday Treaty: conflict management in Northern Ireland. MS PhD Dissertation].

<sup>21</sup> Surányi Róbert: „Az északír válság politikai rendezési kísérletei: nemzeti probléma nemzetközi vonatkozásokkal (1968-2002)” In: Hartvig, Gabriella, Kurdi, Mária, Vöö, Gabriella Eds: *Mandulavirágzás Tudományos Napok 2002: Az irlandisztika nemzetközisége*. Pécs: Pécsi Tudományegyetem, 2002. 47 [The attempts at the political solution of the Northern Irish crisis: international aspects of a national problem]

<sup>22</sup> Richard Kearney: *Postnationalist Ireland: Politics, Culture, Philosophy*. London and New York: Routledge, 1997. 75.

in Northern Ireland and in the 'Irish Free State' had by all appearance a fairly uniform view about the political unity of the whole of the Irish island as the desired final result and this is why they accept such seemingly accommodating solutions as the federative union of Northern Ireland and the 'Irish Free State'.<sup>23</sup> The standpoints were far from being that uniform or unchangeably fixed but it is also true that no solution could be achieved.

It is now a clear fact that by the early 1970s the distance between the UK and the Irish Republic, that was created by the colonial relationship and lasted for a long time even after, was considerably lessening especially after the two countries joined the European Common Market Union the same year, in 1973. Because of the paramilitary atrocities against settlement in British territory too, the British government became increasingly interested in cooperation. The so-called Sunningdale Treaty was signed in 1973 that considered the division of power between the Northern Irish Catholic (i.e. politically republican or nationalist) and Protestant (i.e. mainly unionist or loyalist) political communities and the British and Irish governments. The pact, however, proved to be short-lived because it resulted in waves of strikes and terrorist attacks on the loyalist side and the province was taken under the direct government of London.<sup>24</sup> For the re-opening of the mutual discussions about the Northern Irish question external powers were necessary, just as Bibó had presupposed, namely the European Parliament; it was only in 1981-84 that the British and Irish governments were requested to cooperate in the interest of a solution thus declining the idea that it was a solely British internal matter.<sup>25</sup> The failure of the Sunningdale agreement could be the reason why Bibó could not consider the participation of the Irish government as a partner in a successful process of solutions.

Analysing Bibó's writing about the situation of national minorities, Ferenc Eiler established that Bibó had pointed out the extreme complexities concerning the institution of referendum and its circumpect application.<sup>26</sup> In "The question of Northern Ireland' the sub-

<sup>23</sup> Bibó 1976:409.

<sup>24</sup> Dobrovits 2002:51

<sup>25</sup> Surányi 2002:48.

<sup>26</sup> Eiler Ferenc: „A nemzeti kisebbségek kérdésének helye Bibó István munkásságában”. In: Dénes Iván Zoltán (szerk.): *Megtalálni a szabadság rendjét*. Budapest:

chapter on 'The problems of a referendum' he treats referendum as a primarily democratic process meeting the requirements of the principle of self-determination and considers it important for the future of Ireland. He was of the opinion that it could be carried out in two steps: in step one the question would be for or against an all-Irish Federation and he believed the majority of the voters would have been against it.<sup>27</sup> We can believe that he was right in his supposition because the federative solution did not have enough supporters. In the second round the votes would be whether to stay as member of the United Kingdom or to unite with the Irish Republic (still called Irish Free State by Bibó). The result of the referendum could be predicted because of the votes of the majority of the Protestants. He adds as a new element the remark that the results would practically conform to the delineation of the demarcation line, thus the result of the voting would justify the no-win situation, territorial changes would be necessary. The aim is to lessen the number of the minorities but that would require a very winding borderline. Bibó was of the opinion that cutting through mountains, rivers and railway lines would be much less expensive in spite of its economic impracticability considering that it would cost less in human blood than to draw borders contrary to the wishes of the people.<sup>28</sup>

Garret FitzGerald, a leading politician of the Irish Republic, prime minister in the 1980s, deals with the solutions of the Northern Irish crisis in his 1991 book *Towards a New Ireland*. First he sums up the various opinions about the solution and it is interesting to compare Bibó's contemporary suggestions to them. FitzGerald refers to the ideas concerning the solution by some British and Irish politicians of which the one by the Provisional Sinn Féin was the most extremist. They suggested the re-unification of the nine counties of historical Ulster i.e. to enlarge the territory of Northern Ireland with three counties with Catholic majority now belonging to the Irish Republic. Their ideas, however, would not meet the consent of the majority of those three Ulster counties now part of the Republic and would

endanger the position of the Northern Irish Protestants, too.<sup>29</sup> In contrast Bibó's suggestion for border modification was more circumspect in the knowledge of the events of the early 1970s. FitzGerald itemised the possibilities of the federation of the two Irelands and the fundamental principles necessary to surmounting the difficulties. His starting point is that by the beginning of 1972 the situation had become ripe for the discussions about a united Ireland to be re-opened. Among others because certain moderate Northern Irish unionist politicians started to consider it as a possibility. FitzGerald remarked that in case of a re-unification into a federation it is the Irish Republic that would have to introduce changes in order to be able to make it acceptable for the northern Protestants. Such is a referendum about the special position of the Catholic Church defined in the constitution of Irish Republic e.g. in connection to the possibility of legal divorce. The Protestants who are afraid of the Catholic Church's dominating power should be reassured that the new fundamental principles of a future Ireland would not violate their interests and declarations of intent of ecclesiastic heads and politicians would enhance possibility of starting the reunification processes. On the other hand the Irish Republic should consider adopting some reforms that had been introduced in Northern Ireland after 1969 in order to ensure the inhabitants of the federation-to-be their equality of treatment and rights irrespective of their religion and political convictions.<sup>30</sup>

As is shown above, Fitz Gerald takes the notion of federation of the two Irelands seriously minding the details that, however, has not been realised for various reasons. During the years of 1983-84 the principles he represented re-appeared by the creation of the New Ireland Forum. Nevertheless, when FitzGerald as head of the government signed an agreement together with Margaret Thatcher in Hillsborough near Belfast in 1985, ensuring the participation of the Irish Republic in the management of the Northern Irish conflict in the frame of an inter-governmental conference, the question of

Új Mandátum Kiadó, 2001. 81. [The position of the question of national minorities in B.I.'s oeuvre].

<sup>27</sup> Bibó 1976: 413-415.

<sup>28</sup> Ibid. pp. 415-416.

<sup>29</sup> Garret Fitzgerald: From *Towards a New Ireland*. In: Seamus Deane, Ed.: *The Field Day Anthology of Irish Writing* Volume III. Derry: Field Day Publication, 1991.p. 768.

<sup>30</sup> FitzGerald.1991:772.

re-unification lost its relevance.<sup>31</sup> In time the politically separate northern and southern parts of the island got somewhat closer to one another but there have been no signs of a possible unity of them. It can be established that in the 1970s it was not only Bibó whose plans (with changes of the border as a conclusion) remained unconsidered and even a politician, the expert of the question, could not assess the possibilities and future of his plans in practice.

When Bibó starts discussing the problems of a referendum in Northern Ireland he mentions an aspect that proved to gain importance later. He remarks that in the referendum the question is not only about the division of territories but also about solving the conflict of two confronting unrealistic political goals.<sup>32</sup> That the solution can be achieved through referendum is proved by the fact that the 1998 Belfast Treaty was confirmed by referenda in Northern Ireland and in the Irish Republic. In the latter the citizens were asked to vote about the amendment of the constitution too (with 94% support), because two articles of the constitution had to be modified accepting that the consent of the citizens of Northern Ireland is necessary to a reunification of the Irish island.<sup>33</sup> It meant an enormous step forward that the Irish renounced their demand of the whole territory of the island. Even if he had not formulated everything in detail and had not dealt with the ways of practical realisations, judging from the above descriptions, it seems that Bibó had foreseen that the Chimera must and can be overcome, but history took twenty years after the conclusion of his essay to prove him right. Formally for the time being because it will take a long time to put an end to the spiritual heritage of animosity fed by the consequences of the special methods of British colonisation and the long process will be just as complicated as the borderline Bibó suggested as the remedy.

In the small library full of writings on the Northern Irish crisis and civil war there are other countries and parts of regions mentioned as parallels. Already in 1988 there appeared a book about Northern Ireland with comparative strategies treating the tensions between indigenous people and settlers from the American Southern states to

<sup>31</sup> Surányi 2002:53.

<sup>32</sup> Bibó 1976: 413.

<sup>33</sup> Surányi 2002:55.

French Algeria offered as wider contexts of the Northern Irish situation and as reference to it. In his work the author, Frank Wright, a historian of English origin teaching at the University of Belfast contemplated the most humane solution.<sup>34</sup> Later, at the time of the wars of the Balkans when the controversies based on religion received especially severe role several authors compared them to the tensions in Northern Ireland. Richard Kearney writing about the post-nationalism in Ireland presented the case of the Istria Peninsula as a positive example for the Northern Irish the events, showing a way out of conflicts because that area was exempt from the Yugoslavian turmoil in spite of the fact that Croats, Slovenes and Italians have been living there together. The Democratic League of Istria was the winner with a majority against the party called Croatian Democratic Community and its leader gave expression to his hope that Istria could serve as a research area for Europe in a socio-political sense.<sup>35</sup> In his essay mentioned above, Mihály Aladár Dobrovits, too, refers to the Balkan region in this connection and with ethnic maps of Northern Ireland and pointing out the special complicated ethnic situation he offers analogies by the case of Bosnia and Serbia<sup>36</sup>

Bibó, too, points out the obvious parallels to other regions and peoples in his essay. It is unusual, he said, that in the case of the Northern Irish the religious *criterium* is the defining element of a *national* opposition, but, he adds, only where Western Europe is concerned. The situation of Northern Ireland shows similarities to the external problems of faraway regions. That it is the Church that offers the organising form to the opposing ethnicities or nations and the religious identity is the sign of difference has been a very well-known fact in the Near East, Middle East, and in Europe in Transylvania and in the Balkans.<sup>37</sup> All considered Bibó's train of thoughts are can be considered as a kind of advance on the reconsidered future and ideal perspectives of Irish studies that was the topic of a 2005 forum with Irish, Eastern and Western European participants. It was decided that it is necessary to find ways to put the post-imperial

<sup>34</sup> Frank Wright: *Northern Ireland: a Comparative Analysis*. Totowa, NJ: Barnes and Noble Books, 1988.

<sup>35</sup> Kearney 1997:79-80.

<sup>36</sup> Dobrovits 2002:52.

<sup>37</sup> Bibó 1976:408.

standpoints in the focus instead of postcolonial ones as before, and to find analogies between the dissolution of the British Empire and the Austrian-Hungarian Monarchy because there are important possibilities in comparative studies.<sup>38</sup> With his thought-provoking references and observations on details concerning the quality of life treated with empathy, Bibó laid down the foundations of further research about small countries of Europe (among them Ireland and Hungary) and some other regions that become increasingly topical in our times and suggest comparisons resulting in novel conclusions.

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<sup>38</sup> Christina Hunt Mahony et al., Eds.: *The Future of Irish Studies*. Charles University, Prague: Centre for Irish Studies, 2005.12.