

ON THE PREFERENTIAL TREATMENT OF HUNGARIANS LIVING IN NEIGHBOURING COUNTRIES

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The Hungarian Act on the preferential treatment of Hungarians living in neighboring countries, implemented in January 2002, has engendered some instability between Hungary and her neighbors Romania and Slovakia. The Act grants benefits for ethnic Hungarians in Hungary and in the surrounding "home-states," with the exception of the EU member Austria.

Since January 2002, ethnic Hungarians have the right to apply for an identification document "Certificate of Hungarian Nationality" (*Magyarigazolvány*). With this document Hungarians living in the neighbouring countries have a right to employment in Hungary for 3 months annually; during this period they are granted health care services, too. Students have the right to a Hungarian student card. Furthermore, Hungary supports families which put their children in Hungarian schools in the home-states. Finally, ethnic Hungarians receive a discount of 90% for public transportation in Hungary four times a year.ⁱ

According to its critics, the Act extends Hungarian legislation to a foreign territory, however once belonging to its reign. Nevertheless, the question of minorities abroad is a more general problem in Europe and elsewhere, since actually few countries in the world are ethnically, linguistically and culturally unified.ⁱⁱ The discussions concerning Russian minorities in the Baltic countries and the concept of *Leitkultur* in Germany are other examples on the difficulty of defining nation and citizenship in contemporary Europe. Furthermore, the Hungarian case shows how problematic displaying solidarity towards "kin-minorities" might be.

The Hungarian Act on the preferential treatment of Hungarians living in the neighbouring countries has various critical points. For example, Hungarian work permits are granted on ethnic criteria and scholarships are given for students in home-state universities. Finally, the idea of a unified Hungarian nation,

codified in the Act, has resulted in accusations of revisionism.

Minorities and the Burden of History

Printed in the cover of the "Certificate of Hungarian Nationality," we find the Crown of Hungary, symbolising Great Hungary from the past. Nevertheless, it is evident that the Hungarian Act is not an attempt on territorial revision. In any case, Eastern Central Europe has many unresolved historical burdens. Among others, the fact that all of Slovakia and a large part of Romania used to belong to Hungary is a frequent topic even today.

After the collapse of Communism, intelligentsia in Hungary became aware of the fact that many Hungarians in neighbouring countries do not have the right to use Hungarian in official situations, or that their right to education in their mother tongue is restricted. The Hungarian governments thus have had negotiations with the neighbouring countries in order to grant proper cultural and educational rights for ethnic Hungarians. From the Hungarian point of view, these negotiations have not met their purpose. The Hungarian Act can be seen as a new tool, applied because of the failure of bilateral negotiations.

In the 19th century, Hungary, as a part of the Austro-Hungarian Monarchy, ruled over a multilingual territory. Approximately 50% of its inhabitants had Hungarian as their mother tongue. Towards the end of the 19th century, the Hungarian nationalistic elite wished to create a linguistically and culturally unified nation state. The *Magyarisation* of education and official bodies, however resulted in international protest and in the final disloyalty of the minorities towards the Hungarian state.ⁱⁱⁱ The collapse of the Monarchy in 1918 brought independence to its minorities. At the same time Hungary lost 3 million of its Hungarian speaking inhabitants to the neighbouring countries. The peace treaty of Trianon (1920), is thus considered as a major

tragedy in Hungarian 20th century history writing.

In the inter-war period (i.e. the "Horthy Era") Hungarian politics focused around the revision of pre-Trianon borders, which is still a part of the nationalistic history discourse in the surrounding countries. This revision was partly achieved in 1938-1940 with the help of Germany and Italy, until it was nullified after the Second World War. Socialist Hungary promoted solidarity between classes, and minority questions were considered thus solved. In practice, minority rights were frequently curtailed in the East Bloc. Among others, minority institutions were nationalised or closed (e.g. the Hungarian university in Cluj, Romania).

According to the Hungarian Act, a person who *declares* herself Hungarian is of *Hungarian nationality* and thus entitled to apply for the document 'Certificate of Hungarian Nationality'. In addition, knowledge of Hungarian, membership of a minority organisation (political party, NGO, congregation) or official data indicating Hungarian nationality may be used as proof of the Hungarian background and identity. However, part of these criteria is rather complex. For instance, it is unclear how competence in Hungarian is to be measured or whether for example the Catholic Church has records on the nationality of its members.

The Act has mainly been criticised by countries, which have the largest Hungarian minorities. For instance, Romania has argued that mentioning the unified Hungarian Nation should be deleted from the Act.^{iv} In any case, the consequences of the Act, be they domestic, bilateral or international, have hardly been foreseen and discussed publicly by the Hungarian government.

Romania and Slovakia against the Act

Romanian officials reacted to the Act some time before it was enacted in the spring of 2001. They requested bilateral discussions, since Romania's Prime Minister, Adrien Nastase could not agree upon the implementation of the Act on Romanian territory. The Romanian government was not against benefits related to culture, religion and education, whereas it could not tolerate ethnic discrimination on work permits. Romania, together with Slovakia, requested the Council of Europe to examine the Act. At this point, Slovakian officials were less critical, even though they displayed concern about the rise of Hungarian nationalism.^v

Romania has been persistent in arguing that minority questions should be solved on the basis of the bilateral treatment of 1996. The new bilateral negotiations began in October 2001. After a series of mutual accusations the prime ministers Viktor Orbán and Adrian Nastase ratified a Memorandum just before Christmas 2001, where they extended the right to employment (3 months annually) in Hungary to *all citizens* of Romania.^{vi}

The Memorandum caused turmoil in Hungarian party politics, and turned it to an issue for the April 2002 parliamentary elections. The opposition accused the right wing government of endangering the Hungarian labour market. The government, paradoxically enough, explained that the Act, or the Memorandum does not guarantee the free mobility of the work force, since the major elements of work permit application still hold. Thus, the new piece of Hungarian (regional/ethnic) legislation on the mobility of the work force is not comparable to that in force in the European Union.^{vii}

Even though never explicitly mentioned, Slovakia and Romania have their historical ghosts lurking, too. In particular, radical and nationalistic circles use history as a 'political argument' in the present. Thus, the reappearance of Hungarian national symbols has at times been interpreted as the return of Hungarian revisionism. Furthermore, new minority rights are depicted as bad omens of separatism.^{viii} In autumn 2001 president Ion Iliescu accused Hungarians of being incapable of forgetting their imperialistic past.

Romania and Slovakia have their own pieces of legislation conferring preferential treatment on persons belonging to their kin-minorities. In February 1997 Slovaks living abroad received their "Expatriate Cards," on the basis of Slovak ethnic origin. Mainly pensioners from the USA or Australia have used this opportunity, about 7000 persons altogether.

Romania has a bilateral treaty with Germany since 1992. It gives Germans in Romania similar, or better, benefits than the Hungarian Act. The German communities in Romania are supported through developmental programs. Sometimes Romanian co-inhabitants can participate in these projects as well (Gehl 1998: 30). In addition, among others, old peoples' homes of a high standard have been built by Germany for the needs of the German community in Romania. Finally, Croats living in Romania have the right to double citizenship.

The Romanian Parliament has ratified its Law regarding the support of Romanian communities from all over the world in July 1998. In practice Romania focuses on supporting Romanian education and culture in the Republic of Moldova. The inhabitants of 8 Moldovan counties have the right to re-apply for Romanian citizenship. In order to be accepted they have to prove that at least their grandparents have been Romanian citizens between the years 1918-1944.^{ix}

The Minorities and Hungarian Party Politics

The question of Hungarian minorities in the neighbouring countries is also a question of internal party politics in Hungary. The political kin-minority rhetoric is often addressed to the domestic public. Particularly, the Hungarian right wing intelligentsia has kept reminding the public that *state* and *nation* are two different things. In the recent years this group has begun to lose patience. A new, more active, era begun when the right wing parties won the elections in the spring of 1998.

The discussions on Hungarian kin-minorities have revealed contrastive political opinions in Hungary and elsewhere. Some claim that kin-minorities must be helped with all available means. Others emphasise the importance of friendly neighbourly relationships above all, and find them as the only mean to improve the situation of the kin-minorities.

After the collapse of the Communist system there has been a fundamental interest in stabilizing Eastern Central Europe. First of all state borders have been re-ratified with bilateral treatments (Ukraine, Slovenia and Croatia) during the reign of the first democratic government (1990-1994, center-right), lead by József Antall.^x This line was followed by the socialist-lead government though a bilateral treaty with Slovakia (1995) and Romania (1996). The latter two treaties were criticised as compromises for the sake of European integration. This right wing critique was partly justified by virtue of Slovakian and Romanian governmental nationalism and ignorance of minority rights.

The socialists, in opposition since 1998, supported the Hungarian Act, but only with the condition that *Hungarian nationality* is established on the basis of mere declaration by the applicant. The other main opposition party, the liberal Free Democrats (SZDSZ) finally voted against the Act. Both opposition parties are concerned about its effects on health care and

unemployment in Hungary, or whether the Act may escalate immigration to Hungary. Finally, the opposition has not accepted the Orbán-Nastase Memorandum, since they consider it too hazardous for the Hungarian labour market. In this case, the opposition has stood up to defend domestic (national?) interests. Thus, the socialists and liberals have in turn been accused of nationalism.

The Hungarian Act on the preferential treatment of Hungarians has raised an anti-Hungarian climate in neighbouring countries. In Slovakia Vladimir Mečiar's party is leading in popularity for some time and Vadim Tudors radical Great Romania party had a considerable vote in the autumn 2000 election. Furthermore, minority and historical disputes (e.g. the case of Benes decrees) are a general threat for the future of Central European stability.

Minority Leaders Support the Act

In everyday life, Hungarian minorities themselves are to experience the benefits and disadvantages of the Act. In general, minority leaders have been satisfied with the Act. The "Hungarian Standing Conference," regularly meeting in Budapest, has been active in the planning of the Act.

Furthermore, the Hungarian Democratic Party for Romania (RMDSZ) took an active role in consulting between the Hungarian and Romanian governments. In brief, according to the Hungarian minorities, the Act promotes their presence in neighbouring countries by supporting their Hungarian identity.

The European Union puzzled

All parties involved are applying for membership in the European Union. Thus, the question of Hungarian minorities is also significant for European integration. Romania and Slovakia have requested the Council of Europe to examine the Hungarian Act. In October 2001 the Act was examined by the Venice Commission, which found the Hungarian Act compatible with European standards in general. Nevertheless, the Venice Commission did not support the quasi-official function assigned to Hungarian minority organisations in the process of issuing the "Certificate of Hungarian Nationality." Furthermore, health care benefits, ethnic criteria for work permits and scholarships to students for the pursuit of their studies in the home-States are not straightforwardly accepted. In general, according to the Venice Commission "responsibility for

minority protection lies primarily with the home-States.^{xxi}

Instead of the unilateral approach applied by Hungary, the Venice Commission prefers bilateral negotiations with home-states. In this manner, the European Union is concerned mainly with the maintenance of friendly neighbourly relations. Finally, it offers no ultimate solution to the problem.

At times, European Union officials give contrary statements: In November 2001 the head of the commission for legal and internal matters, Graham Watson, claimed that the Hungarian Act might endanger the Hungarian association process. Furthermore, according to the "2001 Regular Report on Hungary's Progress Towards Accession" the Hungarian Act had discriminatory elements. The Act was to be altered at the point of accession. Nevertheless, in December 2001 Günter Verheugen indicated that the Act itself was compatible, whereas its implementation should be negotiated.

Finally, in line with the preference of bilateral treatments, EU officials were pleased with the Orbán-Nastase Memorandum. In this manner, they however attacked the Hungarian opposition parties, which in turn accused among others, the right wing European Council general secretary Walter Schwimmer of getting involved in the Hungarian campaign. The Socialist Party promised to cancel the Memorandum between Romania and Hungary were it to win the Hungarian parliamentary elections in April 2002.^{xii}

Kin-minorities in Europe

From the perspective of the European Union, not all Hungarian minorities are equal. The Hungarian minority in the European Union, that is in Austria, was to be excluded from the Act. However, EU members have kin-minorities, too, for instance Germany in various post-communist countries. Bilateral treatments and unilateral legislation on the preferential treatment of these national minorities by their kin-state is wide-spread in the European Union countries, too. In the case of Austria it would have been extraordinary that an EU minority received support beyond the European Union.

It is curious that the Venice Commission paid little attention to the legislation of EU members. Only the experience of South Tyrol is described. Its progress to partial autonomy status is given as exemplary. Nevertheless, in order to achieve autonomy Austrians in Tyrol had to resort to terrorism,

which has been strongly avoided by the Hungarian minorities.

In general, Hungarians living in Romania have considered German kin-minority^{xiii} politics in Romania as faster, better and less provocative. An important part of German policy has been to ensure the mobility of the German communities by issuing an annual Schengen Visa for its members.^{xiv} Beyond cultural and educational projects Germany and Austria have supported small and middle scale enterprises run by ethnic Germans. According to a German minority researcher, Hans Gehl, the position of Germans in Romania is highly dependent of kin-state politics. Romania has in no way hindered Germany in its attempts to elevate the position of its kin-minority (Gehl 1998: 30-33).

Minority Politics

Several minorities in Europe are dissatisfied with minority politics. Nevertheless, at least two minorities have widespread minority rights: Germans in Tyrol and Swedish-speakers in Finland. Both are frequently used as arguments in the Eastern Central Europe discourse. The position of the Swedish speaking minority in Finland is the result of long peaceful negotiations with the majority. Furthermore, the Swedish-speaking Finns have been capable to establish their important institutions themselves. Among others, the ethnologist Bo Lönnqvist, a member of the Swedish-speaking community, considers the establishment of a private minority university as an important part of the dialogue between the minority and majority.^{xv}

In the case of Hungary, the size of kin-minorities is considerable, about 3 million persons.^{xvi} Mainly the large Hungarian communities in Romania and Slovakia have not been able to construct a double identity, instead Hungarians have emphasised their distinctive and contrastive national characteristics *vis a vis* the majority identity. The reasons are twofold: on the one hand, the somewhat anachronistic Hungarian concept of the historical, ethnic nation. On the other hand, the bad economical situation and insufficient minority protection in the home-states, especially in Romania are to blame.^{xvii}

At present, Hungary is rapidly developing towards EU membership, whereas Romania remains far behind. At the moment of accession there is the risk of a new immigration wave to Hungary among the educated elite of the kin-minorities. According to Sándor N. Szilágyi,

a Hungarian linguist working in Cluj, Romania, the benefits granted by the new Hungarian Act should be seen as a fair compensation for the numerous doctors, university professors and other experts lost by the Hungarian community in Romania.^{xviii} Nevertheless, should kin-states in general compensate the minority communities which have educated their immigrant experts?

Could the European Union solve the problem after all? A first step has been to lift the visa border from Romania in January 2002.^{xix} Nevertheless, Hungary will have to enact new visa regulations (e.g. with Ukraine) when it becomes a member of the Union. That is, the European Union itself is part of the problem, since it closes previously open borders and thus motivates migration in Eastern Central Europe.

Legally, minority rights are in constant danger, since the majority has the possibility to change or cancel them in any given moment. Support by the kin-state is thus important for a minority in the striving for cultural and economic development. The migration of large groups causes problems to both the sending and the receiving country. Therefore, it is in the interest of all parties to support the potentially migrating minorities in their homeland. However, it remains to be seen how other (majority and minority) groups react to the preferential treatment of national minorities by kin-states.

The situation might be solved if the majorities in Eastern Central Europe gave up their nation state ideology. In 21st century Europe, do we need the concept of nation, constructed upon historical myths and sagas at all? Furthermore, the idea that linguistic/cultural assimilation is equal to political integration is not compatible with the idea of European integration. Nevertheless, there is little hope if the majority in Romania, Slovakia – or Hungary – sticks to this ideology. The hazards of intervention have been discussed, among others, in relation to the question of Russian minorities in post-Communist states.

If the home-state denies cultural and territorial autonomy, or even elementary, reasonable minority protection, international pressure and support could be called for. It is not clear however, who should help such minorities and in which way. For the time being, Hungarians have not been able to win the consent of the Romanian majority to re-establish a state university for the 1.7 million Hungarians in Romania.^{xx}

The Romani question in Hungary

In the last year's Hungary has invested large sums to the promotion of its image internally and internationally. Government offices have been established to organise great historical celebrations (e.g. the Hungarian Millennium) and campaigns of national pride (e.g. free periodicals, public advertisements on Hungarian virtues). The goal of this campaign has been to elevate the national self-image and to raise optimism in the pessimistic Hungarian public discourse. In Europe, however, the Hungarian image has been disturbed by the situation of its largest minority, the Romani. Thus, one is tempted to speculate upon the relation of the Act on the preferential treatment of Hungarians and the Romani question, which is a recurring minus in the "Regular Report on Hungary's Progress Towards Accession." Even though, an effort has been made by the Hungarian government to improve their living standards.^{xxi}

The situation of the Romani in Eastern Central Europe is far from straightforward, among others the number of Romani in different countries is unclear. For example, a fresh census in Slovakia shows a much lower number of Romanis in contrast to previous assessments.^{xxii} The Romani question is in general unsolved in Eastern Central Europe, not only in Hungary. Nevertheless, most pressure is on Hungary due to its status as the forerunner of economic development and European integration in the region.

In contrast to the question of kin-minorities there is a lack of general political will in Hungary to elevate the large Romani minority from its economic misery. However, due to international pressure, various measures have been taken to display solidarity towards the Romani. Among others, large sums have been spent on social and educational programs. In any case, discrimination on a local scale still exists. Among others, on this basis, France has issued new 14 refugee statuses for Hungarian Romani in January 2002.^{xxiii} According to politicians, the development has been solid but insufficient. In the April 2002 elections Romani candidates were included in some party lists, however old attitudes, social problems and cultural prejudices die hard.

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- ⁱ *Népszabadság*, 20 June 2001. The Act is available in English at <http://www.htmh.hu/law.htm>, visited 1 April 2002.
- ⁱⁱ Only 10% of countries are inhabited by a single ethnic group (Smith 1991: 15). In Europe, the problem of kin-minorities in neighbouring countries concerns among others Ireland, Austria, Denmark, Germany, Hungary, Poland, Albania and Russia (Schöpflin 2000: 239). For example, since the collapse of the Soviet Union, 25 million ethnic Russians ended up in a minority position (Bloed 1998: 39).
- ⁱⁱⁱ The questions of *nation, nationality and state* have been central in Hungarian history since the rise of modern nationalism in the 18th century. Since then, many radicals, e.g. Lajos Kossuth, Aurel Popovici or Oszkár Jászi have proposed the formation of Central European federation or state union. Among others, in 1862 Kossuth came forward with the idea of a 'Danube Federation', including Hungary, Transylvania, Romania, Croatia and Serbia. The official language of the Federation should have been neither German nor Hungarian, but French! The state formation from 1867 was instead of a federation a twin Monarchy. The Hungarian language Act from 1868 granted minority languages some rights in e.g. local administration, but in political sense it recognised only one nation, the Hungarian nation. See Romsics 2001.
- ^{iv} *Népszabadság*, 26 November 2001.
- ^v *Népszabadság*, 19 December 2001.
- ^{vi} "Memorandum of Understanding between the Government of the Republic of Hungary and the Government of Romania concerning the Law on Hungarians Living in Neighbouring Countries and issues of bilateral co-operation," <http://www.htmh.hu/dokumentumok/memorandum.htm> , visited 1 April 2002.
- ^{vii} That is, in comparison to other foreigners, Romanians and ethnic Hungarians may apply for work permits (for three months annually) in Hungary without prior assessment of the needs of the labour market. However, the work permit may still be denied because of lack of proper education, health problems or low payment. Furthermore, the Hungarian government has the right to establish quotas for different professions or for the number of guest workers in general. *Népszabadság* 3 & 5 January 2002.
- ^{viii} True to her style, the head of the Slovakian National Party, Anna Malíková considered the law as an attempt to revise the Trianon borders. Furthermore, she warned Slovaks that the Act might lead to the "Kosovo Situation" in Slovakia.
- ^{ix} Heino Nyysönen, "Unkarin vähemmistöläki koettelee naapurisopua," *Kaleva*, 7 August 2001.
- ^x Nevertheless, Antall caused some unrest in the neighbouring countries by his recurring statement of being the symbolic prime minister of 15 million Hungarians. (The Republic of Hungary has only 10.3 million inhabitants).
- ^{xi} European Commission for Democracy Through Law (Venice Commission), *Report*

on the Preferential Treatment of National Minorities by their Kin-State. (20 October 2001), [http://venice.coe.int/docs/2001/CDL-INF\(2001\)019-e.html](http://venice.coe.int/docs/2001/CDL-INF(2001)019-e.html), visited 15 January 2002.

^{xii} *Népszabadság* 12 & 19 January 2002. The opposition (the Socialist and the Liberal Free Democrat Party) won the 2002 parliamentary election. Some corrections and amendments to the Law have been scheduled for discussion in the Hungarian parliament around Christmas 2003. *Népszabadság* 31 October 2002.

^{xiii} According to 1995 estimates 100,000 Germans live in Romania.

^{xiv} Barna Bodó, "Schengen a kihívás," *Kissebbségkutatás* (1/2000); *Népszabadság* 18 December 2001.

^{xv} Bo Lönnqvist, pc. According to George Schöpflin (1999: 235) however, the Finnish Åbo Akademi is the only really independent minority language university in Europe.

^{xvi} However, Poland is preparing a similar law in relation to Ukraine, too. *Népszabadság* 21 June 2001.

^{xvii} For the situation in Romania, see *Hungarians of Romania*. Minorities in Southeast Europe. Center for Documentation and Information on Minorities in Europe – Southeast Europe (CEDIME-SE), updated June 2001. www.greekhelsinki.gr/pdf/cedime-se-romania-hungarians.doc, visited 6 November 2002.

^{xviii} *Élet és Irodalom* 47/2001.

^{xix} *HVG* 50/2001.

^{xx} The re-establishment of a Hungarian University for the 1.7 million Hungarian community in Romania has been another priority for the right wing government. In 1990 Hungarians in Romania and Hungary have requested Romania to re-establish a state university for Hungarians. Many political promises have vaporised and finally even the Romanian intelligentsia has turned against the initiative. Thus, the Hungarian government decided to establish a private

university funded by the Hungarian state. The Sapientia University was opened in autumn 2001.

^{xxi} The number of Romani in Hungary is estimated to 6% of the population. *2001 Regular Report on Hungary's Progress Towards Accession*, Brussels, SEC (2001)1748, http://www.mfa.gov.hu/euint/2001orszjel_stratpaper/regreport/regreportcontent.htm, visited 15 January 2002.

^{xxii} The number of Romani in Slovakia is estimated to be 380 000, however according to census data only 90,000 persons identified themselves as Romani. *The Slovak Spectator* (43/2001).

^{xxiii} *Népszabadság* 4 January 2002