

National and Ethnic Minorities' Legal Position in East Central Europe Between 1789 and 1989

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ABSTRACT

This chapter provides a short history of the legal protection of national minorities in East Central Europe. The region has a relatively long history of legal protection of national and ethnic minorities. This history is connected to the complicated ethnic and social structure across the region because parallel nation- and state-building have been typical for East Central Europe in the last two centuries. The chapter distinguishes three main periods in modern history regarding the issue of minorities. The first legal norms were created in the 19th century. The multilateral international protection of minority rights was established in the interwar period, during the existence of the League of Nations, which played an important role in the realization of this protection. Many countries realized restrictive anti-minority policies during and after the Second World War (mainly in the 1945–1948 years). The introduction of the communist minority policy inspired by the Soviet (Leninist) model in East Central Europe meant an element of stabilization in the sphere of minority issues and the legal protection of minorities. A very important specific feature of the position of East Central European minorities is the dependence on the international politics and position of the great powers. This fact sometimes moderated the minority situation in the region. Despite similar circumstances, conditions, and international challenges, the internal development of the legal protection of minorities underwent a different dynamic process. These differences mainly depended on the internal development of certain states and their societies. The post-war nationalistic repressions were, for example, the most radical in Czechoslovakia and Yugoslavia, which improved the relatively generous minority policy several years later. The post-war situation was more moderate and tolerant in Romania, which implemented a radical anti-minority policy only in the 1970s, when Romania was (relatively) the most independent from pressure from Moscow. A nation-state's greater independence in international relations (without strong international legal guarantees) was not always good news for the national and ethnic minorities in the East Central European region.

KEYWORDS

constitution, East Central Europe, international protection, minorities, state.

Introduction

The population of East Central Europe lived in three empires before the First World War: Austria–Hungary, Germany, and Russia. In parallel, the Balkan peninsula witnessed the new independent states'— established by the predominantly orthodox nations (Bulgaria, Greece, Montenegro, Romania, and Serbia) — state building and

constitution making. Only independent Albania, which was born immediately before the First World War, had a Muslim majority population. Many Muslims also lived in Bulgaria. The Jews represented the largest minority in the old ('small') Romania. These three empires and new nation-states were not homogenous, and they knew different ethnic and religious minorities with different legal and political statuses. It was the reason for the early presence of the minority issue in East Central Europe.

We can distinguish the three main periods in the modern history of the minority issue and its legal regulation in the region. The first legal norms and parallel minority theories or concepts were born in the prewar period, during the existence of big multiethnic empires. The multilateral international protection of minority rights was born in the interwar period, during the existence of the League of Nations (1920–1940). Then followed the tragedy of the Second World War, with the Holocaust, ethnic purges, transfers and transports, etc. As a consequence of occupation, many states in the region realized a very restrictive anti-minority policy immediately after the Second World War (1945–1948). The introduction of the communist minority policy inspired by the Soviet (Leninist) model in East Central Europe meant an element of stabilization in the sphere of minority issues and legal protection of minorities.

1. The situation in the 'long' 19th century (1789–1918)

The national and ethnic minority issue was born parallel to the idea of the nation-state in Europe in the late 18th and early 19th centuries. This idea was one of the consequences of the Enlightenment, the French Revolution in 1789, and the beginning of the process of economic and social modernization. The process of modern nation-building—and later nation-state-building—was very sensitive in regions with ethnically-mixed populations. These regions represented the majority of the Central and Eastern European countries.

The logic and structure of these processes were similar, but the dynamics were very often different. The Czech Historian Miroslav Hroch distinguished three phases of the non-state national awakening (or national revival) in Central and Eastern Europe and defined three chronological stages in the creation of a modern nation. In Phase A, activists strive to lay the foundation for a new form of national identity. They research non-dominant groups' cultural, linguistic, social, and sometimes historical attributes in order to raise awareness of the common traits. This phase is more or less theoretical. The following Phase B entails intensive national agitation. During this phase, a new range of activists emerged, who sought to win over as many members of their ethnic group as possible to participate in the project of creating a future nation. During the third phase, Phase C, the new national ideology more or less became the dominant identity. The majority of the population forms a mass movement this time, and the national ideology spans the full spectrum of political life. In this phase, a full social movement comes into being and branches into conservative, liberal, democratic, or socialist wings. The first two phases are similar in terms of timing – the first

phase started at the end of 18th century, and the second phase started in the first three decades of the 19th century. The start of the third – ‘mass’ – phase was more problematic because it regularly required important and impressive political or social events (e.g., revolution, resistance, repression, etc.) to propel the massive identity change across society. Here, we must research the reason for the different dynamics in the process of modern nation building.¹

Naturally, ethnicity existed prior, but its role in political life was not the same as it was later in the 19th century. For a long time, the ethnic principle was not important in state building. The dynastic, religious, and social aspects of public life were more important in the period before the French revolution and the Napoleonic era. The principle of early legal protection of ethnic minorities was similar to the principle of solidarity on a religious basis. Solidarity based on religious community and protection of religious minorities was known as early as the 17th and 18th centuries. It is enough to think about the Peace Treaty of Karlowitz, which was signed in 1699 between the Austrian emperor, the Polish king, and the Turkish sultan, and was the first international treaty to contain minority protection provisions. According to the treaty, the Austrian emperor and the Polish king became protective powers, entitled to intervene on behalf of the Roman Catholics living under Turkish rule. The other similar treaty was the Peace of Küçük Kajnarci (1774), signed between the Russian and Ottoman empires. According to the treaty, Russia undertook a certain type of protective obligation over the minority Christian population living under Ottoman authority. The international protection of minorities' human rights emerged gradually from the political protection of Christians living under Ottoman rule.

During the first half of the 19th century, the main instrument of legal protection of national and ethnic minorities was territorial autonomy, which originated in the premodern period. Territorial autonomy and the right to participation in political life on the basis of feudal privileges were principles that were compatible with the political thinking of feudal states. The Polish case is a good example of this thinking. The dual Polish–Lithuanian state (*Respublica* or *Rzeczpospolita*) was one of the largest states in Europe, but after the three partitions of the Polish territories between Austria, Prussia, and Russia (1772, 1793, 1795), this state disappeared from the map of Europe. The Polish regions had autonomy inside these states, and the Congress of Vienna (1814–1815) recognized this autonomy. After the Polish uprisings in 1830/1831 and 1863/1864, the Russian tsars, firstly, very seriously limited and later entirely terminated this autonomy. Tsarist Russia represented one of the most heterogeneous empires in the 19th century. Originally, it tolerated the old feudal territorial autonomies (e.g., Congress Poland, Finland, etc.), but Russian nationalism became increasingly strong in the second half of the 19th century. Discrimination against the Jewish and Polish populations was a reality, but the government also aimed to neutralize the national revival of Belorussians and Ukrainians. The official ideology was the concept of a united and indivisible Russia with a dominant Great Russian nation, including

1 Hroch, 1996, pp. 35–37.

orthodox Belorussians and Ukrainians as well. Only Finland preserved its territorial and legal autonomy. The Grand Duchy of Finland existed between 1809 and 1917 as an autonomous part of the Russian empire. Finland's position was very privileged: The province had its own citizenship for a long time, as well as its own currency and administration. However, under Alexander III and Nichola II, the process of Russification began, sparking Finnish resistance. Tensions increased after the Russification policies were enacted in 1889, which saw the introduction of restricted autonomy and the reduction of Finnish cultural expression. Generally, the huge and very diverse Russian empire did not have complex minority legislation protecting the rights of different ethnic groups and nations beyond the empire's borders. The official state ideology was nationalistic, but the administration's real practice was old-style conservative, and this fact sometimes reconciled the tensions in everyday life.

The situation – except the Polish uprising – was similar in Prussia, which had a complicated territorial structure at this time. The former Polish territories (Eastern and Western Prussia, Pomerania, Mazovia, New Silesia, etc.) represented a big and important part of the Prussian monarchy, but according to the Congress of Vienna's decisions, only the Grand Duchy of Posen had real autonomy. Originally, Polish and other Slavonic groups represented 40% of the Prussian population,² but later, their proportion decreased. Before 1848, the old parliament (Landrat) in Posen served as a forum for Polish politicians, but later, they only represented the Polish population as delegates of Provinz Posen in Berlin. The 'Polish circle' worked inside the Reichstag in the German empire in Berlin, but the last part of the Polish population in Prussia definitively lost its territorial autonomy. Cultural and educational Germanization began in the second half of 19th century. The Polish inhabitants had only two secondary grammar schools that used the Polish educational language,³ and there was no Polish university at this time. The German legal order did not include legal protection for ethnic minorities. Despite these tendencies and thanks to the anti-Catholic Kulturkampf Bismarck initiated, the Polish national movement reawakened in the early 20th century.⁴

Only Austrian Galicia, with its Polish, Ukrainian, and Jewish population, preserved its territorial autonomy throughout the 'long' 19th century (1789–1918). The Austrian administration in Galicia respected the Polish population's rights and privileges, but also tolerated and limitedly supported the ambitions of the Ukrainian national movement. The economic situation in Galicia was perhaps worse than the situation in the Polish territories in Prussia/Germany and Russia, but the educational, cultural, and legal situation was better. The Austro-Hungarian monarchy represented the most interesting example in the sphere of minority issues and especially in the field of legal protection of minority rights. This protection was born within the monarchy.

2 Davies, 2006, p. 518.

3 Davies, 2006, p. 525.

4 Davies, 2006, pp. 527–533.

Before 1918, there were two different concepts of the solution to the national minority issue in the Austrian and Hungarian parts of the dual monarchy. Austrian constitutional legislation recognized the state's multinational, decentralized, and compound character. Administration was based on historically developed lands (*Länder*), most of which were originally independent countries with their own feudal traditions. Both facts were reflected in the Austrian constitutional system. Article 19 of the Basic Rights Act of 21 December 1867 declared the equality of all nations and their languages. Members of particular Austrian nations obtained the right to be educated in their language. The specific language or languages was/were to be the official one in every *Land*, for instance, the historical administrative and law-making unit. There was no official state language throughout Austria, despite the fact that German was used as the lingua franca and the internal administrative language in state offices. Generally, there were no obstacles to Czech national and cultural development before 1918.⁵

The Czechs represented the ethnic majority, at least in the Bohemian kingdom and Moravia. Austrian Silesia, as the third traditional Czech Crown lands, had a German and Polish majority. Germans represented approximately one third of the population of the Czech historic lands. Objectively, the Czech nation's situation was not bad, but it did not harmonize with the Czech society's growing economic power, social maturity, and size. Czech policy permanently attacked the Austro-Hungarian dual system (*Dualismus*) and preferred the Austro-Hungarian-Czech *Trialismus* or (at least) the federalization of the whole monarchy. The permanent struggle between the Czechs and the Germans for political, administrative, and cultural dominance characterized public life in the Czech lands. The internal administrative language was an especially sensitive issue. In 1897, the Austrian Prime Minister Kazimierz Badeni tried to introduce language equality among the public authorities in Bohemia and Moravia, but German resistance blocked this policy and caused the biggest interethnic crisis in the Austrian part of the dual monarchy. Badeni had to annul his reform and reinstate the legal norms prior to 1897.⁶ Together with the unsuccessful bilateral negotiations between the Czech political representation and Vienna about the Austro-Czech settlement (compromise), this fact caused great disappointment regarding the Czech policy before the First World War. Later, it had a tragic impact on the fate of the Austro-Hungarian monarchy.

The situation was better in Moravia, where the Czechs and Germans reached a compromise in 1905. According to the so-called Moravian Settlement, the new provincial electoral law divided the regional parliamentary mandates between Czechs and Germans before voting. New legislation in this mode tried to eliminate the negative impact of ethnical tensions during the electoral campaign and voting.⁷ This model represented the second tendency in the Austrian discourse on the national issues

5 Rychlík, 2006, p. 27.

6 Kořalka, 1996, pp. 166–168.

7 Kořalka, 1996, pp. 168–173.

– the problem of different ethnic groups’ equal and fair participation in the legislative process. A similar solution based on the previous division of mandates among the different ethnic groups was born in Austrian Bukovina in 1909.⁸

The situation in the Hungarian Kingdom was different. The main aim of Hungarian policy in the 19th century was to transform the multiethnic country into the modern Hungarian nation-state, where all citizens, despite their language and ethnic origin, would be politically Hungarians, or rather, more precisely (at least, in the long-term perspective), where all citizens would be Magyars.⁹ The Hungarian model was born immediately after the Austro-Hungarian settlement in 1867. The Austro-Hungarian Compromise restored Hungary’s territorial integrity and gave it a more real internal independence than it had enjoyed since 1526; the king’s powers in internal affairs were strictly limited.

The new Hungarian ‘national’ model mixed two aspects: tolerance of the Croats’ national territorial autonomy, based on historical reasons on the one hand, and the idea of a centralized nation-state on the other hand. The Hungaro-Croatian agreement was born in 1868, and it guaranteed the Croats territorial and limited legislative autonomy in the Hungarian kingdom. The bilateral settlement left Croatia (including Slavonia) as part of the Hungarian Crown, under a ban implemented on the Hungarian prime minister’s proposal. Croatia was to enjoy full internal autonomy, but certain matters were designated as common to Croatia and Hungary. When these were under discussion, Croatian deputies attended the central parliament in Budapest, where they could speak in Croatian, the sole language in internal official usage in Croatia.¹⁰ In other parts of the Hungarian kingdom, the Hungarian language was proclaimed the dominant state and official language. After 1867, Transylvania and the Military Frontiers were reincorporated into Hungary, where a large Serbian ethnic group lived. The basic legal norm regulating the legal position of national minorities in Hungary (except Croatia and Slavonia) was Act XLIV of 1868, which is known as the Law on Nationalities of Hungary. This legal norm represented one of the first complex domestic legal norms regulating national minorities’ issues in Europe. The first Hungarian minority law was born in 1849 during the struggle against Austria for independence, but this act did not impact practical life because the Hungarian revolution unsuccessfully ended in August 1849 (1.5 months after the adoption of the law).

The 1868 Hungarian Law on Nationalities had more influence on the country’s realpolitical life. It was a product of the best Hungarian liberal politicians, who had been trained as lawyers (Ferenc Deák and József Eötvös). They tried to mix the principle of individual minority rights and the idea of a single Hungarian political nation in the French style. The first sentences declared and guaranteed that all citizens of Hungary, whatever their nationality, constituted politically ‘a single nation,

8 Glettler, 1997, pp. 91–93.

9 Rychlík, 2006, pp. 27–28.

10 Szentgáli-Tóth and Gera, 2020, pp. 85–106.

indivisible, unitary Hungarian nation.¹¹ There could not be differentiation between them, except in respect of the official usage of the current languages and then only insofar as practical considerations necessitated. Hungarian was the language of the central administrative and judicial services as well as the language used at the country's only university, but there were to be adequate provisions for the use of non-Hungarian languages on lower (county and local) levels. National minorities had special linguistic rights in the territorial units, where they represented 20% of the inhabitants. The law also recognized the notion of 'nationalities' (*nemzetiségek*), but it did not define this word nor did it contain a concrete enumeration of the nationalities living in Hungary.

This liberal law had two big problems. It was born in a country where the dominant (titular) nation represented only half of the population, and at least the three largest national groups (Romanians, Slovaks, and Serbs) preferred the practical federalization of state. Their parliamentary representatives protested against this law and rejected this model of minority protection.¹² The second problem was the practical implementation of this law's concrete provisions. These rights were not fulfilled and mostly remained existent only on paper. Hungarian liberal governments' real policy preferred the gradual assimilation of all non-Hungarians (non-Magyars). The permanent centralization of public administration and reforms in education and justice also served this aim. Fear from nationalities also blocked electoral reform, and the minority movements had less representatives in parliament than their proportion within the Hungarian population as a whole warranted.¹³ On the other hand, one has to observe this law in the context of 19th-century Europe. Nationalism was strengthening and was dominant everywhere; at this time, only a few countries implemented more or less correct minority policies (e.g., Switzerland and Austria).

The model of multicultural and multilingualistic Switzerland, with its strong autonomies and language rights on the local level, was popular among the representatives of minority movements in Central Europe. Switzerland has been a federal state since 1848. It is composed of 26 federated cantons and demi-cantons that have permanent constitutional status and a high degree of independence. The cantons shall exercise all rights that are not vested in the confederation. Cantons are further divided into 2700 communes, which are granted varying degrees of autonomy. Switzerland also comprises three main linguistic and cultural regions: German, French, and Italian. These linguistic boundaries do not necessarily correspond to cantonal ones: While most cantons are unilingual, three cantons are bilingual (French and German), and one is trilingual (German, Romansh, and Italian). German, French, and Italian have been national and official languages since 1848, whereas Romansh was only recognized as a national language in 1938. The constitution was further amended in 1996 to grant Romansh the status of an official language, thus allowing Romansh-speakers

11 Szarka, 1995, pp. 16–27.

12 Ábrahám, 2020, pp. 125–140.

13 Szarka, 1995, pp. 175–190.

to communicate with the government in their language. Currently, Article 70 of the constitution states that each canton can decide its official language(s). There is thus no official bilingualism at the local level: Four cantons are French speaking (Geneva, Jura, Neuchâtel, and Vaud), three are bilingual, that is, French and German (Bern, Fribourg, and Valais), and one is Italian speaking (Ticino). Romansh is only an official language in the trilingual (German, Italian, and Romansh) canton of Graubünden.¹⁴

Switzerland was originally a German-speaking state that communicated with French and Italian regions in their own language. The three languages became equal co-official languages in the period of the Napoleonic *Republica Helvetica*. The German language was again the dominant language in the first half of the 19th century, but the French and Italian cantons had internal autonomy. The German, French, and Italian languages finally became national and official languages in the constitution of 1848, but this multilingualism only came to represent Switzerland's state idea (or ideology) in the second half of the 19th century, in the shadow of German and Italian national state building. The confessional and political (conservative vs. liberal) differences were also very important to Swiss inhabitants during this period. This fact moderated the tensions between the Swiss nations and helped to integrate the federal state. It was very important during the problematic 20th century. The Swiss model of minority protection is quite special and pragmatic. It has combined individual minority rights with local (territorial) autonomies. The regulation of local language rights is at the cantonal level, but every citizen can use their own language to communicate with federal organs.¹⁵ Hungarian Oszkár Jászi (1875–1957) was sympathetic to this combination of the principle of strong territorial autonomy and language rights, and he was responsible for the Hungarian minority policy during the short period of democratic revolution in 1918/1919.¹⁶ Slovak lawyer and politician Emil Stodola (1862–1945) was also partial to this model.¹⁷ He was the leader of the Slovak National Party and later the first representative of the Czechoslovak government in Budapest. Stodola published a book about Switzerland.¹⁸ He recommended the combination of the principles of territorial autonomy and individual minority rights not only for the Slovaks in Czechoslovakia, but also for the other Czechoslovakian minorities.

An interesting situation emerged on the Balkan peninsula as a consequence of the Ottoman empire's retreat from these territories. This process was accompanied by international assistance embodied in the form of international congresses and conferences involving the great powers (the so-called European Concert). Contractual protection for certain ethnic and religious groups (both Muslims and non-Muslims) already existed at an international level. The 1878 Congress of Berlin

14 <https://www.queensu.ca/mcp/national-minorities/evidence/switzerland>

15 Altermatt, 1994, pp. 1–3.

16 Oszkár Jászi prepared the 'Eastern Switzerland' plan. For maps, see <https://tti.abtk.hu/terkepek/1918-a-jaszi-oszkar-fele-keleti-svajc-tervezet>

17 Vozár, 2016, pp. 11–50.

18 Stodola, 1920, p. 38

played a crucial role in this process. During this time, independent Romania, Serbia, and Montenegro were born. The European Congress prohibited discrimination on a religious basis and attempted to improve the more liberal Romanian citizenship policy toward local Jews. (From among 270 000 Jewish inhabitants, only 2000 had Romanian citizenship at this time.)¹⁹ The nascent Bulgarian state was first bisected and then divided into the Principality of Bulgaria and Eastern Rumelia. These entities were given nominal autonomy under the control of the Ottoman empire. The Ottoman government agreed to obey the specifications contained in the Organic Law of 1868 and to guarantee the civil rights of non-Muslim subjects. Eastern Rumelia, which was dominated by a Bulgarian population but had its own large Turkish and Greek minorities, became an autonomous province under a Christian ruler. Here, it was necessary to protect Turkish Muslims.²⁰ However, related agreements from Berlin were not very reassuring, since only the signatory parties were concerned about their practical application, and for this reason, violations were commonplace and usually went unpunished. Everyone saw that real implementation of international obligations required new forms of organizations. This experience was important for development after 1918.

2. The interwar period (1918–1939)

A new era in the history of legal protection of ethnic and national minorities started after the First World War. This era was characterized by the internationalization of minority issues. The Paris Peace Settlement established a new international political system, and the League of Nations represented its ideals. *“Most war-weary people, imbued with a spirit of liberalism, tolerance and humanism, placed their belief in the complex ideals of the League of Nations and greater international co-operation.”*²¹ This universal international organization with general competencies was officially established with the entry into force of the Treaty of Versailles on 10 January 1920. The League of Nations formally existed until 18 April 1946, but it ceased political and other activities as early as 1940. It played a crucial role in the implementation of a new system of minority protection. The codification of new international legal norms regulating minority protection began at the Paris Peace Conference with the drafting of standard treaty texts, and in the early 1920s, the process continued with the signing of special bilateral treaties. This regulation was necessary because 62 million Europeans (13% of the total continental population) were still living with minority status. Minorities represented approximately 30% of the Czechoslovak, Polish, and Romanian population. They also represented a high proportion of the population of the Baltic states. The Yugoslavian state was also very heterogeneous. The authors of the

19 Fábíán, 2018, p. 169.

20 Jelavich, 1996, pp. 322–324.

21 Zeidler, 2009, p. 86.

peace system argued that the legal mechanism of minority protection should be made available to national and ethnic minorities.²²

The minority protection requirement imposed on the defeated states (Austria, Bulgaria, Hungary, and Turkey) was introduced in their respective peace treaties signed between 1919 and 1923. The two old (Greece, Romania) and several new states (Czechoslovakia, Poland, and the Kingdom of the Serbs, Croats, and Slovenes) in Central and Eastern Europe were viewed as winners. These countries were compelled to sign separate minority protection treaties with the great powers in 1919–1923. Legal protection for the German minorities of autonomous Upper Silesia and the Memel territory was laid in international agreements signed between Poland and Germany in 1922 and between Lithuania and Germany in 1924. Iraq in Asia undertook to protect its minorities upon gaining its independence in 1930.²³ The new independent states around the Baltic Sea (Finland, Estonia, Latvia, and Lithuania) did not sign the minority treaties. These countries, together with Albania, before they gained access to the League of Nations, only signed a declaration confirming their readiness to negotiate regarding the protection of national minorities. It was a lower standard of protection.²⁴

These were the minority protection legal regulations and norms that were placed under the League of Nations' guarantee, which the League undertook to enforce. The interwar international protection of minority rights only worked in the region of Central and Eastern Europe and in Iraq. The Western war victors did not have obligations in this field. This 'double standard' characterized the entire interwar period. "[...] *the League's minority protection system served to mitigate merely the worst minority policy effects of the transfers of territory made at the expense of the defeated states.*"²⁵

The new provisions did guarantee the following to citizens 'who belong to racial, religious or linguistic minorities':

*(1) Equality of all nationals of the country before the law. (2) Equality in the matter of civil and political rights, and of the admission to public posts, functions and honours. (3) Equality of treatment and security in law and fact. (4) Equality of the nationals of the country in all matter of establishing, managing and controlling charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language, and to practise their religion freely therein. (5) Equality in the matter of employment of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.*²⁶

22 Zeidler, 2006, pp. 87–88.

23 Zeidler, 2006, p. 89.

24 Petráš, 2009, pp. 46–47.

25 Zeidler, 2006, p. 89.

26 Zeidler, 2006, p. 89; Azcárate, 1945, p. 60.

The interwar system of legal protection of minorities preferred individual minority rights, but it did not exclude the several forms of territorial autonomy. The great powers did not have a problem with autonomy. The Germans living in Upper Silesia or in the Memel territory had territorial autonomy,²⁷ and the international norms also prescribed autonomy for Ruthenia within Czechoslovakia. The transfer of members of minorities was also not unknown at this time, for instance, in the 1920s, in Greece and Turkey, with the United Kingdom's political assistance, the population had been changed. This organized and legally regulated transfer was the sad prelude/overture to the tragic events of the Second World War as well as the post-war period. However, during the interwar period this 'instrument' of minority policy was an exception.

Many important legal norms regarding national and ethnic minorities were born on the national level too. At its most tolerant and democratic, Czechoslovakia, with one third of its citizens belonging to ethnic minorities, adopted a special law (Act 122 of 1920) concerning the use of minority languages in public life and administration. The Czechoslovak parliament in Prague adopted this norm immediately after the adoption of new a constitution in February 1920. In this way, the young republic followed 'old' Austria's traditions. The second Polish Republic regulated the legal protection of national and ethnic minorities on the constitutional level, but it did not adopt a complex minority act or a special linguistic law for minorities. In the 1930s, Poland in Geneva very radically attacked the international obligations regulating the legal position of minorities in Poland. In 1923, interwar Hungary, ruled by Admiral Miklós Horthy, adopted a government decree (No. 4800/1923) that regulated the legal position of national minorities on the basis of the Treaty of Trianon and old Hungarian law (1868) on nationalities.²⁸ The political regime was more nationalistic than before the world war, but interwar Hungary had only a limited number of inhabitants belonging to national minorities. Radical anti-Semitism characterized the country's public life. Anti-Semitism was a problem in the majority of countries in East Central Europe, especially in Poland and Romania. Romania was a big territorial winner in the Versailles peace system. Despite Romania's large minority population (30% of its inhabitants), it did not adopt a special minority act on the national level. It was only during the king's dictatorship that the Romanian government passed a statute on nationalities, but this document did not have much relevance.²⁹

Hungarian historian Miklós Zeidler summarized the effects of the existence of the League of Nations as follows:

The aim of the League of Nations' minority protection system was on the one hand to correct mistakes and on the other hand to educate its members in the art of peaceful coexistence, thereby providing a framework for learning about democracy and humanity. Still, in the atmosphere of mutual distrust, the system soon became an

27 Witkowski, 2012, pp. 353–355; Konieczny and Kruszewski, 2002, pp. 366–375.

28 Egyed, 1943, p. 146.

29 Fábíán, 2018, p. 181.

instrument for rivalry acted out in full view of international public opinion. Finally, it collapsed under the baleful pressure of the impending war... It is hardly surprising that this system of minority protection received criticism from all sides. The states signatory to the international minority protection treaties were never reconciled to the infringement on their sovereignty. In some cases, they had little choice but to defend themselves against the accusations of the minorities... They considered minority complaints to be no less than expressions of disloyalty on the part of their own citizens, motivated by the propaganda and hostility of the kin states (e.g. Hungary). Meanwhile, the region's national minorities, as well as the states that were required to support their ethnic kin living in other countries, regarded the minority protection system as highly ineffective... International minority protection could not divorce itself from general international politics. After a brief period of improving international relations, the new international system, whose inception had occurred amid the division into victors and defeated, began to reflect once again antagonistic blocs of a military and political nature. This fact rendered the peaceful and reasonable administration of minority problems almost impossible.³⁰

We have to note the fact that the interwar years were a period that saw nationalistic emotions in Europe. This attitude was characteristic for the states and for the members of several minorities (e.g., see the role of Germans living abroad under the policy of Hitler's Germany).

During the Second World War, an interesting situation had arisen. Radical nationalism was dominant in all states that cooperated with Nazi Germany. Parallel to radical anti-Semitism, Germans held a privileged position, and the national principle was the basic principle for fascist state building in these countries. The German minority (*Volksgruppe*) had a special position everywhere. The Slovak constitution adopted in 1939 officially declared the principle of international reciprocity toward the Hungarian minority living in the country. The 'repatriation' of the German-speaking population from South Tyrol during Hitler's era had a place in the German-Italian relationship. Nazi Germany signed agreements concerning the exchange of minorities with Romania (1940) and Bulgaria (1943).³¹ These measures indirectly paved the way for a later policy of ethnic transfers and population exchanges during the post-war period.

3. The situation after 1945

The Second World War represented an important borderline in the history of minority issues in Europe. Nazi Germany and its allies' radical nationalistic policy of abusing minority issues to destabilize the existing international system before the war

30 Zeidler, 2006, pp. 113–114.

31 Fábíán, 2018. p. 183.

engendered strong mistrust among the antifascist democratic great powers toward national minority rights. Paradoxically, this trend accompanied a renaissance of human rights, which characterized the first years after the Second World War and finally produced the Universal Declaration of Human Rights in 1948. Repression of minorities linked to the defeated states was very typical in the first post-war years. The reestablished nation-states deported the majority of the German minority that traditionally lived in East Central Europe from different regions (Czechoslovakia, Hungary, Poland). The great powers permitted the partial exchange of the minority population between Czechoslovakia and Hungary as well as transfers between Poland, Soviet Ukraine, and Belarus. Despite the Yugoslav partisans' internationalistic ideology, Josip Broz Tito's new communist regime very violently repressed the Germans, Hungarians, Croats, and Slovenes who had collaborated with the occupational powers. The idea of collective punishment was, at that time acceptable, for the majority of winners.

Paradoxically, only the region's total political and social Sovietization after 1948 brought better life conditions for the members of national and ethnic minorities living in East Central Europe. This strange fact is connected to the internationalistic ideology underlying the radical socialist left movement and Leninist national policy in the early years of the Soviet Union. In the 1920s, the new Soviet power realized a generous national minority policy that accepted the idea of federalization for bigger nations and different forms of territorial or cultural autonomy for smaller ethnic groups and communities. The main author of this policy was Vladimir Ilyich Lenin, together with Josif Vissarionovich Stalin, who was a commissioner for national minorities. Stalin, during the elaboration of his personal dictatorship, later used this fact (Lenin-Stalin cooperation) in the internal political struggle among the Soviet leaders, and the 'best practices of Soviet national policy' were incorporated into the Soviet ideological model. After 1948, Moscow exported this model to East Central Europe. One of the policy's main pillars was nations' right to self-determination. Soviet federalism and the worldwide process of decolonization blossomed out of this right. The second aspect was especially important for the post-war Soviet Union, which, through support for decolonization, tried to weaken the old Western powers (mainly France and the United Kingdom) on the international level. Parallel to this policy, following the Soviet pattern in East Central Europe helped to revitalize the standard minority policy based on the right to education in mother tongues and to the usage of this language in public life. These rights were not evident everywhere in the first post-war years, but parallel to the Soviet pattern's gradually declining influence after 1968, nationalism was reborn in several communist countries within Central and Eastern Europe (Romania, partly Bulgaria).

Soviet national policy preferred cultural and educational rights for national and ethnic minorities, but it also did not have a problem with formal autonomy. Naturally, under the circumstances of dictatorship, autonomy was relative, but after the previous nationalistic repressions, every positive measure was important to the inhabitants. This was especially true for the Hungarian minority in Czechoslovakia, which,

between 1945 and 1948, endured a very radical anti-minority policy that focused on Germans and Hungarians. At the same time, Yugoslavia realized its own model of socialist state building and federalization of the country, but this model is not an object of this research. The Polish state became a more or less ethnically homogenous country after the Holocaust, the transfer of Germans to Germany, and the Polish–Ukrainian and Belorussian–Polish population exchange, where the national minority problem was totally absent. Hungary was in similar position. These countries did not adopt complex minority or official language laws during the socialism period. The larger nationalities were represented in the socialist parliaments by their communities' official cultural organizations. These unions also organized cultural and social life for members of the ethnic groups they represented.

Among the countries with large minority groups living in their territories, Romania realized a more liberal and generous policy toward national and ethnic minorities. This policy was born under Soviet pressure in the first post-war months and thus did not involve internal or domestic Romanian inspiration.³² Romania adopted the Statute on Nationalities in February 1945. This document introduced a bilingual administration and justice in the ethnically mixed regions, in addition to guaranteeing university education in the Hungarian language. The national minorities, representing at least 30% of the local or district population, had the right to use their mother tongue in public administration, self-government, and the judicial system. Civil servants from a minority background were not obligated to take special exams in Romanian. Every minority that accounted for a proportion of the population above 5% (on the national level) had the right to the translation of legislative norms to their mother tongue. The Soviet military administration stopped the atrocities the Romanian irregular guards had been accustomed to committing against the Hungarian civil population. These norms were very important in the 'wild' post-war period.³³ Later, minorities' situation became more complicated, but the national and ethnic minorities held a relatively good position in the first period of Romanian socialism (more or less before the 1970s).

A very interesting example of the Soviet-style national policy can be found in the Hungarian Autonomous Region (HAR) in Romania (1952–1968). The creation of this region, along with the Yugoslav experiment, is the only example of an integrative minority policy in post-war Central and Eastern Europe. It represented an attempt to solve a deeply rooted national question by giving Szeklerland, a predominantly ethnic Hungarian region of Transylvania,³⁴ administrative 'autonomy.' The ideological premises of the region, imposed on the Romanian Party by Soviet leadership in 1952, followed the Soviet Bolshevik pattern of territorial national autonomy that Lenin and Stalin elaborated in the early 1920s. Moscow and its specialists played an important role in shaping reform, just as with every other political decision in the early 1950s

32 Fábíán, 2018, pp. 184–185.

33 Nagy, 2002, pp. 1–2.

34 Bottoni, 2003, p. 71.

in Romania. Even the documents inspiring the administrative reform arrived from Moscow already translated into Romanian (often with Soviet-inspired terminology). The Hungarians of Szeklerland became a 'titular nationality' and were provided with extensive cultural rights. On the other hand, the Romanian communist central power used the region as an instrument to politically and socially integrate the Hungarian minority into the communist state.³⁵ The HAR's position was the strongest in the 1950s, but after the Soviet influence began to decrease in socialist Romania, the Hungarian minority's position also weakened. This fact was especially evident during Nicolae Ceaușescu's leadership in the 1970s and 1980s. However, the HAR's history was also influenced earlier by changes in the Soviet concept of the nation, which occurred in the latter part of Stalin's period. "*As the ongoing ethnicization of Soviet social identity also meant reemergence of traditional, Russian dominance, the HAR could never become a strong counter-power in front of the Romanian Stalinist elite lead by Gheorghie Gheorghiu-Dej.*"³⁶ Later, Romania became the major example of a strong nationalistic communist regime in East Central Europe. Despite its Stalinist origin, the collective memory of Hungarians living in Romania and especially in Szeklerland preserves the years following the HAR's establishment as a period of cultural development and also as climax of ideological pressure, massive political reprisals, and an extremely low standard of living.³⁷ However, national rights peaked during this era.

The national problem also played an important role in the history of socialist Czechoslovakia. After the post-war period (1945–1948), anti-German and anti-Hungarian repressions (e.g., the transfer of 3 million people of German ethnicity to Germany, the Czechoslovak–Hungarian exchange of minorities, deportation of one part of Hungarians to the Czech lands, etc.), the coming communist regime reconciled the situation and reestablished the citizenship of Hungarians living in Czechoslovakia. The new government no longer followed the policy of 'Slavonic Czechoslovakia.' Rather, they implemented a policy of complex economic, social, and political transformation in the Soviet style. A more moderate national policy toward minorities was a component of this gradual process. The regime restored the system of schools with minority languages not only for Polish and Ukrainian/Rusyn minorities, but also for the originally discriminated against Hungarians. (The rest of the German minority only had this opportunity later.) Each minority had a right to form one general 'umbrella' representative organization to organize cultural life and represent the minorities before the state organs and in parliament. The Czechoslovak Hungarian Workers' Cultural Association (Csemadok) represented the Hungarian minority beginning in the 1950s. It was the biggest minority organization, with local units in many towns and villages. These organizations stayed under the strict control of the communist party and regime. The leaders of Csemadok and other nationalities only received the opportunity to gain more real self-representation in the 1960s.

35 Bottoni, 2003, pp. 71–72.

36 Bottoni, 2003, p. 71.

37 Bottoni, 2003, p. 93.

Socialist Czechoslovakia's new constitution of 1960 briefly mentioned the Hungarian, Polish, and Ukrainian minorities' cultural, educational, and language rights. The most important event in the lives of members of the Czechoslovakian minorities was the 1968 reform. After lengthy negotiation, the officially unified Czechoslovak Socialist Republic (with limited autonomy for Slovakia in the form of a post-war 'asymmetric model') became a federation of two member states: the Czech Socialist Republic and the Slovak Socialist Republic. The adoption of Constitutional Law 144/1968 Coll. on the situation of minorities in the Czechoslovak Socialist Republic accompanied the process of Czecho-Slovak federalization. This law granted rights to the German, Hungarian, Polish, and Ukrainian (Rusyn) minorities. It was the first law after 1948, and it cautiously distinguished between the officially supported Ukrainians and the somewhat tolerated Rusyns.³⁸ As to the Roma minority, their situation was confused and complicated. In 1958, decrees were issued limiting nomadic movement and actively committing Czechoslovakia to assimilating the Roma, in part by restricting travel and establishing settlements. Although there was a short period of official recognition of the Roma as an ethnic group after the Prague Spring in 1968, by the mid 1970s, the state had essentially begun to disavow their existence, shutting down organizations that represented their interests and preventing academic research on Romani culture. At the same time, the government tried to assimilate the Roma and improve their social situation.³⁹

The Czechoslovak law of 1968 recognized minority rights in education, cultural development, media, and in the field of public administration, where members of official minorities could use their mother language. This right was real mainly for the Hungarian, Polish, and Ukrainian (Rusyn) minorities who lived more or less concentratedly, whereas the members of the German minority were dispersed. The minorities also received the right to establish representative cultural and social organizations. The declaration of the right to participate in the work of representative state organs and elected bodies was very important. The realization of this right was proportional to the nominal weight of a concrete minority within the Czechoslovak society. This model harmonized with the system of informal communist 'statistical' or 'corporative' representation. After the last communist elections in 1986, the Hungarian minority had 19 mandates in the Federal Assembly and 16 mandates in the Slovak National Council. The Ukrainian (Rusyn) minority had four mandates in federal parliament and three mandates in the Slovak National Council. Three members of the Federal Assembly represented the Polish minority, and two represented the German minority. The German and Polish minorities also had one mandate in the Czech National Council.⁴⁰

The Czechoslovak Act of 1968 declared the right to the free choice of national identity and included an antidiscrimination clause pertaining to economic, political,

38 Petráš, 2009b, pp. 116–127.

39 Pavelčíková, 2009, pp. 128–133.

40 Gronský, 2007, p. 216.

and social life. The act prohibited pressure to assimilate. Naturally, the reality of the 1970s was more complicated, because other educational and administrative laws also regulated minorities' legal position, for example, the slow reduction in minority schools started in this time. The situation was not as dramatic as in Bulgaria and Romania, but 'gradual nationalization' under the communist regime was also present in socialist Czechoslovakia.

Socialist Yugoslavia implemented the most generous minority policy beginning in the 1960s, after the post-war anti-German and anti-Hungarian repressions and atrocities started the process of federalization of the Yugoslavian state. The most liberal was the federal constitution of 1974, which placed the two autonomous territories in Serbia (Kosovo and Voivodina) in a very good position. Voivodina was multicultural. Concrete national and minority policy sometimes depended on Yugoslavian republics' regulations, for instance, socialist Slovenia and partly Croatia were more liberal toward local minorities than Serbia. However, the general standards in the fields of minority education, public administration, right to information in the mother language, etc., were relatively high in Yugoslavia.

Summary

The East Central European region has a relatively long history of legal protection of national and ethnic minorities. This history is connected to the entire region's complicated ethnic and social structure, given that nation and state building were typical in East Central Europe in the last two centuries. Unlike in Great Britain, France, and tsarist Russia, the cultural-linguistic form of national identity (the concept of a linguistic-cultural nation) was dominant here. The majority of national movements in the region were based on the language and cultural aspects. This fact naturally impacted the concrete forms of minority policies in the region. Usage of the mother tongue in public administration and the justice system, education in the mother tongue, and the right to cultural self-expression and self-government were the main and the most sensitive points of this policy. The principle of personal or territorial autonomy was also not unknown in the region (in every researched period, including the Soviet era).

A very important specific feature of minorities' position in East Central Europe is the dependence on the great powers' international politics and position. This fact sometimes moderated the minority situation in the region. For example, the Congress of Berlin's (1878) decisions improved the situation of religious minorities in the Balkan countries. After the First World War, pressure from the victorious great powers caused the establishment of an international system of minority protection, which moderated the pressure to form new nation-states towards their minorities. After the Second World War, pressure from the Soviet Union helped to stabilize the legal position of the Hungarian minority in Romania and consolidate minorities' situation in Czechoslovakia. Naturally, the socialist and communist parties' more

internationalistic and ethnically tolerant ideology also helped minorities after the strong post-war nationalistic repressions. Furthermore, pressure from the Western democratic states and the EU helped minorities after the collapse of the communist regimes in 1989/1990, which also unfortunately caused the renaissance of radical nationalism in the post-communist region.

Despite the similar circumstances, conditions, and international challenges, the internal development of legal protection of minorities had different dynamics. These differences mainly depended on the internal development of certain states and their societies. For example, the post-war nationalistic repressions were the most radical in Czechoslovakia and Yugoslavia, but several years later, improvements had been made in the form of relatively generous minority policies. The post-war situation was more moderate and tolerant in Romania, which only implemented a radical anti-minority policy in the 1970s, when Romania was the state that was the most independent (relatively) of pressure from Moscow. A nation-state's greater independence in international relations (without strong international legal guarantees) was not always good news for the national and ethnic minorities in the East Central European region.

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