

## 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 19<sup>th</sup> 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’ 19<sup>th</sup> century (1789–1918)

The national and ethnic minority issue was born parallel to the idea of the nation-state in Europe in the late 18<sup>th</sup> and early 19<sup>th</sup> 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 18<sup>th</sup> century, and the second phase started in the first three decades of the 19<sup>th</sup> 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.<sup>1</sup>

Naturally, ethnicity existed prior, but its role in political life was not the same as it was later in the 19<sup>th</sup> 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 17<sup>th</sup> and 18<sup>th</sup> 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 19<sup>th</sup> 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

1 Hroch, 1996, pp. 35–37.

terminated this autonomy. Tsarist Russia represented one of the most heterogenous empires in the 19<sup>th</sup> 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 19<sup>th</sup> 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 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,<sup>2</sup> 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 19<sup>th</sup> century. The Polish inhabitants had only two secondary grammar schools that used the Polish educational language,<sup>3</sup> 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 20<sup>th</sup> century.<sup>4</sup>

Only Austrian Galicia, with its Polish, Ukrainian, and Jewish population, preserved its territorial autonomy throughout the 'long' 19<sup>th</sup> century (1789–1918). The Austrian administration in Galicia respected the Polish population's rights and privileges,

2 Davies, 2006, p. 518.

3 Ibid., p. 525.

4 Ibid., pp. 527–533.

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.

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 December 21, 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.<sup>5</sup>

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 *Trialsimus* or (at least) the federalization of the whole monarchy. The persistent 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.<sup>6</sup> 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.

5 Rychlík, 2006, p. 27.

6 Kořalka, 1996, pp. 166–168.

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.<sup>7</sup> This model represented the second tendency in the Austrian discourse on the national issues – 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.<sup>8</sup>

The situation in the Hungarian Kingdom was different. The main aim of Hungarian policy in the 19<sup>th</sup> 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.<sup>9</sup> 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.<sup>10</sup> 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).

7 Ibid., pp. 168–173.

8 Glettler, 1997, pp. 91–93.

9 Rychlík, 2006, pp. 27–28.

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

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, indivisible, unitary Hungarian nation.'<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> On the other hand, one has to observe this law in the context of 19<sup>th</sup>-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 multilingual 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 2,700 communes, which are granted varying degrees of autonomy. Switzerland also comprises three main linguistic and cultural regions: German, French, and Italian.

11 Szarka, 1995, pp. 16–27.

12 Ábrahám, 2020, pp. 125–140.

13 Szarka, 1995, pp. 175–190.

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 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.<sup>14</sup>

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 19<sup>th</sup> 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 19<sup>th</sup> 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 20<sup>th</sup> 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.<sup>15</sup> 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.<sup>16</sup> Slovak lawyer and politician Emil Stodola (1862–1945) was also partial to this model.<sup>17</sup> 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.<sup>18</sup> 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.

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.



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 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 2,000 had Romanian citizenship at this time.)<sup>19</sup> 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.<sup>20</sup> 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."*<sup>21</sup> This universal international organization with general competencies was officially established with the entry into force of the Treaty of Versailles on January 10, 1920. The League of Nations formally existed until April 18, 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

19 Fábíán, 2018, p. 169.

20 Jelavich, 1996, pp. 322–324.

21 Zeidler, 2009, p. 86.

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

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.<sup>23</sup> 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.<sup>24</sup>

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."<sup>25</sup>

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*

22 Ibid., pp. 87–88.

23 Ibid., p. 89.

24 Petráš, 2009, pp. 46–47.

25 Zeidler, 2009, p. 89.

*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.*<sup>26</sup>

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,<sup>27</sup> 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.<sup>28</sup> 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.<sup>29</sup>

<sup>26</sup> Ibid.; Azcárate, 1945, p. 60.

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

<sup>28</sup> Egyed, 1943, p. 146.

<sup>29</sup> Fábíán, 2018, p. 181.

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 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.<sup>30</sup>*

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).<sup>31</sup> These measures indirectly paved the way for a later policy of ethnic transfers and population exchanges during the post-war period.

30 Zeidler, 2009, pp. 113–114.

31 Fábíán, 2018, p. 183.

### 3. Situation during the Second World War

The years of the Second World War represent an interesting period in the history of minority legislation and practice in the Central European states. On the one hand, state borders changed considerably, and on the other, the whole region came under the strong influence of Nazi Germany. The tragic consequence of this was first the complete disenfranchisement and then the genocide of the Jews. However, the present study does not deal with this tragic chapter as it would require a separate book. The point was that Jews began to be segregated and then murdered on racial grounds. From this viewpoint, the earlier theoretical debates about whether this was a national minority or a religious community became irrelevant. Nor did the degree of assimilation matter. The term 'ethnic group' began to be used increasingly frequently to refer to people with a different language, culture, and possibly history from the majority population. During these years, independent Austria, Czechoslovakia, and Yugoslavia ceased to exist, Hungary became significantly larger and once again multi-ethnic, and two small independent Slavic states emerged in the shadow of Germany: Croatia and Slovakia. Germany developed special relations with the remaining states in the region, which included the question of the status of the German minority.

From the viewpoint of national minority legislation, the most interesting case was that of the Slovak Republic. The independent Slovakia under German protection was born on March 14, 1938. The Slovak parliament adopted the constitution in summer 1939 (July 21), which still partly reflected the legal traditions of the former Czechoslovakia but was mainly dominated by the model of the fascist and corporatist states of southern Europe (Italy, Portugal, partly the former Austria ruled by Dollfuss). The influence of Nazi Germany was less dominant. Among the few exceptions were provisions on the legal status of particular ethnic groups.

Slovakia directly addressed the rights of national minorities in the Constitution; Chapter 12 of the 1939 Constitution regulated this issue. It was preceded by a chapter on churches and followed by a final and mixed chapter. Minority issues were thus placed at the end of the document, but this did not diminish their importance. The very title of the chapter was revealing, since it was not about national minorities or nationalities, but about national minority groups. Citizens had the right to declare their nationality, of which the state could keep an official register. The Constitution prohibited activities directed at denationalization. The national minority groups that had established themselves in Slovakia had the right to organize themselves culturally and politically under their own leadership. In addition, the national groups and their members could establish and cultivate cultural relations with their mother nation. They were also given the right to use their language in public life and in education. Its use was to be regulated by a special language law, which was not adopted during the war.

§ 95 on reciprocity in this area is of particular interest:

*The rights of national groups, as set out in the Constitution, shall apply in so far as the same rights are in fact also enjoyed by the Slovak minority in the territory of the mother state of the respective national group.*<sup>32</sup>

Although this clause was of general validity, it was practically implemented only in the area of Hungarian-Slovak relations, where numerous minorities actually existed on both sides of the border. There was no Slovak minority living in Germany and, moreover, Slovakia had no chance to really influence events in the Third Reich. The Ruthenians or Ukrainians, who could still be considered, did not have a state of their own at that time. The Czech community, which consisted mainly of people who had immigrated to Slovakia during the interwar period, had been expelled from the country by the government the previous year as part of an anti-Czech campaign. The Poles were not dealt with by the legislation of the time, although Slovakia had regained several villages in the border area in 1939. Although the Jews were defined on ethnic and soon racial grounds, their status as a state-recognized national group with collective rights was not an option in the context of a growing anti-Semitic state policy. Their situation was becoming increasingly worse by the day. The Roma question was also not considered a minority problem at that time. Thus, in addition to the Czechoslovak traditions, the influence of Germany and its *völkisch* ideology could already be felt in the provisions of Chapter 12.<sup>33</sup>

Slovakia's main legislative body remains the National Assembly, which, among other things, elects the President of the Republic. Jozef Tiso also became leader of the governing Hlinka Slovak People's Party. As Slovakia had also become a one-party system following the German and Italian models, these two posts gave Tiso power. No other Slovak parties were allowed to operate in the country. However, the Hungarian and German national minorities were allowed to have their own parties in the Slovak political system. The constitution even mentioned the Ruthenians, but they did not organize their own official party. However, they were allowed at least one representative in parliament. The legal status of the two nationality parties was similar, but their real position of power was not. The much more influential Deutsche Partei functioned partly as the main representative of the local German minority and partly as a power broker for the Berlin will. With almost 60,000 members, it was modelled on the NSDAP and had a similar ideology; it even had its own protection squad (*Freiwillige Schutzstaffel, FS*) and organized a youth organization (*Deutsche Jugend*). The DP had three members of parliament, one member of the Council of State, which embodied the corporative principle, and a separate German state secretariat for the German minority. Leader of DP Franz Karmasin also held this post. However, the party did not succeed in achieving a completely special status for members of the German minority in Slovakia. Not only did this not please the

32 <https://www.upn.gov.sk/data/pdf/ustava1939.pdf>.

33 Kamenec, 1992, p. 39.

majority Slovak politicians, but Berlin diplomacy did not want to strain the well-established German-Slovak relations.<sup>34</sup>

The United Hungarian Party was allowed to represent the Hungarian national community of around 67,000 in the Slovak parliament. This party represented Hungarians living in Slovakia even before 1938; however before the first Vienna decision, the local Hungarian population numbered more than 600,000. This number was radically reduced in the autumn of 1938. Even so, Hungarians remained the country's largest national minority, accounting for 2.5% of the population. János Eszterházy, the president of the Hungarian Party, was the only Hungarian member of parliament. Hungarians were not given a special seat in the Council of State and their efforts to organize an independent Hungarian trade union were unsuccessful. There was no question of their own defense squads. Organizationally, it was a centralized and authoritarian party, but ideologically it was more characterized by national conservatism. Although it voted for several anti-Jewish laws, only the MP Eszterházy did not vote for a deportation of Jews from Slovakia in 1942.<sup>35</sup>

The principle of reciprocity has played an important role in Hungarian-Romanian relations, despite the fact that, unlike in Slovakia, it is not enshrined in the constitution. It was instead linked to the general perception and power mentality of the nationalist regimes of the time. In 1940, Hungary tried to regain the territories it had lost from Romania after the First World War. Romania was then under Soviet pressure. At the same time, Germany and Italy did not miss the war between their allies. For this reason, they met in Vienna and the German-Italian arbitrage was born, resulting in the partition of Transylvania. The northern part (43,104 km) went to Hungary, the slightly larger southern part remained with Romania. The decision also resulted in major population movements. In 1940, some 100,000 Hungarians left Romanian territory and settled in the north, where some 25,000 Hungarians arrived from the territory of Trianon Hungary. As a result of the political changes, a similar number of Romanians left northern Transylvania for Romania. Overall, migration was even higher. Between 1940 and 1944, statistics show that 219,927 Romanians fled from Hungary to Romania and 190,132 Hungarians left South Transylvania and moved north. This also meant that the number of Romanians in Northern Transylvania decreased by one fifth, while the number of Hungarians in Southern Transylvania decreased by almost 40%.

What about the ethnic situation in Hungarian North Transylvania, where according to the 1941 Hungarian census, approximately 40% of the population remained Romanian? Of the 12 counties that returned, Romanians were in the absolute majority in four counties. In total, there were more than one million new citizens of non-Hungarian ethnicity. Hungary was thus realistically becoming a multi-ethnic state again.

34 Ibid., pp. 44–45.

35 Kamenec, 1992, pp. 39–43.

However, this did not result in the new general minority legislation. For the time being, Budapest did not want to assert the German *völkisch* concept of separate collective rights for ethnic groups, and Romania was not keen on it either. Obviously, both states were forced to make serious gestures and concessions towards the German minority, but they did not want to rewrite their entire legislation for this reason. In 1940, Romania signed a bilateral agreement with Germany on population exchange and repatriation. Berlin had previously applied this policy towards Italy and had also signed an exchange agreement with Bulgaria in 1943. After the Second Vienna Arbitration, the authorities of both states committed atrocities (especially during the period of provisional military administration) against the national minorities remaining on their territories, not to mention the persecution of Jews that had begun. Sensing that Germany felt that the Hungarian-Romanian conflict had been solved, Hungary was somewhat more inclined to consolidate the situation. Romania, on the other hand, found the losses difficult to bear and its attitude was marked by strong revisionism. The new Hungarian and Romanian consulates also played an important role in dealing with the grievances of the minority population. This meant a relatively internationalization of bilateral minority issues.

This was another sign that the two countries were effectively using the minorities living on their territory to blackmail each other. This applied equally to educational institutions, the issuing of passports, or press policy. However, there was no full restitution of pre-1918 property, or at most only partial restitution. Mutual bargaining also played a role in this. The political elites also knew that the final settlement of the whole issue depended on the outcome of the war. Paradoxically, German-Italian diplomatic patronage of their smaller allies also had a moderating effect. Hungary tried to settle a large proportion of the legal relations of the returned territories not by law but by decrees of the prime minister or governmental decrees.

Under these circumstances, parliamentary bodies and elections were even less important. Hungary, which had enlarged after 1938 and 1940 (it still had the former Yugoslav territories to acquire in 1941), did not hold parliamentary elections until the end of the war. However, the parliament still played an important symbolic and practical role in a country that was rapidly becoming radicalized but still focused on the semblance of traditional constitutionalism. (Such semblance is mentioned here because Jewish laws had led Hungary off the path of equality of rights and the organization of the state was becoming increasingly authoritarian.) The Law XXVI of 1940 on the Return of the Former Romanian Territories provided that, in the absence of elections, the legislature would be supplemented by delegation for the time being. Accordingly, the returned Transylvanian and Parthian territories had a total of 63 seats in parliament. The decisive factor for the delegation was the invitation of the Prime Minister, after which the two chambers of parliament voted on the new members. It was decided that the distribution of seats would also take the ethnicity of Transylvania into account. This meant that 48 seats were allocated to Hungarians, 12 to Romanians and three to Germans. This was partly a reprisal for the harassment of



Hungarians in Southern Transylvania. Therefore, this was another manifestation of the policy of reciprocity.

In Romania, the situation was simpler because a royal dictatorship already existed before the war (1938), followed by the Iron Guard and then the dictatorship of General Ion Antonescu. Under these circumstances, parliamentary bodies and elections were even less important. In 1941, General Antonescu cracked down on the Iron Guard, but retained their extreme nationalist ideology. Romania suffered many territorial losses in 1940 and the state of Greater Romania seemed to be disintegrating. More than 400,000 refugees arrived from the lost territory, many of them middle class. The situation was similar to that in post-Trianon Hungary. Social frustration was intense, and fierce nationalism raged against the old political system and minorities.

The goal of the Iron Guard and Antonescu was to create a homogeneous Romanian ethnocracy, which required cleansing Romania of foreigners. Their own minority citizens were no longer really treated as citizens, their claims were treated as a matter of state security, and efforts were made to squeeze them out of the economy. The situation of the Jews was absolutely tragic because in their case, the initial aim was to liquidate them, while in the case of the other nationalities (Hungarians, Ukrainians, Bulgarians, etc.), it was more a question of making them impossible to live with and removing them. The only exceptions were the Germans of South Transylvania, who were important to the regime because of the good German-Romanian relations.<sup>36</sup>

After Bucharest had hoped for a revision of the Second Vienna Arbitration from Berlin, the Romanian elite tried to proclaim itself as having understood the 'word of the times' in relation to 'feudal' and 'retrograde' Hungary and wanted to adapt to the Nazi-German 'New Europe'. The adoption of the German *völkisch* idea played a part in this. The German minority was therefore able to create its own *Volksgruppe* (People's Group), which had its own autonomy and leader (Andreas Schmidt). Its leadership had close links with Berlin; however, the Romanian state was reluctant to involve them in the distribution of Jewish property.<sup>37</sup> Other ethnic groups were not given such opportunities. This also applied to the more populous Hungarians, who were subject to many restrictions. Paradoxically, their situation was only made easier by the policy of reciprocity.<sup>38</sup>

Hungarian political life of the time, which had almost all the nuances of the extreme right-wing forces, was also characterised by extremist nationalism and the pursuit of ethnic homogeneity. The only thing they really had in common was strong anti-Semitism. The ideas of the Hungarian racialists ('defenders of race') who were already organizing in the 1920s were the least creative. The main points of their programme were as follows: complete territorial revision, national independence without the Habsburgs, 'proportionalization' of the economic and social positions of the Jews (by means of *numerus clausus*) and distrust of nationalities. In the case

36 Egry, 2011, pp. 13–15.

37 Ibid., pp. 17–18.

38 Ibid., p. 22.

of the latter, they believed in assimilation. Jews were treated not as a religion but as an ethnicity or race. They were no longer very keen to assimilate them.<sup>39</sup> Their ideas were mostly based on Hungarian traditions. The Hungarian National Socialists, who were later organized and inspired by Germany, were also anti-Semitic and racist, but they had a smaller proportion of anti-German elements than the racialists, some of whom were not only anti-Jewish but also anti-German. Jews were no longer to be subjected to *numerus clausus*, but were to be excluded from the civic community (i.e., the political nation). Over time, Ferenc Szálasi's Arrow Cross movement emerged from this camp, which is important because it was Szálasi who was most concerned with broader regional concepts and the issue of national minorities. He called his own ideology Hungarianism, but in this camp, he was the one who most believed in the equal cooperation of national socialist peoples and was most willing to give in to the idea of Hungarian supremacy. He wanted to see the peoples of the region (except the Jews, synonymous with all that was wrong<sup>40</sup>) in a federation called Hungaria United Lands. This idea had already been formulated in the party program in 1935. He did not want to distinguish between nation and nationality and was reluctant to use the word minority. Instead, he preferred to speak of ethnic groups, which would be led by Hungarians, but only if these peoples expressed their wish to join in a referendum.<sup>41</sup> In 1940, his party also introduced a bill in parliament to allow individual minority communities in Hungary to establish self-governing ethnic groups. This law would have meant the recognition of (non-territorial) collective minority rights. This idea was closest to the German minority, which stood to benefit most from it. It is interesting that Nazi Germany was not keen on this idea, because it was happy with the quarreling peoples of Central and Eastern Europe. The Hungarian government of the time, on the other hand, brought proceedings against the proposers and labelled them as traitors. The parliamentary majority also deprived them of their seats. It is interesting that the Arrow Cross party also organized a Romanian branch in Transylvania.<sup>42</sup> On the Jewish question, however, this party knew no compromise and wanted to expel the Jews not only from economic and social positions, but also from the civil community and, in time, from the country and Europe. Indeed, Szálasi preached 'anti-Semitism', by which he meant 'Jew-free'. When Szálasi came to power in October 1944, he could still do much to harm the Jews, but he could no longer put his generous geopolitical and nationalist ideas into practice. The Second World War was already drawing to a close.

Finally, the Independent State of Croatia (ISC, in Croatian *Nezavisna Država Hrvatska*, NDH), which was created by the Croatian radical nationalists (Ustasha) in 1941, should also be examined. After the military defeat of April 1941, the Axis powers divided Yugoslavia. The ISC received the lion's share of the defunct state. The

39 Paksa, 2010, pp. 31–32.

40 Ibid., p. 34.

41 Ibid.

42 Ibid., p. 36.

new Croatian state included – theoretically or practically – the territory of Croatia, Slavonia, Dalmatia, parts of the Littoral, Bosnia and Herzegovina, Sirmium, and parts of Vojvodina. Owing to the joint German and Italian patronage, its framework for maneuver was somewhat smaller than that of the other Nazi allied states. Agricultural Hungary had a long state tradition, Romania was still large and oil-rich, and arms-producing Slovakia was a fairly unproblematic ally for a Germany. The situation was more complicated in Croatia. The reasons for this were to be found in the German-Italian discussions or tensions on the one hand, and in the territorial expansion of the Croatian state to Bosnia and Herzegovina on the other. Both Germany and Italy had a decisive influence on the politics of the ISC and stationed their troops there. The territory of the ISC encompassed the whole of Bosnia and Herzegovina, but Italian patronage was paid for by ceding large parts of Dalmatia and the coastal areas to Italy.

The ISC was soon established on a typical totalitarian concept with all powers embodied by 'the Head of State' (*Poglavnik*) as an incarnation of the nation, with a merging of the state and party apparatus. The Ustasha movement was the only political party allowed and Ante Pavelić was *Poglavnik*. The Roma Agreements (signed by Benito Mussolini and Ante Pavelić on May 18, 1941) between the ISC and the Kingdom of Italy (under the House of Savoy) from 1941 would allow the ISC to become the Kingdom of Croatia.<sup>43</sup> These agreements were soon implemented by the legislation of the ISC, but the Italian Duke of Spoleto withdrew his acceptance to become the Croatian king. Thus, the ISC formally remained a kingdom but without practically any traces of the monarchy.<sup>44</sup> The ISC was never truly independent, but one cannot ignore the fact that a political entity with this name did exist from April 10, 1941 to May 8, 1945. The ISC had currency, foreign delegations, police, armed forces under German operational command and significant control over policies towards minorities.

The ISC sheltered most of the nationalities inhabiting the old Yugoslavian Kingdom, while conferring the honor of the state-making nation on Croats only. The ISC had a population of approximately 6.5 million inhabitants. A regular census and concrete statistics about the ethnical situation in ISC did not exist. The published statistics were twisted to support nationalistic ambitions. Minorities, albeit not recognized as nationalities, expanded the list of non-Croatian people living in the ISC. The ethnic Croats made up a little over half of the population of the state, but since all Bosnian Muslims (750,000 persons) were declared ethnically Croatian, the number of Croats was officially estimated at around 4.5 million.

43 This Treaty accorded the Italian sovereignty over the Littoral, a hinterland of Northern and Central Dalmatia and most of the Adriatic islands. However, after the capitulation of Italy in September 1943 Germany recognized the ISC sovereignty over the formerly Italian annexed territories. Before the end of Second World War Hungary also occupied the one part of Medjumorje, but the ISC never officially recognized this fact.

44 Čepulo, 2022, p. 42.

The ISC distinguished between the privileged German minority and other ethnic communities very intensively. In June 1941 the large ethnic German minority (approximately 150,000) in north-eastern Croatia also received complete cultural and political autonomy within the ISC, including education in their own schools and self-government in areas where they formed the majority; they had the status of *volksdeutsche*. One third of the population belonged to the Orthodox Church (1,845,000 persons). This confession meant Serbian ethnic origin. The number of Jews in Croatia did not exceed 40,000 persons and their legal and practical position was very bad.<sup>45</sup> The position of Hungarians, Slovaks and Slovenes living in Croatia was better as they were not enemies of the ISC. The ISC moved quickly to persecute Jews, Serbs, and Roma, all considered racial enemies. By the end of April 1941, it established its first concentration camp, adopted racial laws that stripped Jews and Roma of all legal protection, and began systematically seizing private and communal Jewish property. In June 1941, with Nazi Germany's permission, the ISC embarked upon an ethnic cleansing campaign against the Serbs, destroying Serb villages, slaughtering their inhabitants, and deporting tens of thousands to Serbia. The Ustasha regime operated a series of concentration and extermination camps within Croatia, the most significant being the Jasenovac camp. The Jasenovac Memorial Site has so far identified 83,145 victims by name, including 47,627 Serbs, 16,173 Roma, and 13,116 Jews. In all, approximately 30,000 Jews (between 75–80% of the Jews from ISC) died during the Holocaust, the majority at the hands of the Ustasha. Although the regime also transferred some 7,000 Jews to Auschwitz. The ISC regime also killed an estimated 25,000 or more Roma men, women, and children. The total number of ethnic Serbs the Ustasha killed throughout the territory of the NDH remains unknown, but estimates suggest that it was between 320,000 and 340,000 between 1941 and 1942.<sup>46</sup>

In conclusion, the ultra-nationalist period during the Second World War also had a minority policy. This meant physical extermination of Jews and, to some extent, Roma. This was also partly the fate of many Serbs in Croatia. On the other hand, this policy meant considerable autonomy and a favorable status for the privileged German ethnic group. Behind this were the pressures and ideas of Nazi Germany as Berlin was always thinking in terms of collective rights and special cross-border relations with its own compatriots. Some of the states concerned could only resist this policy to varying degrees; maybe Hungary was most successful in this policy. In the case of minorities that were not persecuted, not excluded, but rather ostracised, their status depended on bilateral interstate relations to a large extent. The principle of reciprocity played a major role in these years; it is not a happy principle in the field of human rights, which is more a feature of international law, but it has helped to save some minority communities from major atrocities. After the Second World War, however, this principle was – rightly – abandoned.

45 Bartulin, 2014, pp. 144–145; Jelinek, 1980, pp. 1–3.

46 <https://www.state.gov/reports/just-act-report-to-congress/croatia/>.

#### 4. 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 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.<sup>47</sup> 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.<sup>48</sup> 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

47 Fábán, 2018, pp. 184–185.

48 Nagy, 2002, pp. 1–2.

Hungarian region of Transylvania,<sup>49</sup> 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 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.<sup>50</sup> 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 Gheorghe Gheorghiu-Dej.*"<sup>51</sup> 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.<sup>52</sup> 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

49 Bottoni, 2003, p. 71.

50 Ibid., pp. 71–72.

51 Ibid., p. 71.

52 Ibid., p. 93.

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.

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.<sup>53</sup> 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.<sup>54</sup>

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

53 Petráš, 2009b, pp. 116–127.

54 Pavelčíková, 2009, pp. 128–133.



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.<sup>55</sup>

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

## **5. Issue of kin-states and kin-minorities before 1989**

The system of relations between the mother country (kin-state) and fellow nationals living in other states (kin-minorities) is an interesting element of the problematics of minorities in Central and Eastern Europe. This issue became particularly topical after 1989, when globalization and democratic conditions gave both states and minorities greater room for maneuver. However, certain elements of state minority policy towards cross-border kin-minorities had already been in place. It is true that the negative experiences of the Second World War made this a very sensitive issue. Between the two world wars, the two revisionist states (Germany and Hungary) in particular used the support of their compatriots (co-nationals) living abroad to subvert neighbouring states. The memory of this remained in the public consciousness for a long time after 1945. It was partly this fear that prevented the greater international development of minority rights in the years between 1945 and 1989.

The roots of this policy are to be found in the peace treaties and capitulations of the 18<sup>th</sup> and 19<sup>th</sup> centuries, which were concluded by the various European powers with the weakening Ottoman Empire. In these, they sought to gain a protectorate role over the Christian population that continued to suffer under Ottoman rule. The

55 Gronskey, 2007, p. 216.

ideological background to the whole affair can be found in Christian (Catholic or Orthodox) solidarity.<sup>56</sup> The problem was that this was often only a pretense and the European powers simply wanted to gain another opportunity to intervene in Turkish internal affairs. Turkish excesses and local Christian uprisings were always to be expected. For this reason, there was a great deal of mistrust of this policy in international relations from a very early stage. This mistrust was further exacerbated by the various irredentist movements in Europe (e.g., Greek, Italian, Romanian, Serbian, etc.) which sought to unite all their compatriots in a single state. These movements therefore had a strong emotional charge and destructive potential. Pan-Germanism and pan-Slavism also posed serious problems for foreign policymakers of the time.

These fears have long been a major obstacle to interest in and policy in support of compatriots and kin-minorities living abroad. There were also many inequalities in this area. What was free for larger and more powerful states (e.g., Germany, France, Italy) was mostly forbidden to smaller entities (e.g., Hungary, Romania, Serbia, etc.). They could also try their hand at their own diaspora and kin-minorities politics, but they had to move much more cautiously. Aid policy abroad was therefore often left to social associations or formally private foundations. In the case of the Italians, this was the case of the Dante Alighieri Society, for example. Other states organized special (non-state) foreign institutes for supporting of diasporas. Numerous revizionist social organization with open or discrete state subsidy existed in interwar Hungary. These methods made it easier for them to deny their involvement when problems arose later. This careful attitude characterized states not only between the two world wars but also in a more cautious form after 1945.

The interwar Germany realized very intensive kin-policy towards the German communities living in Central and Eastern Europe. This policy had its origin in the nationalistic 19<sup>th</sup> century, but it became very intensive during the rule of the NSDAP. One of the key elements of Nazi-German policy towards its German compatriots was the theory of the *Schutzmacht* (protective power), and another was the substantial financial, political, and moral support given to German minorities. The main problem was that German diplomacy and the NSDAP wanted not only to support and protect German communities abroad, but also to manipulate them. Berlin therefore sought to create a large German 'umbrella' party in each state, which would also operate on the basis of the same authoritarian principle (*Führer Prinzip*) and would have special relations with Germany. Such a party was the Sudeten German Party in Czechoslovakia, and then the DP in independent Slovakia during the Second World War. Elsewhere, they did not support a party, but a state-recognized German self-governing community (Romania) or complex social organizations (e.g., *Volksbund* in Hungary).

The international law after the Second World War did not like this transborder relationship between the kin-states (mother states) and their kin-minorities living abroad. The aggressive German kin-politics and the Hungarian interwar revisionism presented the main reason for this negative attitude. After 1945 there was only one

56 Szalayné Sándor, 2003, pp. 38–40.

exception in this respect, the post-war Austro-Italian relationship. The leaders of the two defeated states had already concluded the Gruber-Di Gasperi Treaty in 1946, which included the rights of the German-speaking minority in South Tyrol (Italy). This region became a part of Italy after the First World War. Through industrialization and restrictive politics, the regime under Benito Mussolini attempted to assimilate the local German minority and changed the ethnical profile of the region. The good German-Italian relationship was later also more important than this issue for Hitler. Germany realised the policy of optional repatriation. This method later served as a model for similar agreements with other countries (e.g., Romania and Bulgaria).

The Karl Gruber–Alcide De Gasperi Agreement was a bilateral treaty signed by the Foreign Minister of Foreign Affairs of Austria, Karl Gruber, and the Prime Minister of Italy, Alcide De Gasperi, on September 5, 1946. Recognized by international law, it granted the German-speaking population of the Province of Alto Adige/Südtirol the right to autonomy and to preserve its cultural identity and customs. It also recognized German and Italian as official languages in the region. The first part of the agreement concretized the rights of German-speaking population of Italy (concretely: “*German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province*”). According to the § 2,

*The populations of the above mentioned zones will be granted the exercise of autonomous legislative and executive regional power. The frame within which the said provisions of autonomy will apply will be drafted in consultation also with local representative German-speaking elements.*<sup>57</sup>

In terms of kin-states policy, the text of § 3 was very important:

*The Italian Government, with the aim of establishing good neighbourhood relations between Austria and Italy, pledges itself, in consultation with the Austrian Government and within one year from the signing of the present Treaty: (a) to revise in a spirit of equity and broadmindedness the question of the options for citizenship resulting from the 1939 Hitler-Mussolini agreements; (b) to find an agreement for the mutual recognition of the validity of certain degrees and University diplomas; (c) to draw up a convention for the free passengers and goods transit between Northern and Eastern Tyrol both by rail and, to the greatest possible extent, by road; (d) to reach special agreements aimed at facilitating enlarged frontier traffic and local exchanges of certain quantities of characteristic products and goods between Austria and Italy.*<sup>58</sup>

This reference was later interpreted by Austrian diplomats as granting a protective status to the Germans of South Tyrol. The Italians refused to acknowledge this and

57 See <https://history.state.gov/historicaldocuments/frus1946v04/d297>.

58 See <https://history.state.gov/historicaldocuments/frus1946v04/d297>.

wanted to continue with the assimilation policy, but Vienna eventually managed to bring the issue to the UN. Austria protected the rights and ambitions of the German-speaking population of South Tyrol also in the bilateral Austrian-Italian interstate relationships. The compromise about this issue and the status of South Tyrol was born only twenty years after treaty, but with participation of Austrian diplomacy.<sup>59</sup>

The first explicit constitutional references to the right of national minorities to maintain relations with the mother country were actually made during the Second World War. The right of certain ethnic groups to maintain relations with the motherland, for example, was included in the Slovak constitution of 1939, cited earlier. These reflected the perception of the time. After the Second World War, however, constitutional rules became more cautious.

It was only in 1960, for example, that the Czechoslovak constitution began to deal with minority rights at all. Socialist constitutional law was cautious in this area. These cautions were for a long time the part of general attitude of socialistic state law towards the foreign influences. The reference to compatriots living abroad (concretely the Slovenian national communities and Slovenses living abroad) was, however, included in the Slovenian socialist constitution adopted in the 1974.<sup>60</sup> Socialist constitutional law was therefore no longer completely averse to such a construction, but the socialist and federal Yugoslavia was in special position among the Eastern European countries.

Support for compatriots and diaspora members living abroad was a politically sensitive issue in the years between 1945 and 1989. Such support could have led to tensions between individual socialist states, which was not in the Soviet Union's interest, as it would have violated the '*pax Sovietica*' system. Moreover, it should be remembered that it was difficult to draw a sharp line between the old people who had emigrated before the Second World War and those who had emigrated after 1945, mainly for political reasons. The second group, in particular, was seen by the leaders of some socialist states as the enemy. They had fewer prejudices against the old diaspora and in this case did not completely exclude cultural policies directed towards them. Poland, for example, tried to address this group through the Polish consuls.<sup>61</sup> And in Hungary, the World Association of Hungarians (*Magyarok Világszövetsége*), founded in 1938, was the organization that tried to deal with the old diaspora. The problem was that these were groups of different origins, but there was interaction between them. Some organizations of the old emigration were not always friendly to the socialist regimes. For example, the Slovak League (*Slovenská liga*), which was formed before the First World War and was made up of Slovaks in the US, was closer to the anti-communist Slovak emigration than to the communist leadership of Czechoslovakia and, within that, Slovakia. Indeed, many members of the League supported the independence of Slovakia.

59 Ermacora, 1982, p. 311.

60 Szilágyi, 2004, p. 204.

61 They had special title: Polonia consuls. Polonia is the common notion for Poles living abroad.

Only socialist Yugoslavia was in a different position from the other states under Moscow's stronger influence. Josip Broz Tito retained his foreign policy sovereignty and was more active in the community of non-aligned and neutral states. He also allowed Yugoslav conditionals to go to work in Western Europe and bring home the money they earned there. A Yugoslav passport was an attractive document in those years. In this context, it is not so surprising that the Socialist Constitution of Slovenia from 1974 may have included provisions dealing with Slovenes living abroad. At the same time, it should not be forgotten that there were also problematic diaspora communities for Beograd. This was especially the case of the Croatian Ustasha emigration after 1945, which actively fought against the Tito regime. The latter fought against Croatian emigrants with the help of secret services. This process had its rather bloody phases. The limited and moderated diaspora policy also had state security aspects in other socialist states. This obviously did not increase mutual trust in this area.

The situation in the last years before the collapse of communist regimes in 1989 was easier. The Soviet 'perestrojka' and 'glasnost' opened the windows before the more intensive diaspora and transborder minority politics. The 'national renaissance' during the post-communist transition played a very important role in the revitalization of kin-politics. But the development after 1989 is a topic for a different paper.

## 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 1989/90, 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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