

**THE LANGUAGE RIGHTS OF HUNGARIAN COMMUNITIES  
IN SLOVAKIA AND ROMANIA:  
THE IMPACTS AND PERSPECTIVES OF EU-MEMBERSHIP**

by

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Submitted to

**CENTRAL EUROPEAN UNIVERSITY  
NATIONALISM STUDIES PROGRAM**

In partial fulfillment of the requirements for the degree of Master of Arts

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Budapest, Hungary

2009



## Acknowledgements

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I would like to express my thanks to Professor *Tibor Várady*, my Internal Supervisor, who encouraged me to choose this topic and supported my work with his comments, furthermore to *Zoltán Kántor*, Researcher of the Hungarian Institute of International Affairs, who contributed to my work with his conceptual and analytical suggestions and bibliographic advises. Furthermore special thanks to *Gizella Szabó Mihályi*, the Researcher of the Gramma Language Office (Slovakia), from whom I received invaluable help to complete my research in relation to Slovakian language rights. I also gratefully acknowledge the support of *Ilona Bugár*, *Attila Hegyeli*, *Kálmán Petőcz* and *László Pék* who kindly assisted in my research. Finally this work would not have been completed without the patience of *my family* and the grammatical contribution of my friend, *Tamás Szerecz*.

## Table of Contents

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<b>Acknowledgements .....</b>	<b>i</b>
<b>Table of Contents.....</b>	<b>ii</b>
<b>Introduction .....</b>	<b>1</b>
<i>The structure of the thesis.....</i>	<i>6</i>
<b>I. Language Rights and Language Policy—Theoretical Framework .....</b>	<b>8</b>
I / A. Language rights, as part of minority rights.....	8
<i>I / A.1. Theoretical debates.....</i>	<i>8</i>
<i>I / A.2. Content of language rights .....</i>	<i>12</i>
I / B. Language policy and nationalism.....	15
<b>II. Minority Protection as a Condition to the EU-Membership.....</b>	<b>18</b>
II / A. The European Union and ‘its minority policy’ .....	18
II / B. Protection of minorities as accession criterion.....	21
II / C. Monitoring mechanism of the EU.....	23
<b>III. Minority Language Rights in Slovakia and Romania Before EU-Accession.....</b>	<b>27</b>
III / A. Historical framework.....	28
III / B. Legislation on minority language rights in Romania and Slovakia.....	31
<i>III / B.1. Minority rights in the constitutions.....</i>	<i>32</i>
<i>III / B.2. State language acts .....</i>	<i>34</i>
<i>III / B.3. Legislation on minority education.....</i>	<i>36</i>
<i>III / B.4. Legislation on official use of names, local names and topographical signs.....</i>	<i>37</i>
<i>III / B.5. Legislation on public media.....</i>	<i>38</i>
III / C. Direct impact of the EU on the minority legislation.....	39
<i>III / C.1. Law on the use of minority languages in Slovakia.....</i>	<i>40</i>
<i>III / C.2. Other legislative changes relating use of minority languages in Slovakia.....</i>	<i>42</i>
<i>III / C.3. Legislative changes relating use of minority languages in Romania.....</i>	<i>43</i>
<i>III / C.4. Institutional changes within the accession period.....</i>	<i>44</i>
<i>III / C.5. Evaluation of the Council of Europe.....</i>	<i>45</i>

<b>IV. The Situation of Minority Language Rights After EU-Accession .....</b>	<b>50</b>
IV / A. Slovakia.....	50
<i>IV / A.1. Modification of the state language act is under reconsideration .....</i>	<i>50</i>
<i>IV / A.2. Education and the ‘textbook-issues’ .....</i>	<i>52</i>
<i>IV / A.3. The Pátria issue.....</i>	<i>54</i>
IV / B. Romania.....	55
<i>IV / B.1. The law on the status of national minorities.....</i>	<i>55</i>
<i>IV / B.2. Education.....</i>	<i>56</i>
<i>IV / B.3. “Decentralization” .....</i>	<i>59</i>
IV / C. Comparison.....	61
<b>Conclusion.....</b>	<b>64</b>
<b>Bibliography.....</b>	<b>70</b>
<b>Appendices.....</b>	<b>78</b>



## Introduction

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After the end of the Cold War minority rights were re-internationalized and minority protection became a significant factor in Europe.<sup>1</sup> The number of accepted and signed international agreements and recommendations regarding minority protection was noticeably higher during the nineties than the decades before. Europe had to face a new challenge after the collapse of communism, although scholars still debate whether it is a new wine in an old bottle, or an old wine in a new bottle. At that time the European Union also proved its commitment to minority protection, and in 1993 the Copenhagen European Council incorporated the ‘respect for and protection of national minorities’—in the thesis referred to as the *minority condition*—as a part of the political condition for EU membership. As a result of the newly established conditions the EU created a more or less successful incentive structure for the minority protection in the accession period. The following case studies will underpin this idea, as well.

In contrast to this stage before enlargement, five years after the EU-accession the Slovak National Council plans to amend the State Language Act<sup>2</sup>—which would reinforce the use of the state language by all the citizens in all aspects of everyday life, would reintroduce the ‘institution of penalties’ abolished in 1999, moreover it would restrict the minority language rights and limit the use of minority languages—without any comment from the side of the European Union. Notwithstanding that in Slovakia the state language issue is not the only one at the very moment which creates tension between the majority and the minorities, though at the time of accession minority protection seemed to be satisfactory.

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<sup>1</sup> The term ‘re-internationalizing’ is used by Will Kymlicka in *Multicultural Odysseys—Navigating the New International Politics of Diversity* (Oxford University Press, 2007), Part I, 3-60.

<sup>2</sup>[http://www.spectator.sk/articles/view/35022/10/culture\\_minister\\_says\\_language\\_act\\_amendment\\_is\\_natural\\_and\\_pragmatic.html](http://www.spectator.sk/articles/view/35022/10/culture_minister_says_language_act_amendment_is_natural_and_pragmatic.html) (accessed on 28 April 2009).

This example raises the question as to why there are countries where, instead of further development, a kind of regression can be detected regarding minority protection after accession to the European Union. To what extent or in what ways does the European Union have a role in this context? The thesis argues that there are cases where regression regarding minority protection has been since accession, and that as the Copenhagen condition regarding minority protection no longer exists as the candidates became members, the states can adopt laws restricting minority rights or language usage without any consequences. There is already an ongoing debate<sup>3</sup> on the international level about these types of ‘conditionality,’<sup>4</sup> but post EU accession events are, however, less studied by scholars. This paper wishes to contribute to this current debate by exploring the impacts of *minority condition* after the accession. According to this hypothesis the effect of *minority condition* was more effective before membership, and is less effective after EU-accession.

To reveal the possible inconsistencies concerning minority protection the thesis takes the example of the Hungarian communities living in Slovakia and Romania. In both cases, however, other national and ethnic minorities also live in the countries.<sup>5</sup> The reasons for choosing only the Hungarians are the following: Firstly, the Hungarian community, in both countries, is the largest national minority group, furthermore its size and territorial position

<sup>3</sup> Such studies are e.g.: Gwendolyn Sasse, “EU Conditionality and Minority Rights: Translating the Copenhagen Criterion Into Policy,” *EUI working papers* 2005/16; Gwendolyn Sasse, “Minority Rights and EU Enlargement: Normative Overstretch or Effective Conditionality,” in *Minority Protection and the EU: The Way Forward*, ed. Gabriel N. Toggenburg (Budapest: OSI/LGI, 2004); James Hughes and Gwendolyn Sasse, “Monitoring the Monitors: EU Enlargement Conditionality and Minority Protection in the CEECs,” *Journal on Ethnopolitics and Minority Issues in Europe (JEMIE)* 1/2003; Kyriaki Topidi, “The Limits of EU Conditionality: Minority Rights in Slovakia,” *JEMIE* 1/2003; Wojciech Sadurski, “Minority Protection in Central Europe and Accession to the EU,” in *The Protection of Minorities in the Wider Europe*, eds. Marc Weller and Denika Blacklock (Palgrave, 2008) 209-232; Frank Schimmelfennig and Ulrich Sedelmeier, “Governance by Conditionality: EU Rule Transfer to the Candidate Countries of Central and Eastern Europe,” *Journal of European Public Policy* 11:4, 2004; Othon Anastasakis and Dimitar Bechev, “EU Conditionality in South East Europe: Bringing Commitment to the Process,” South East European Studies Program, European Studies Centre, April 2003.

<sup>4</sup> The EU accession process is an example of a conditional process, ‘conditionality’ is used in this meaning.

<sup>5</sup> In Slovakia (Total population in 2005: 5,401,000): The 2001 census recorded 520,528 Hungarians (9.7%), 89,920 Roma (1.7%), 44,620 Czechs (0.8%), 24,201 Ruthenians (0.4%), 10,814 Ukrainians (0.2%), others (like Germans, Poles, Moravians, Bulgarians, etc.) (0.2%). Other estimates put the number of Roma at between 350,000 and 500,000 (or up to 10% of the population). In Romania—(Total population in 2005: 21,711,000): The 2002 census recorded 1,431,807 Hungarians (6.6%), 535,140 Roma (2.5%), 61,098 Ukrainians / Ruthenians (0.3 %) and 59,764 Germans (0.3%). Other estimates put the Roma population at between 1,800,000 and 2,500,000. Source: MRG World Directory of Minorities.



give logical reason for language claims.<sup>6</sup> Secondly, the analysis of all the minorities of the countries in this context are beyond the scope of this work, not to mention that the notion of ‘language rights of the Roma population’ as such would be more complex due to the existence of different dialects, and a large group who speak only the state-languages, whereas Hungarians have only one minority language. Thirdly, my language knowledge of English, German and Hungarian also determines the possibilities since proper analysis of other minority-cases would be difficult.

After introducing the two core elements—such as the process of the European enlargement and the Hungarian community—and before presenting the actual structure of the thesis it is also important to put the case of language rights of the Hungarian minorities in a broader context, however the thesis itself focuses more on the legislative details.

The protection of minority language rights is only one aspect of a larger set of minority protection elements, which has political and cultural dimensions as well. Scholars and minority communities argue that this former aspect is the most important since language rights provide the possibility for the ‘reproduction’ of a minority community and can assure the survival of the language and culture, which is the basic interest of a national minority. As argued by Brubaker, national minority communities also endeavor for a kind of nation-building.<sup>7</sup> This kind of nation-building, however, might be in contrast with that of the home state, thus the protection of minorities as well as the fight for language rights is an achievement of a *permanent bargain* between different actors. Brubaker in his theory claims for three existing actors—these actors are the national minority, the home state and kin-state—which constitute the players of the political arena and its permanently changing struggles.

In this context these players are the parties of the Hungarian minority in Slovakia and

<sup>6</sup> Tibor Várady argues that the relevance of history and size matter by providing minority rights. In “Minorities, Majorities, Law, and Ethnicity: Reflections of the Yugoslav Case,” *Human Rights Quarterly* 19 (1997) 8-54.

<sup>7</sup> Rogers Brubaker, “National Minorities, Nationalizing States, and External National Homelands in the New Europe,” in *Nationalism Reframed. Nationhood and the national question in the New Europe*, ed. Rogers Brubaker (Cambridge: Cambridge University Press, 1996) 55-59.

Romania, that is the Hungarian Coalition Party (MKP) in Slovakia and the Democratic Alliance of Hungarians in Romania (RMDSZ), the two nation states Slovakia and Romania, and finally the kin-state, Hungary. However, in this case this list should be immediately completed with a forth player, namely with the European Union. The EU as a result of the enlargement process and its condition system actually has mightily influenced the above mentioned ‘process of bargaining’.

It is best to take a practical example in order to expose how the compounded and different power relations affect each other: On the one side of the tennis court there is the Hungarian minority community, who enjoy the support of the kin-state from the side line, whereas on the other field there are standing the nationalizing home states, namely Slovakia and Romania. The referee represents first and foremost the European Union and further international organizations, such as the CoE or the OSCE, who are actually setting up the conditions for minority protection, and finally the net stands for the actual minority standards, which as a result of the different political processes might change position, being more strict, or more loose once getting closer to the minority, then to the home states. The supporters behind the minority share *communitarian* principles, which emphasize that there is need for balancing individualism with the interest of the community as a whole, and argue for the need of positive rights in order to assure the above mentioned ‘reproduction’; further claims to be provided with the maximum of the rights listed in these standards. Whereas on the other side of the bleachers they favor the *individualistic* principle and claims for basic human rights, and would award only the minimum of the standards to the minority community (as the majority and minority perceive the same European standards differently). This main frame of the larger process does not change, however the position of the players, their tactic, their shirts’ color or the supporting slogans might change in time, which influence the whole game.

The match of this thesis might have seemed in the following: The ‘EU referee’ seemed consistent, at least as far as the pre-enlargement process is concerned and set the rules for the players; on the one side the RMDSZ has changed its tactic, at times calling for minority law, a separate EU-region or sometimes for autonomy. The MKP perpetually demands for language rights, both once from governmental and then from opposition, with less success; Hungary’s attitude has changed also, according to the internal affairs, but more or less remained on the field; and finally Romania and Slovakia seemed to be stable too—however only with the intention providing the minimum of the standards— and paid attention only to the strict rules and not for the fair play.

The introduction of the changing attitude of the kin-state goes beyond the scope of the thesis, but for the sake of completeness it should be mentioned that the Hungarian state also takes part in the development of minority language education. There is on the one hand the Status Law, the Motherland Fund, the Hungarian Academy of Sciences, and private foundations which provide monetary contributions for schools, for children visiting minority schools or award scholarships for students, and teachers, and support for minority publications, and on the other the Hungarian members of the different international institutions take to the floor in order to represent the interest of the minority communities these however cannot provide language rights as it is the task of the two home states. Accordingly the thesis focuses on the home states’ approach, whose stance has been actually influenced by the fourth player, by the *minority condition* of the European Union. The main concern of the research is to show how this factor effected on the language rights of Hungarians, or in other words what is the movement of language protection in Romania and Slovakia.

### *The structure of the thesis*

The structure of the thesis is the following: The *first chapter* provides the theoretical background. First the content of language rights will be defined since this research is narrowed only to language rights of minority communities, in contrast to the studies, which analyze the conditionality of the EU by focusing on general minority protection.<sup>8</sup> The reason for choosing these rights out of the long list of minority rights<sup>9</sup> is the fact that in Central and Eastern Europe language is a central element of the ethnic groups. As a consequence of its symbolic role the development of language policies are cornerstones for constructing identities of the states on the one hand, and language rights are one of the basic claims of minority groups on the other. These two, however, might result in a zero sum game. Thus the connection between language policies and nationalism should also be scrutinized, and it creates the second pillar of this theoretical chapter.

The *second chapter* presents the European background. As the research is put in the context of European enlargement, the European power of enforcement is examined. This part introduces the ‘minority protection framework of the EU,’ the EU’s approach towards language issues, and special attention is paid to the Copenhagen criterion. The chapter gives a balanced and detailed evaluation of both the establishment and functioning of the *minority condition* and the EU monitoring system in the enlargement process.

After setting up the theoretical and practical framework, the *third and fourth chapters* concentrate on the case studies and on member states’ policies. The research thus focuses on Slovakia and Romania, and looks at the effects and outcomes of the *minority condition* in the accession period (third chapter) and their impacts on the language rights of minority communities in the membership period (fourth chapter). The past five years in the case of

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<sup>8</sup> See more in footnote no.3.

<sup>9</sup> The UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities lists a wide range of rights, minorities are entitled to validate: acknowledgment their existence, the right to enjoy their culture, to allow them adequate opportunities to learn their mother tongue, to encourage knowledge of their traditions, language and culture of their own, to right to participate in decisions which affect them on national level, the right to establish and maintain their own associations, etc.

Slovakia and two in the case of Romania justify this kind of monitoring. The aim of the chapters is to demonstrate how the results of the conditionality proceeded from the beginning of the nineties to the present time. The presentation of the developments and the adoption of laws concerning minority policy at the state level, in the accession phase is primarily based on EU Regular Reports, but as a result of their later detailed handicaps, the thesis benefits from other reports completed by the CoE or NGOs as well. In the forth chapter, when the period of membership is analyzed, the introduction rests primarily on—since no more EU-reports are published to monitor minority protection—information purchased from international organizations, minority associations, research institutions, and media.

The *end of the thesis* returns to the European context. The outcomes of the case studies will help to justify the role of the European Union and the long-term effects of its conditionality regarding minority protection. The thesis ends by making some recommendations to dissolve these discrepancies and to highlight to what extent there is a need for developing a common EU standard regarding minority protection.

## **I. Language Rights and Language Policy—Theoretical Framework**

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As the research is focused on *language rights* instead of general minority protection, what is meant by ‘language rights’ for clarification, is embedded in a general introduction minority rights. Further, there is a need to reveal the connection between *language policies and nationalism*. These two issues—language rights claimed by minority groups and language policy imposed by the majority—relate, in some sense overlap, interconnect, and yet are often in conflict with each other as a result of the game of balance between the minority priority—having an effective linguistic protection and that of the majority—strengthening or safeguarding the role of the state language. This chapter is designated to expose the issues within these notions and concepts.

### **I / A. Language rights, as part of minority rights**

#### *I / A.1. Theoretical debates*

Today a general consensus has been reached that it is not sufficient to protect minorities based on general human rights. The documents dealing with minority protection, on the one hand, recognize language rights as part of minority rights. This derives from the explanation that the preservation of minority cultures depends on the preservation of the language of the given minority community;<sup>10</sup> or in other words, how Kymlicka and Grin argue, language is often seen as necessary to preserve the historic achievements of the culture, such as its literature and arts.<sup>11</sup> On the other hand scholars argue—however this assumption

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<sup>10</sup> It is nominated as ‘linguistic universal’ by e.g. Anna Sándor and Ildikó Vančóné Kremmer, “*A magyar nyelv helyzete a szlovákiai felsőoktatásban*” [The Situation of the Hungarian Language in the Slovak Higher Education], Konstantin University in Nitra-Nyitra.

<sup>11</sup> Will Kymlicka and François Grin, “Assessing the Politics of Diversity in Transition Countries,” in *Nation-building, Ethnicity and Language Politics in Transition Countries*, eds. Farimah Dafray and François Grin, (Budapest: Open Society Institute, 2003) 11.

was preceded by a theoretical debate, and there are still some minority rights-skeptics—that minority rights belong to the regime of human rights. De Varennes argues on the following:

*Human rights are based on the acknowledgement and acceptance of the human person in all of his or her diversity. These rights are based on tolerance of human differences, such as linguistic and religious differences, and respect and recognition of human diversity. To deny minority individuals access to certain benefits, or to disadvantage them because of their religion or language is—under certain conditions—no longer permissible.<sup>12</sup>*

Out of this logic would follow that language rights form an organic part of general human rights. The predominant majority of the authors and scholars<sup>13</sup> share this assumption, however, there are dissenting opinions too.<sup>14</sup> Fortunately it is not the task of this thesis to dispense in the debate, so it moves back one step and stop by the general assumption that *language rights form part of the minority rights*. Thus the evaluation of the EU *minority condition* through the analyses of language rights protection is justified.

The following aspect, which indicated and still indicates debate among scholars, is the question whether minority rights (and so language rights) are *both* or *neither* individual and collective rights. The collective aspect, developed by the League of Nations (direct protection), failed by the end of the WW II, and it cannot escape historical stereotypes and prejudices; whereas the individual aspect, developed by the United Nations within the general human rights protection (indirect protection), proved to be ineffective in protecting minorities by the end of the Cold War. The reasons behind this shift or change in attitude are complex, and it is not the main task of this thesis to reveal all of them, however, it can be concluded that the individualistic concept of human rights protection after WW II neglected the

<sup>12</sup> Fernand De Varennes, “A Guide to the Rights of Minorities and Language,” *COLPI Papers* 4 (Budapest: Open Society Institute, 2001) 5; and Fernand De Varennes, “The Right to Education and Minority Language,” (2004): [http://www.eumap.org/journal/features/2004/minority\\_education/edminlang](http://www.eumap.org/journal/features/2004/minority_education/edminlang) (accessed 27 April 2009)

<sup>13</sup> De Varennes 2001; Kontra, Phillipson, Skutnabb-Kangas and Várady eds., *Language, a Right and a Resource: Approaching Linguistic Human Rights* (Budapest: CEU Press, 1999); Skutnabb-Kangas and Philippson, eds., *Linguistic Human Rights* (New York: Walter de Gruyter, 1995); Leslie Green, “Are Language Rights Fundamental?,” *Osgoode Hall Law Journal*, 4/1987, 25.

<sup>14</sup> Xabier Arzoz claims that there are some problems with the human rights approach to language rights, and argues that the “general assimilation or equation between language rights and human rights is not only erroneous, but it leads to a distorted image of the relationship between law and politics.” In “The Nature of Language Rights,” *JEMIE* 6/2007, 2. 4-14.

protection of minority rights, not to mention the fact that minorities were also excluded from the category of those having the right of self-determination.<sup>15</sup>

This disappointment resulted in such an atmosphere that when the collapse of communism finally occurred, the international community seemed to return to the collective approach at the beginning of the nineties—at least on a theoretical level: Kymlicka argues that “at that time the first steps were taken towards accepting the principle of positive, *group specific* rights”.<sup>16</sup> Várady also agrees by using the term *group-sensitive* rights, and by stating that “one has to face the fact that, in some areas, collective rights are simply unavoidable.”<sup>17</sup> These authors, among others, believe that the liberal principle of equality can be realized only if group differentiated rights are granted to minorities, since *equality in law* and *equality in fact* do not necessarily cover each other.<sup>18</sup> If equality does not consider natural differences, and these differences are treated equally, this leads to discrimination in practice.

In contrast, those who argue against collective rights and all kinds of collectivity believe, that collective rights conceivably endanger the principle of ‘equal rights for equal citizens’, meaning the special treatment of minorities run counter to justice and that the collective notion might threaten state sovereignty, territorial integrity of states, and lead to secession.<sup>19</sup> There are cases where the mutual trust between minority and majority (South Tyrol, Åland islands) helps to dissipate these—sometimes already paranoid—fears, but where political interests are placed above that of mutual trust, these fears might be justified. The problems occur when the mistrust is fed by only one of the parties. The arguments of group-rights skeptics cannot be ignored, however, should not be exaggerated either, how it is often done by the Slovakian and Romania political elite.

<sup>15</sup> Antonio Cassese, *Self-determination of Peoples—A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995) 321-339.

<sup>16</sup> Kymlicka 2007, 32.

<sup>17</sup> Várady 1997, 40.

<sup>18</sup> Várady 1997, 31; and Permanent Court of International Justice, Series A./B. Judgement Orders and Advisory Opinions, April 6<sup>th</sup>, 1935, *Fascicule No.64*. “Minority Schools in Albania,” 17-20.

<sup>19</sup> Sums it up in Tibor Várady, “*A kollektív jogok kérdéséről*” [About the collective rights], (accessed on 30 April 2009) <http://www.jakabffy.ro/magyarkisebbsseg/index.php?action=cimek&lapid=4&cikk=m960304.html>.



This above debate is not yet decided either, and might not be in the near future. It seems that the former group is about to win, but only on the theoretical level, and definitely not ‘on the field;’ as none of the international charters, conventions, recommendations or declarations concerning minority protection acknowledge or grant group rights to minorities. The very concept of group rights, as indicated, is ambivalent and sensitive in both international law and international politics, furthermore the notion itself is overworked by history, that is why most probably it will never happen that the notion as such once will be generally accepted; maybe there is no need for the general acceptance at all. The author argues that group rights can be grounded rather indirectly, and on a case-by-case basis. Instead of a general approach, concrete entitlements should be scrutinized. If only language rights are taken into consideration, the collective dimension of these rights cannot be denied, despite the fact that group rights are not granted; the right is granted for individuals, but its realization can happen only within a group. Várady argues that

*[t]he right using the official language of a given country sanctifies the collective right of the majority, and in this case the before mentioned principle “equal rights for equal citizens” can be interpreted as every single citizen can use his or her mother tongue. Since this is practically impossible, what minorities can demand is “less than equality, but more than nothing.”<sup>20</sup>*

The notion of group rights might occur in practice, without granting it in a direct way. One problem, nevertheless, cannot be forgotten, that the very notion of ‘minority’ is still not defined by the international community. Until the moment the ‘group’, the holder of the granted rights, cannot be perfectly ruled out, it creates problem both in the creation of international norms and in granting group rights.<sup>21</sup> If the content of the word remains defined on a case-by-case basis, group rights can also only be granted on the same basis, as the solution of minority problems might be also decided on this basis.

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<sup>20</sup> Várady 1995, 42-53.

<sup>21</sup> Georg Brunner, “The Concept of Group Rights in the Field of Protection of Minorities,” in *Western Rights? Post-Communist Application* by Sajó András (London: Kluwer Law International, 1995.) 298.

## *I / A.2. Content of language rights*

Green, Grin, Kymlicka, and Wright,<sup>22</sup> as well as others, distinguish two major roles or functions of *languages*: a communicative function, and a symbolic function. Green argues that language is a marker of identity, a cultural inheritance and a concrete expression of community;<sup>23</sup> the latter is an instrumental role, basically a tool to communicate among the members of a community, and the former serves other values e.g. affirming identities and histories, reproducing culture, advancing political and institutional claims, and being an instrument for reinforcing group loyalties and solidarity. Kymlicka claims for the adoption of these multiple functions as well, as the practice to invest time and resources on language preservation, even if this yields no gain in communicative efficiency, are established in all over Europe.”<sup>24</sup> The view that language is simply valued as a tool for achieving communicative reach is not plausible.<sup>25</sup>

Consequently *languages rights* serve also two functions, as they are concerned with people’s linguistic and cultural identity; and are both moral and legal categories.<sup>26</sup> As Várady already claimed, the speakers of state languages also have rights to use their language, but ‘language rights’ in this context refer only to particular language or small groups of languages.<sup>27</sup> This dual role of language and language rights explains why such significance is paid—both by minority and majority communities and by the international community—to codify language rights (the example of Slovakia will prove how important is this dual role.)

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<sup>22</sup> Sue Wright, “*Community and Communication. The Role of Language in Nations State Building and European Integration*,” (Frankfurt: Multilingual Matters LTD, 2000) 18-28 (Chapter 1).

<sup>23</sup> Leslie Green, “Are Language Rights Fundamental?” *Osgoode Hall Law Journal*, 4/1987, 25. 658-660.

<sup>24</sup> Francios Grin and Will Kymlicka, “Assessing the Politics of Diversity in Transition Countries,” in *Nation-building, Ethnicity and Language Politics in Transition Countries*, eds. Farimah Dafray and Francios Grin, (Budapest: Open Society Institute, 2003) 11.

<sup>25</sup> Grin & Kymlicka 2003, 8-12.

<sup>26</sup> Ruth Rubio-Marín, „Exploring the Competing Rationales,” in *Language Rights and Political Theory*, eds. Alan Patten and Will Kymlicka, (Oxford: University Press, 2003) 52-57.

<sup>27</sup> Oliveras Jané distinguishes three types of legal status: a) Official languages; b) Linguistic Minority (country’s original, traditional and historically based language, e.g. Irish, Welsh); c) Minority Languages (spoken by minority groups within state’s population, and which are different from the official language/s). The ECRML focuses on the third category. In “The Main Concepts in the Recognition of Linguistic Rights in European States,” *Mercator Working Papers* 2/2001. 4-8.

The language rights are usually guaranteed by constitutions, bills, bilateral agreements<sup>28</sup> and by international and European treaties, which are mostly legally non binding documents. The most important international legal document, which formulates European standards and lists the language rights of minority groups—by defining ‘regional or minority languages’<sup>29</sup> as the holder of the enumerated rights—is the *European Charter for Regional or Minority Languages*.<sup>30</sup> Reflecting on the above introduced debates it is worth mentioning that on the one hand the Charter adopts the dual role of language and places its emphasis unambiguously on the cultural role of languages;<sup>31</sup> on the other side it does not take sides in the individual vs. collective debate, since it grants neither of them, only imposes obligations on State parties (these obligations work as a ‘a la carte system’, meaning the States can choose from a list of rights will be covered by its legislation). In addition the *Framework Convention for the Protection of National Minorities*<sup>32</sup> also refers to language rights, however, it establishes a more general framework. Both of these documents were prepared under the auspices of the Council of Europe.<sup>33</sup>

Moreover, there are other international instruments focusing on language rights, like recommendations or resolutions adopted by the United Nations (UN),<sup>34</sup> the Council of Europe

<sup>28</sup> See more in Chapter III and IV.

<sup>29</sup> Article 1. Definitions: “For the purposes of this Charter: a) “regional or minority languages” means languages that are (i) traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population; and (ii) different from the official language(s) of that State” Furthermore the “territory in which the regional or minority language is used” and the “non-territorial languages” are defined. The languages of immigrants are outside of the scope of the Charter.

<sup>30</sup> ECRML—adopted in 1992, and which came into force in 1998.

<sup>31</sup> The Preamble states—among others—that “[c]onsidering that the protection of the historical regional or minority languages of Europe, some of which are in danger of eventual extinction, contributes to the maintenance and development of Europe’s cultural wealth and traditions...”

<sup>32</sup> FCNM—adopted in 1995, and which came into force in 1998.

<sup>33</sup> The relevant Articles of FCNM (relating use of minority languages) are: Article 9—freedom of expression (media, printed media, etc.), Article 10—use in private and public, both oral and written form; Article 11—use of names, surnames, local sign and topographical sign, Article 12, 13 and 14—use in education.

<sup>34</sup> E.g.: Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (1992); Universal Declaration on Cultural Diversity (2001); Convention against Discrimination in Education (1960).

(CoE),<sup>35</sup> the Organization for Security and Cooperation in Europe (OSCE),<sup>36</sup> the High Commissioner on National Minorities<sup>37</sup> (HCNM), as well as by the European Union (see more in Chapter II). These are all legally non-binding by nature. The significance and power of all these legally-binding and non-binding documents is reduced by the fact that none of them are enforceable by any kind of courts or authorities. Notwithstanding, their importance and contribution, especially that of the ECRML, to the European minority regime is not inconsiderate; the ECRML substantially advances the standards of protection in areas where universal instruments are very deficient.<sup>38</sup>

The language rights mentioned in these documents—with special emphasis on the ECRML—are collected in one guide by De Varennes.<sup>39</sup> He separates two main sections how, in concrete terms, minorities have rights to use their languages. The first is the *private use*, and the second the *public use* of minority languages. The rights belonging to the private category<sup>40</sup>—more or less corresponds to the public list—are rather basic human rights. In the category of public use of minority languages belong the: use by administrative and public authorities; public education; use in judicial and administrative proceedings; official use of names, surnames and topographical designations; use in public media; and official use in electoral processes and political activities. The thesis will utilize this categorization in Chapter III by completing the case studies on Romania and Slovakia.

<sup>35</sup> E.g.: PA Recommendation 1623 (2003) on the rights of national minorities, PA Recommendation 928 (1981) on educational and cultural problems of minority languages and dialects in Europe; CLARE Recommendation 222 (2007) on language education in regional or minority languages, etc.

<sup>36</sup> E.g.: Hague Recommendation regarding the education rights of national minorities and explanatory note (1996), Oslo Recommendation regarding the linguistic rights of national minorities and explanatory note (1998), Lund Recommendation on the Effective Participation of National Minorities in Public Life (1999).

<sup>37</sup> E.g.: Guidelines on the use of Minority Languages in the Broadcast Media (2003).

<sup>38</sup> Arzor 2007, 16.

<sup>39</sup> De Varennes 2001, 8-27 and 28-44.

<sup>40</sup> These are: private use of minority language in written and oral forms; use of names, surnames and topographical indications; public displays; use in private media; private education; use in religious and cultural activities; use in the context of private economic and employment activities; use by private organization, and registration of minority organization; and use in transborder contacts.

## I / B. Language policy and nationalism

Language rights of minorities, as already indicated, are often in conflict with the aim of assuring that the dominant (majority / official / state) language is appropriately spoken all over the country. There are cases—as Slovakia also illustrates—where minority rights are perceived as a real threat to the dominant language, and as a result language policy can be an important element of nation-building.

The powerful and mutual dependence of languages and nations is undeniable in Europe.<sup>41</sup> There are countries where language has played a very important role in the revival of national consciousness in Europe since the 19<sup>th</sup> century in the case of old historic continuous nations,<sup>42</sup> and countries where it still plays an even greater role in the 21<sup>st</sup> century, in case of non historic nations. Kymlicka reinforces Barbour's argument, when he states that “language becomes a key symbol of national identity, and protecting it becomes almost a sacred duty”<sup>43</sup> and that “common national language helps to promote a common civic identity”<sup>44</sup>. Schöpflin argues that in Central and Eastern Europe language is the central defining element of ethnic groups, and language policies become cornerstones of constructing the identity of new states; language appears as a fundamental symbol of statehood, and determines one's identity as well as the membership in the nation.<sup>45</sup> This connection makes the analysis of linguistic minority rights even more interesting.

There are cases where language policy of the countries represents a reaction against the nations' *historical experiences*, and language itself becomes the holder of the distinctness

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<sup>41</sup> Barbour points out that “[l]anguages can be seen partly as products of modern nations, and nations partly as products of modern communication that allow the effective functioning of states.” Stephen Barbour, “Nationalism, Language, Europe,” in *Language and Nationalism in Europe*, eds. Stephen Barbour and Cathie Carmichael (Oxford: University Press, 2000), 13. The book introduces examples from all over Europe.

<sup>42</sup> Much of the literature on nationalism—Breuilly, Greenfeld—divides Europe into old (historic) nations and new (non-historic) nations born of national unification movements or from secession out of multinational empires.

<sup>43</sup> Grin & Kymlicka 2003, 11.

<sup>44</sup> Will Kymlicka and Alan Patten, “Language Rights and Political Theory: Context, Issues, and Approaches,” in *Language Rights and Political Theory*, eds. Will Kymlicka and Alan Patten (Oxford: University Press, 2003) 13.

<sup>45</sup> George Schöpflin, “Aspects of Language and Ethnicity in Central and Eastern Europe,” *Transition* 24/1996.

from the neighbors or “historical enemies”.<sup>46</sup> Beyond historical experiences *economic* and *social reasons* can lead to the same ‘reaction’. As a result of having secondary positions within multiethnic states, both socially and economically, the linguistic differences of ‘new states’ were strongly emphasized in order to justify their separate national existence at the moment of independence.<sup>47</sup> The described picture is suitable for Slovakia, where separateness is emphasized in relation to Hungarians and Czechs.<sup>48</sup>

There is an increasing consensus that language policy plays a vital role in the process of democratic transition in CEE.<sup>49</sup> Brubaker uses the term ‘nationalizing-states’ instead of nation-states by referring to the newly independent states of CEE that are ethnically heterogeneous yet conceived as nation-states.<sup>50</sup> This expression denotes that the nationalization of these states has not yet been completed, and that language policy might be used to ‘complete this nationalization.’ The leadership of Vladimír Mečiar illustrates this case since his nationalist approach strongly favored the ‘one state one language’ notion.<sup>51</sup>

There are cases “when a distinct language constitutes a basis for the separation of a group and creation of a nation, and cases when a nation creates a national language with a very aim of separating itself from others.”<sup>52</sup> In Slovakia both kinds of development can be seen to apply, and language policy was and still is an important indicator of nationalism, as well as democratic maturity. Both of these indicators are in connection with minority protection, as language policy of a given state may affect the minority living on the territory and it may restrict its rights. If the emerging minority makes demands, as a result of the

<sup>46</sup> Barbara Törnquist-Plewa, “Constructing Ethnic Nationalism: Eastern Central Europe,” in *Language and Nationalism in Europe*, eds. Barbour, Stephen and Cathie Carmichael (Oxford: University Press, 2000.) 200.

<sup>47</sup> Törnquist-Plewa 2000, 204 and 215.

<sup>48</sup> See more in *Language Policies as Indicators of Nationalism in Estonia and Slovakia*, by Tünde Puskás, CEU IRES Thesis, Budapest: CEU, 1997.

<sup>49</sup> Kymlicka & Patten 2003, 3.

<sup>50</sup> Rogers Brubaker 1996, 56.

<sup>51</sup> Prime minister of Slovakia between 1992-1994 and 1994-1998 (leader of the People’s Party—Movement for a Democratic Slovakia). Mečiar’s government adopted the strict State language law in 1995. (See more in III/B.2)

<sup>52</sup> Törnquist-Plewa 2000, 206.

restriction, and the particular demands for minority language rights are perceived as a threat to the integrity of the state,<sup>53</sup> the democratic maturity might be lesser developed.

The theory introduced thus far should finally be translated into practice. The following two categorizations might enlighten—in the case studies, also—how the interconnection of nationalism, language policy, and minority protection works in practice. Firstly, the literature distinguishes two regimes or two levels of protection that can be granted by states to minority communities: on the one hand there is the *regime of linguistic tolerance*, which includes rights that protect speakers of minority languages from discrimination and assimilation (others call this negative rights or freedom<sup>54</sup>) and on the other hand there is the *regime of linguistic promotion*, which includes certain positive rights to preserve the national cultural heritage of the minority culture.<sup>55</sup> Slovakia and Romania both belong to the former category, as their governments, shown later, do not wish to promote multiculturalism.

Secondly, the authors of the book *Language a Right and a Resource: Approaching Linguistic Human Rights* distinguish ‘three ways of restricting language rights in education: states can restrict the age-group and the range of school subjects for which minority-medium education is provided, restrict the number of languages through which minority education in general is made available, and reduce the number of people entitled to minority-medium education by obfuscating who the right holders or beneficiaries are.’<sup>56</sup> These practices might be discovered among the recent Slovakian educational policies, and could be seen during the nineties in Romania.<sup>57</sup> After having set the theoretical framework of the thesis, the European context follows.

<sup>53</sup> Farimah Daftary and Kinga Gál, “The New Slovak Language Law: Internal or External Politics?” *ECMI Working Paper* # 8, September 2000, 2.

<sup>54</sup> See more in: I. Kant, I. Berlin, T.H. Marschall, C. Taylor or in Stanford Encyclopedia of Philosophy: <http://plato.stanford.edu/entries/liberty-positive-negative/> (accessed on 21 May 2009)

<sup>55</sup> Arzor 2007, 5-6.

<sup>56</sup> Kontra, Philippon, Skutnabb-Kangas and Várady, “Conceptualizing and Implementing Linguistic Human Rights,” in *Language, a Right and a Resource: Approaching Linguistic Human Rights*, eds. Kontra et al (Budapest/New York: Central European University Press, 1999) 10.

<sup>57</sup> See more in Horváth & Scacco 2001;

## II. Minority Protection as a Condition to the EU-Membership

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As the present research is put in the context of the European enlargement, and the power of enforcement of the Copenhagen criterion is examined, this chapter introduces the ‘minority protection framework of the EU’, the EU’s approach towards language issues and further special attention is paid to the EU-monitoring system.

### II / A. The European Union and ‘its minority policy’

Minority protection has become a significant factor in the post-Cold War period. The CoE and the OSCE, as well as the EU have all committed themselves to the protection of *minorities* and *cultural diversity* of Europe. The European Union, however, differs from the first two inasmuch as it is not an international, but a supranational organization.<sup>58</sup> The most important consequence of this supranational status is that every single act or policy of the EU needs to be founded on a particular article of the EU Treaties. Until the moment of the adoption of the Maastricht Treaty (1992) there was no reference for the establishment of policy regarding *cultural diversity*—which can be seen at least as an indirect reference to minority protection. The Treaty states that

*“[t]he Community shall contribute to the flowering of the cultures of the Member States, while respecting their national and regional diversity and at the same time bringing the common cultural heritage to the fore.”*<sup>59</sup>

Thus the adoption of the Maastricht Treaty and the creation of the European Union—after completing the single market and the economic integration—have opened up the possibility towards a political union, which already might include the protection of minorities.

<sup>58</sup> The EU has supranational bodies and is able to make decisions without unanimity among its member.

<sup>59</sup> Article 128 of the Maastricht Treaty. Source: <http://www.eurotreaties.com/maastrichtec.pdf> (accessed on 25 April 2009).



Unfortunately, due to the different national interests to which finding a common denominator in the field of minority protection seems rather impossible, the EU since the positive reception of the Maastricht Treaty has abstained from taking up further powers concerning linguistic and national minorities both in the Amsterdam and Nice Treaties. The presently prevailing Treaty of the European Union still keeps quiet regarding direct minority protection,<sup>60</sup> and the word ‘minority’ does not appear anywhere in the Treaties. In the nineties, as a result of the missing reference from the primary EU law, the EU chose two other ways of dealing with minority issues: the activities of the European Parliament, on the one hand, and the foreign policy of the European Union, on the other.<sup>61</sup>

The *European Parliament* (EP)—in contrast to the European Commission or the Council—developed an intensive role towards minority issues. Despite the missing competence, the EP adopted a number of opinions and non-binding resolutions in the field, as early as the eighties.<sup>62</sup> In its resolutions the EP’s commitment to the protection of national minorities and minority cultures, furthermore suggested the development of the Bill of Rights of Minorities.<sup>63</sup> The reason for its active role is twofold: *firstly*, the sensitivity of the EP towards minorities derives from its nature of being the guard of ‘European values,’<sup>64</sup> and

<sup>60</sup> The indirect protection of minorities, like non-discrimination principles, the equality directives do not belong to the main concern of this thesis.

<sup>61</sup> Thomas Benedikter distinguishes four groups of activities: 1) measures of mainly political character, developed by the European Parliament; 2) measures undertaken by the European Commission and the Council, characterized by a functional approach; 3) measures taken in the framework of the EU foreign policy, without touching the internal sphere of the EU; and 4) not minority oriented policies, which still are relevant to minority issues (human rights policies, anti-racism policy, refugee policy etc.). During the nineties only two out of these four groups can be recognized, hence the twofold introduction. In *Minorities in Europe. Legal Instruments of Minority Protection in Europe—An Overview* (Bolzeno/Bozen, 30 November 2006).

<sup>62</sup> The minority related resolutions of the EP are the followings: Resolution on a Community charter of regional languages and cultures and a charter of rights for ethnic minorities-OJ C 287, 9.11.1981, p.106; Res. on measures in favor of minority languages and cultures-OJ C68 14.3.1983, p.103; Res. on the languages and cultures of regional and ethnic minorities in the European Community-OJ C318,30.11.1987, p.160; Res. on linguistic and cultural minorities in the European Community-OJ C61,28.2.1994, p.110.

<sup>63</sup> The Afré report adopted in 1981 wanted to develop the Bill of Rights of Minorities, and later the Stauffenberg report from 1988 intended to establish the Charter of Rights for Ethnic Groups.

<sup>64</sup> The Parliament is the only directly-elected body out of the three EU-institutions, which is inspired by representing all the EU citizens, and guarding their fundamental and human rights. Thanks to the national delegations in the Parliament the interests of minorities appear much easier on the European level, than through the Council or the Commission. More on this in Gabriel N. Toggenburg “A Rough Orientation Through a Delicate Relationship: The European Union’s Endeavors for (its) Minorities,” *European Integration online Papers* (EIoP) 16/2000 Vol. 4, 3-4.

*secondly*, the differences in the decision making process makes it easier to adopt a report or resolution in the Parliament than e.g. in the European Council; the former needs simple majority for approvals, whereas the latter needs unanimity to develop any kind of common policy. Notwithstanding, the minority related reports and resolutions of the EP can be considered a success, and the above reasons do not eliminate their merits. The real effects and consequences of these *legally non-binding* documents, however, might be questioned.

Later, from the beginning of the nineties, the attitude of the EP changed and became less committed. The reasons and the signs of this shift might be detected in the following: *Firstly*, while the position of the CoE and the OSCE towards minority issues has become more committed, that of the European Parliament has altered in the reverse direction. The Parliament most probably trusted in the success of other declarations, charters and conventions adopted by other international organizations. Furthermore, because of the unwillingness and lack of support of the other EU institutions, the EP gave up its plan, elaborating their own Minority Charter. *Moreover*, a shift could be detected within the EP instead of general protection<sup>65</sup> of national minorities the protection of only linguistic rights of minorities started to be emphasized in the resolutions.<sup>66</sup> The EP probably followed the new direction in Europe, which departed from the traditional approach of protecting minority groups by protecting only their language.<sup>67</sup> *Finally*, the broadening of the content of the word ‘minority’ contributed to the changing attitude of the EP. Whereas at the end of the eighties the word referred only to the protection of national minorities, within a decade the context of the word became much wider in the EU phrasing, used for ethnicity, language, religion, and

<sup>65</sup> The word ‘general’ is used on the contrary to ‘specific’ minority protection; specific is understood in two aspects: (1) resolutions, measures adopted on specific minorities, with country-specific recommendations (e.g. Resolution on Vojvodina 2005, Resolution on minorities in Kosovo 1999, Resolution on the Greek minority who have been sentenced by the Albanian authorities 1994); and (2) measures adopted on only one type of rights (e.g. Resolution on regional and lesser-used European languages 1999).

<sup>66</sup> E.g.: Resolution on regional and lesser-used European languages—13.12.2001; Res. with recommendations to the Commission on European regional and lesser-used languages, the languages of minorities in the EU in the context of enlargement and cultural diversity—4.9.2003.

<sup>67</sup> Péter Göndör, “A Comparison if the ECRML and the FCNM,” in *Minorities of Europe Unite!* by Tabajdi, (EU-Ground Ltd., 2009.) 332.

sexual orientation.<sup>68</sup> The mere fact that the word has been used in wider context made it even more difficult to adopt a ‘common denominator’ in the field of minority protection.

The second field or aspect where the minority protection appeared in the ‘minority framework of the European Union’ is the *foreign policy of the EU*. This aspect can be further divided into two dimensions. On the one hand there is the foreign policy and political declarations towards such third countries which will never be a member of the EU,<sup>69</sup> and on the other the policy towards future member states. The next section discusses only this second dimension as the first falls out of the main scope of the thesis.

## II / B. Protection of minorities as accession criterion

Instead of elaborating its own system of minority protection for internal usage, the European Council established the *Copenhagen criteria*<sup>70</sup> for external usage. After having decided in the Presidency Conclusion that “*the associated countries in Central and Eastern Europe that so desire shall become members of the European Union*” the EU incorporated the ‘*respect for and protection of national minorities*’ as a part of the political condition for EU membership. In the history of the European integration it was the first time, when the Community established criteria to be met by the interested states. It was actually of great *symbolical significance* that minority protection was included as part of the menu of preconditions for EU membership, and it became linked to the agenda of enlargement.<sup>71</sup> The

<sup>68</sup> The Resolution on Human Rights in the World in 1997 and 1998 “calls on the Commission and Council to lay particular stress on the rights of minorities (ethnic, linguistic, religious, homosexual, etc.) at the time of enlargement negotiations”. In Vizi Balázs, “Az Európai Unió és a kisebbségek jogai” [The European Union and the Rights of Minorities] *Kisebbségkutatás* 2001/2, 281.

<sup>69</sup> E.g: LOMÉ IV. contained the first proper human rights clause in an EC agreement with third states; joint resolutions between African, Caribbean and Pacific States and the Community; Council regulations on assistance to and cooperation with developing countries; or the Stability Pact, etc. In Toggenburg 2000, 14-15.

<sup>70</sup> “*Membership requires that candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and, protection of minorities, the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.*” In *Presidency Conclusions*, Copenhagen, 21-22 June 1993.

Source: [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressdata/en/ec/72921.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressdata/en/ec/72921.pdf) (accessed 30 November 2008).

<sup>71</sup> Hughes & Sasse 2003, 8.

only peccadillo, both on theoretical and practical level, consists in the missing explanations of the content of *minority condition*; it remains unclear what the adequate levels of protection should be for a minority group within any state.<sup>72</sup> This asymmetry, which appeared already by the establishment of the criterion, might have determined its success. Later on the adopted criteria played an important role in the accession, and the Monitoring Reports—published from 1998 by the Commission on the progress of the single candidate countries—were based and built upon the different parts of the criteria. After publishing the first round of country reports the Commission concluded that “overall, the problem of minorities continues to raise concerns in the perspective of enlargement.”<sup>73</sup> One may conclude that the “criteria might be widely viewed as constituting a successful incentive structure in the promotion of human rights and the protection of minorities among the candidate countries.”<sup>74</sup>

Probably as a consequence of the above referred ‘success story’ and the enthusiasm of the EU decision makers, the criteria were transported into the Amsterdam Treaty<sup>75</sup>, but with the exception relating to protection of minorities.<sup>76</sup> In spite of the implementation of some parts of the criteria into the primary law, the so called ‘Copenhagen criteria’ as such remained legally non-binding. Due to this separation, the omitted *minority condition* has a ‘double handicap’, not being yet a part of the *acquis communautaire*, either directly or indirectly. This fact—most likely without direct intention of the past EU decision makers—probably resulted in some long-term effects on minorities living in new member states.

As shown, minority protection has become an important issue on the external agenda of the EU, but without having internal reference to it. This weakness of the conditions is

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<sup>72</sup> Topidi 2003, 8.

<sup>73</sup> Toggenburg 2000, 17.

<sup>74</sup> Hughes & Sasse 2003, 1.

<sup>75</sup> Art.49: “Any European State which respects the principles set out in Art. 6 (1) may apply to become a member of the Union.” Art. 6(1): “The Union is founded on the principles of liberty, democracy, respect for human rights rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.”

<sup>76</sup> Mark Neville, “Europe: Rights of Ethnic Minorities and Religion—Linking Diversity,” *Dialogue + Cooperation* 2/2004, 2.

harshly criticized by many scholars.<sup>77</sup> De Witte states that *[th]e protection of minorities seems to be primarily an export article and not one for domestic consumption.*<sup>78</sup> The fact that the EU established two divergent approaches towards protection of minorities—a ‘hands off’ approach within its border by considering the issue as a part of the domestic national policy of the members; and an imposing policy for outsiders by influencing the domestic policy on the treatment of minorities through *conditionality* and Phare financing,<sup>79</sup>—constitutes ‘*double standards*’. Topidi also refers to it—as one of the factors—by claiming that the effects of EU conditionality regarding minority protection are only limited:

*“This observation can be explained by two sets of factors: first, the EU failed to provide a clear set of ‘demands’ on the issue because of its own lack of solid legislation (which it tended to create on an ad hoc basis) and policy on minority rights protection; and second, each candidate country perceived these ‘demands’ differently, thus responding to them according to its own particular circumstances, interests and domestic policies.”*<sup>80</sup>

The thesis argues that the problem of double standards has weakened the credibility both of the EU’s position, and that of the established conditions and might result in non-expecting challenges in the future of the EU. The establishment of the Copenhagen criteria was a great and undeniable success of the EU after the change of regime with the integration of CEE countries into the Community, but at the same time it set up the very notion of the double standards, which might eliminate the effects of the conditionality once a country crossed the magic line, and became a member of the EU.

## II / C. Monitoring mechanism of the EU

<sup>77</sup> Giuliano Amato and Judy Batt, “Minority Rights and EU Enlargement to the East,” European University Institute, *RSC Policy Papers* 1998/5; Bruno De Witte, “Politics versus Law in the EU’s Approach to Ethnic Minorities,” in *Europe Unbound. Enlarging and Reshaping the Boundaries of the European Union*, ed. Zielonka (London: Routledge, 2002); Hughes & Sasse (2003); Erika Wilkens, “Minority Protections in an Enlarging Europe: Explaining the Double-Standard,” 2004.

<sup>78</sup> De Witte 2000, 140.

<sup>79</sup> Wilkens 2004.

<sup>80</sup> Kyriaki Topidi, “The Limits of EU Conditionality: Minority Rights in Slovakia,” *Journal on Ethnopolitics and Minority Issues in Europe* 1/2003, 1-2.

When the majority of the Central and Eastern European countries, with Romania<sup>81</sup> and Slovakia,<sup>82</sup> submitted their official applications for EU membership and once the official negotiations started, the EU began systematically monitor the progress of the candidates by organizing bilateral talks and publishing Regular Reports. The Reports were published by the DG Enlargement of the Commission annually,<sup>83</sup> and the structures of them applied both to the Copenhagen criteria<sup>84</sup> and to the *acquis communautaire*. Within years the candidate countries became more prepared with greater compliance with EU law. But as a result of the missing minority reference in the *acquis*, monitoring the *minority condition* proved to be a difficult and less successful, although the positive effects of it are undeniable. Hughes and Sasse argue in their study that minority protection is the most extreme case for analyzing the problem of linkage between EU membership conditionality and compliance by candidate countries.<sup>85</sup> In accordance with their study the critiques towards the monitoring mechanism can be classified into three groups:<sup>86</sup>

The *first* group refers to the relation of the EU with other international organizations and standards: the authors argue that the Reports do not inform us about the nature of the EU's collaboration or interaction with other international organizations such as the Council of Europe and OSCE;<sup>87</sup> furthermore there is a lack of transparency in the process of the compilation of the Reports, meaning the lack of citations and naming of sources (IOs, NGOs) also reduces the credibility of the Reports' statements; and finally the authors miss the

<sup>81</sup> Romania's way towards accession: 1993:Romania signed the Europe Agreement; 1994:Romania became an associate member of the EU; 22 June 1995:Romania submitted its official application for EU-membership; 15 February 2000:Romania officially started accession negotiations; 25 April 2005:Romania signed the Treaty of Accession to the EU; 1 January 2007:Romania became a member of the EU.

<sup>82</sup> Slovakia's way towards accession: 1993:The independent Slovakia resigned the Europe Agreement and became an associate member of the EU; 1995:Slovakia submitted its official application for EU-membership; 15 February 2000:Slovakia officially started accession negotiations; 23 April 2003:Slovakia signed the Treaty of Accession to the EU; 1 May 2004:Slovakia became a member of the EU.

<sup>83</sup> In the case of Romania all together ten Regular Reports were published, whereas in case of Slovakia only six.

<sup>84</sup> The reports detailed minority related issues under: B. Criteria for Membership > 1. Political criteria > 1.2 Human rights and the protection of minorities > Minority rights and the protection of minorities.

<sup>85</sup> Hughes & Sasse 2003, 2.

<sup>86</sup> The analysis of the ten Regular Reports published on Romania's progress completed for the class 'Self-determination and External Minority Protection', reinforced all the critiques of James & Sasse.

<sup>87</sup> Hughes & Sasse 2003, 18.

specification of the referred human rights and minority rights standards as well. The *second* critique points out that as a consequence of the missing EU benchmarks and evaluation processes, the Reports can only acknowledge the existence of formal measures (e.g. the change of laws, the establishment of institutions, and the launch of government programs), which alone cannot evaluate the actual development. This absence derives from the very fact that the political aspects of the Copenhagen criteria are not really translatable into particular sections of the *aquis*,<sup>88</sup> which sealed the success of the evaluation of the political criteria. Finally the *third* group of critiques refers to technical issues and to the wording: they claim that the Reports are designed as success stories,<sup>89</sup> and so the positive developments are recorded without specifying any problems in previous years.<sup>90</sup> The authors finish their criticism by stating that there is an absence of continuity and coherence in the EU's monitoring mechanism as the Reports are characterized by *ad hocism* and inconsistency.<sup>91</sup>

These critiques first and foremost aim at the European Union and its monitoring mechanism, however, they indirectly might also speak about the quality of the changes in the candidate countries. If the outcome of the above short analysis is compared or contrasted with that of the section before, the very same ambiguous picture is received as a result: the importance of both the criteria and the monitoring is undeniable, however, the implementation leaves much to be desired. The very fact that the EU neither developed incentives to continue with the implementation of candidate states' minority policies nor introduced sanctions in the

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<sup>88</sup> Hughes & Sasse 2003, 14.

<sup>89</sup> Romanian example: In the first four years the topic of linguistic integration covers only the issue of the multi-cultural Hungarian-German (Petöfi-Schiller) University. In 1998 and 1999 positive developments were anchored, in 2000 even the removal of last legal obstacles of the establishment was engrained, but as no developments happened in 2001 the case disappears from the Reports. In 2001 the Hungarian government, however, decided to establish a Hungarian state funded university in Romania, the Sapientia, the following Reports refer only for the successful functioning of this institution, and no damning comment show up later on regarding the need for a Romanian state funded Hungarian university.

<sup>90</sup> Evidences for such inconsistency from the Reports on Romania are e.g.: Csángó-case appeared first in the 2002 Report with the statement: "*no progress was noted with regard to the Csángó minority*"; Using of symbols first in 2002: "*Development was the amendment of legislation on the use of the national flag, anthem and coat of arms, in order to allow NM to use their symbols at official gatherings*"; Roma-issue e.g.: ID cards in 2006: "*Access of Roma to ID documents... remains an issue of concern*". In Hughes & Sasse 2003, 15.

<sup>91</sup> Hughes & Sasse 2003, 16.

case of incompleteness of the conditions resulted in that lack of fulfillment of the *minority condition*, which did not or could not hamper the accession of any candidates. As a result the following conclusion can be drawn: the minority condition did not carry out its mission perfectly, and as the establishment of the criteria was considered a symbolic victory, the monitoring process, unfortunately, remained symbolic as well. Moreover the supposition of this thesis is that the unsuccessful conditionality might result in backlashes after accession.

In spite of all of these critiques the other side of the coin should also be mentioned. Notwithstanding all the ‘handicaps’ in the establishment of the Copenhagen criteria and the representation of the minority concern in the external relation of the EU, they are very important developments in European integration. Thanks to these evolutions the ‘value’ of minority protection was finally acknowledged within the EU framework, and it became an integral part of the ‘EU rhetoric,’<sup>92</sup> so the relevance of the minority question improved during the nineties. Furthermore, these issued changes not only on the European level, but on the level of the candidate countries: a number of positive alterations, newly adopted legislation, and other significant developments (e.g. awareness raising, etc.) within the candidate countries—as in Slovakia and Romania—are undeniable consequences of the Copenhagen criteria.

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<sup>92</sup> Hughes & Sasse 2003, 30.



### III. Minority Language Rights in Slovakia and Romania *Before* EU-Accession

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After setting up the theoretical and practical framework, the following two chapters concentrate on the Slovakian and Romanian case studies and introduce the minority policies of these countries before 2004 and 2007, with special attention to Hungarian communities.<sup>93</sup> To answer the main question of the thesis—what happens in the countries once the *minority condition* ceases to exist, what kinds of long-term consequences does it result in Slovakia and Romania—first the situation before the accession has to be introduced, and the resulting Copenhagen condition developments and achievements have to be detailed. In order to achieve a successful evaluation and comparison the indication of the starting point is essential. The presentation<sup>94</sup> of the legislation follows more or less the list of De Varennes (see in chapter I/A.2) and a parallel is drawn between the two countries. Furthermore—to avoid the same mistake the EU committed in the monitoring mechanism, criticized by Hughes and Sasse, namely concentrating only on the legislative background—dissenting opinions of the Advisory Committees of Council of Europe are also presented. But above all, before starting the comparison, the chapter presents a list of historical understandings that formulated the cohabitation of majority and minority in the given countries.

<sup>93</sup> *In Slovakia:* The Hungarian minority is concentrated in the southwestern, southern and southeastern part of Slovakia, in districts near the Hungarian border (90%). In several districts (Dunajská Streda-Dunaszerdahely, Komárno-Komárom, Galanta-Galánta, Nové Zámky-Érsekújvár, Stúrovó-Párkány, etc.) Hungarians constitute the majority. In municipalities of southern Slovakia the Hungarian minority reaches 10 % of the total population (See more in footnote no.5), and 76% living in Hungarian majority settlements. Most of the Hungarians live in rural settlements. All municipalities with more than 90% of Hungarians have fewer than 5000 inhabitants. Source: Szabó Mihályi 2006, 7. <http://www.ciemen.org/mercator/pdf/wp23eng.pdf>. See more in Table 1 and 2.

*In Romania:* The majority of the Hungarian community is concentrated in three counties in Romania (Harghita-Hargita ~85%, Covasna-Kovászna ~74%, and in Mures-Maros ~ 39% of the population), this territory called historically Székelyföld (Székelyland). The rest of the Hungarian minorities live sporadically in other parts of Transylvania, where the Hungarian population reaches 20% of total population (compare with footnote no.5). Only 1% of the total Hungarian community lives outside of Transylvania, mainly in the capital city, Bucharest. See more in Table 6.

<sup>94</sup> A detailed presentation would go beyond the limit of the thesis it concentrates on the most important points.

### III / A. Historical framework

The scope of the thesis does not allow a complete summary of the historical coexistence of Slovaks and Hungarians, and Romanians and Hungarians, however, some historical concerns have to be mentioned to draw a framework for the following chapters.

The majority-minority relationship between the Slovaks and Hungarians has a long and often disputed history.<sup>95</sup> The present territory of Slovakia was part of the Hungarian Kingdom from the 11<sup>th</sup> century until WWI. The tensions between the parties became visible from the 18<sup>th</sup> and 19<sup>th</sup> centuries when the national aspirations were established by both groups of national elite. In order to express the growing national consciousness, and dislike towards the Hungarian political upper class the Slovaks supported the Habsburg force against the Hungarians during the revolution in 1848–49. The growing tensions were loaded with the facts that Slovaks were not involved in political power, that the implementation of Europe's first and indeed enlightened minority act—adopted by the Hungarian National Assembly in 1868—finally was not fully successful in minority protection, and lastly that so called Lex Apponyi in 1907 and other adopted laws during the 19<sup>th</sup> century supported 'magyarization' and assimilation of minorities.<sup>96</sup>

As a result the Slovak political elite supported the independent Czechoslovakian state which was proclaimed in October 1918. With the creation of the new state almost one million Hungarians and Germans, as well as smaller groups of Ruthenians, Ukrainians, Poles and Roma found themselves within the boundaries of the new state. Though minority rights were guaranteed by international treaties, as a part of the Versailles treaties, and minority groups had opportunities to organize politically, economically, and culturally—especially in

<sup>95</sup> Based <http://www.minorityrights.org/3533/slovakia/slovakia-overview.html#history>; Daftary&Gál 2000, 9-12.

<sup>96</sup> More on this: Szarka László, Modernizáció és magyarosítás [Modernization and Magyarization], *Korunk* 12/2007, 4; Katus László, Egy kisebbségi törvény születése. Az 1868. évi nemzetiségi törvény évfordulójára [The birth of a minority act. To the anniversary of the 1868. minority act], *Régió*, 4/1993, 4; MPA, "The Slovak State Language Law and the Minorities. Critical Analyses and Remarks," UNHCR 1996; and the "Ezer év törvényei adatbázis" [Database of 1000 years' Hungarian acts]: <http://www.1000ev.hu/index.php>.

comparison to other countries in Central and Eastern Europe—still in the inter-war period minorities claimed the existence of crucial discrimination.<sup>97</sup> The First Vienna Award, shortly before the beginning of the World War II, annexed the southern region of Czechoslovakia to Hungary (1938–1945). The events during this period are the main sources of historic grievances on the Slovak side, and this part of history is often misused by nationalists for heightening tension among Slovaks and Hungarians.<sup>98</sup> In 1939 the Czechoslovak state disintegrated, and the first independent Slovakia, as an ally to Nazi Germany, was established under the leadership of Tiso. The most flagrant violations of minority rights occurred during this period and immediately after World War II.<sup>99</sup> With the adoption of the Beneš Decrees collective guilt was assigned to ethnic Hungarians and Germans, the creation of a nation-state as an aim was set, and the process of forced ‘re-slovakization’ began.<sup>100</sup> During the communist regime minority protection did not change significantly.<sup>101</sup>

The *Hungarian and Romanian* cohabitation has, though a shorter, but a not less disputed history.<sup>102</sup> The first Magyar presence in Transylvania dates back to the 10<sup>th</sup> century, and then it became a part of the Hungarian Kingdom. Transylvania had been a multi-ethnic

<sup>97</sup> The Czechoslovak government curtailed the rights of ethnic Germans and Hungarians in several ways: by issuing restrictive orders, closing down Hungarian and German schools, denying citizenship, and through general discriminatory practices in education, language use and employment. In Daftary & Gál (2000) cites Edwin Bakker, *Minority Conflicts in Slovakia and Hungary?* Capelle a/d Ijssel: Labyrinth, 1997, p.49.

<sup>98</sup> E.g.: Closure of Slovak schools on the territories annexed to Hungary, which were inhabited majority by Hungarians; and confiscation of Slovak and Czech property on this territory.

<sup>99</sup> The War and the immediate aftermath were marked by genocide, forced resettlement, deportations, and mass populations exchanges: “Nazis and their sympathizers deported and murdered almost all of Slovakia's Jewish population, which had numbered approximately 70,000. Most of the 150,000-strong German population living in Slovakia and a part of the Hungarian minority fled or were expelled after 1945. Hungarians experienced substantial discrimination at the hands of the Czechoslovak, Slovak and occupation authorities. Their properties were confiscated, between 70,000 and 90,000 were expelled to Hungary, and a further 44,000 were resettled in Bohemia and Moravia.” Source: <http://www.minorityrights.org/3533/slovakia/slovakia-overview.html#history>.

<sup>100</sup> The Beneš Decrees (1945) denied citizenship to ethnic Hungarians, closed all Hungarian institutions, and prohibited the use of the Hungarian language in all public places. The aim of re-slovakization was to restore the Slovak nationality of ethnic Hungarians who were supposedly victims of previous ‘magyarization’. More on this: Katalin Vadkerty, *A Reszlovakizáció* [The re-slovakization] (Bratislava: Kalligram, 1993).

<sup>101</sup> “Along with Roma, Hungarians continued to bear the brunt of communist assimilation policy between 1948 and 1989. Nevertheless, following the ‘Prague Spring’ of 1968, Hungarians, Poles and Ukrainians were accorded the legal status of minorities and their rights to education in the mother tongue and to representation in state and local bodies were legally guaranteed. In practice, however, these rights were ignored. The government provided no education in the Romani, Ruthenian/Ukrainian or German languages, and between 1970 and 1989 the number of Hungarian children receiving mother-tongue instruction fell by almost a half.” Source: Ibid footnote no. 99.

<sup>102</sup> Based: <http://www.minorityrights.org/3521/romania/romania-overview.html#history>.

region mainly with Hungarian, Romanian and Germans since its early beginnings<sup>103</sup> and from the 18<sup>th</sup> century Romanians constituted the majority in the region. The tensions between the two communities might have had the same reasons as in the Slovakian–Hungarian case, the coexistence until the WWI, however, is considered less problematic. As a result of World War I, Hungary lost territories and the unification of Transylvania with the Kingdom of Romania was ratified in 1920. The new regime aimed for the effective ‘romanianization’ of the population.<sup>104</sup> Although at the time of Transylvania’s incorporation into Romania, self-government was promised for the region’s minorities, no such concession was forthcoming, and during the interwar period, the Romanian government neglected minorities. The Second Vienna Award, during World War II, annexed the northern part of Transylvania to Hungary,<sup>105</sup> but Romanian control was re-established after the war. The communist rule in Romania—which was among the harshest in Central and Eastern Europe—resulted in widespread repression both of minority and majority.<sup>106</sup>

These historical statements might be interpreted differently by Slovaks or Romanians, and the emphases can be shifted in different directions, or the historical understandings can even oppose each other.<sup>107</sup> It can be then concluded that the legacy of

<sup>103</sup> Romanians claim descent from the indigenous population of the Carpathian region who were Romanized during the classical period.

<sup>104</sup> Between the two WWs the so called Commission of Romanization (Comisa de Romanizare) was established: The Hungarian language was expunged from official life, and all place-names were Romanianized. In the land reform undertaken in 1921, Transylvanian aristocrats (most of them Hungarians or assimilated as Hungarians from other ethnic groups) were dispossessed of large landed properties, with the land being then given (in smaller plots) to peasants (the majority of whom were ethnic Romanians). This move, approved by Romania's King Ferdinand I, changed the ethnic distribution of land ownership. Source: <http://adatbank.transindex.ro>.

<sup>105</sup> During this period, some members of the Hungarian minority participated in discriminatory policy and killings against the Romanian population.

<sup>106</sup> Between 1952–68, a Hungarian Autonomous Province was the most compacted area of Hungarian settlement in Transylvania, but its powers of self-rule were only nominal. After 1968, communist policy moved by degrees towards assimilation. The government merged and reduced minority-language schools into ‘sections’ within Romanian schools. The authorities also reduced the number of subjects which might be taught in minority languages and the minority’s cultural activities were barely obstructed by Romanian official policies. Higher education was completely Romanianized, except for the Hungarian Literature at Cluj University. Nevertheless, even in the late 1980s, Romanian television and radio continued daily transmissions in Hungarian and German.

<sup>107</sup> The different interpretations of events by Hungarians and Slovaks can be seen on the charter, completed by the Terra Recognita. The interpretation of the following events was scrutinized: (1) the ‘magyarization’ before the WW I, (2) Versailles Peace Treaty, (3) the consequences of the 1<sup>st</sup> Vienna Award and (4) the ‘slovakization’ policies after the WW II. Source: [http://tra.hu/images/stories/MM/01/HU01\\_4PNG.png](http://tra.hu/images/stories/MM/01/HU01_4PNG.png) (accessed 11 May 2009).

history has particularly affected the relations between both Slovaks and Hungarians, and Romanians and Hungarians, and these historic grievances continue to play an important role, although this might be less true for the average populations than for the elites.<sup>108</sup> In this framework the significance of language rights, language policies, and minority education gain even more importance, in both the majority policy and minority demands. Buček rightly states that the “situation of a minority is depending not only on size and demographic development of the community, on territorial distribution, or on social-economic differences, but also on historic memories, which are deeply embedded in the majority–minority cohabitation.”<sup>109</sup> The majority–minority relations should be liberated from these burdens of historical grievances, which still influence the cohabitation.<sup>110</sup>

### III / B. Legislation on minority language rights in Romania and Slovakia<sup>111</sup>

With the collapse of Communism a new period has started in the cohabitation of the Hungarian minority and the majority populations. Since minority protection, as referred in the sections before, became a concern of the international community, the newly emerging democracies had to develop a more minority friendly policy as well. However, it is rather impossible to draw a borderline of when the *minority condition* of the European Union started to effect the minority policy of the countries. Would it be the from the adoption of the Copenhagen criteria in 1993, or only when the moment of the accession negotiations started in 2000? Most probably neither of them is solely true, and continuity is the right answer.<sup>112</sup> In addition, two further facts have influenced the minority legislation of the countries: *Firstly*, there is the representation of Hungarian parties in government coalitions. It is an exaggeration to claim that approval of laws are the only merit of the given Hungarian parties, as the

<sup>108</sup> Daftary & Gál 2000, 11.

<sup>109</sup> Ján Buček, “Responding to Diversity: Solutions at the Local Level in Slovakia,” in *Diversity in Action: Local Public Management of Multi-Ethnic Communities in Central and Eastern Europe*, eds. Anna Mária Bíró and Petra Kovács, (Budapest: LGI Books, 2001) 276; or see Várady 1997, 8-54.

<sup>110</sup> The ‘historical reconciliation’ seems to be the first step towards the dissatisfactory minority protection.

<sup>111</sup> It is beyond the scope of the thesis to introduce the political history of the countries in the nineties (in details).

<sup>112</sup> The Slovakian act on minority languages perfectly underpins this assumption (See more in chapter III/C.1).

international pressure on the governments might have been more crucial. So it has played a role, but it has not been the only one. This factor has been one of the determining elements in Romania between 1996 and 2008, when the Democratic Alliance of Hungarians in Romania (RMDSZ) participated in the government and between 1998 and 2006 in Slovakia, when the Hungarian Coalition Party (MKP) formed one party of the Dzurinda cabinet.<sup>113</sup> *Secondly*, there are the good neighbor treaties signed by Hungary and the countries in which the parties took responsibilities for the mutual protection of minorities.<sup>114</sup>

The final important comment concerns that neither Slovakia nor Romania has one specific minority act, which lists all the rights of the minorities; in both countries several acts and laws refer to these rights. In Slovakia two tendencies prevail in the legislation regulating autochthonous languages: first an attempt to codify in laws, first, the status and public use of the Slovak language as a symbol of national sovereignty, and, second, the minorities' individual language use.<sup>115</sup> In Romania the former has no *lex specialis*.

### *III / B.1. Minority rights in the constitutions*

The most important legal documents constructing a legal framework for the protection of national minorities are the constitutions of the two states, which unfortunately, were drafted in a climate of political instability and resurgence of nationalism.<sup>116</sup>

The *Slovak Constitution*,<sup>117</sup> the adoption of which was, indeed, an important step in the Slovak nation-building process, confirms Slovak as the only official language (Art.6), and at the same time guarantees the principal rights of minorities living in Slovakia: creating and

<sup>113</sup> It is beyond the scope of the thesis to go into more details relating their participation in the governments.

<sup>114</sup> The bilateral treaty with Slovakia was signed on 19 March 1995 and with Romania on 15 September 1996. The treaties, and hence indirectly the provisions of international documents enshrined in them, have the same status as national legislation and could therefore be claimed before national courts. These treaties however have not significantly changed the existing practice of minority protection their importance should not be diminished. See more in Kinga Gál, *Bilateral Agreements in Central and Eastern Europe: A New Inter-State Framework for Minority Protection? ECMI Working Papers #4*, 1999.

<sup>115</sup> Gizella Szabó Mihályi, "Language policy and language rights in Slovakia," (Gramma, 2006) 12.

<sup>116</sup> Carmen Kettley, "Ethnicity, Language and Transition Politics in Romania...", in *Nation-building, Ethnicity and Language Politics in Transition Countries*, eds. Dafray and Grin (Budapest: OSI, 2003), 251.

<sup>117</sup> Adopted in 1992. Text: <http://www.government.gov.sk/9714/the-constitution-of-the-slovak-republic.php>.

maintaining *educational and cultural institutions* (Art.34.1), the right to learn the official language (Art.34.2), the right to *education* in the minority language (Art.34.2.a) and the right to use the minority language in *official communications* (Art.34.2.b).<sup>118</sup> These promising rights are overshadowed by the influence of nationalism, which appears in the preamble<sup>119</sup> and by the loopholes among the minority provisions.<sup>120</sup> The latter ‘guarantee’ had to be created due to the fact that granting too far reaching minority rights might lead to the assimilation of ethnic Slovaks, and of the further possibility of territorial autonomy. The loopholes also weakened the constitutional provisions; apart from the acts in 1993 and 1994 (See III/B.4), there were no laws adopted to regulate the provisions and between 1994 and 1998 many principles were simply not implemented.<sup>121</sup>

The *Romanian Constitution*<sup>122</sup> contains the same asymmetry as the Slovakian: the state language has again priority status (Art.13)<sup>123</sup> and it considers minority rights on an individual basis as well. In the Romanian case there is no special chapter for minority rights, but the “preservation and expression of (...) linguistic identity” (Art.6) is recognized, furthermore language rights relate to learning and *education* in the mother tongue (Art.32.3), and relating *judicial procedure* (Art.127.2).<sup>124</sup> The latter, however, recognizes only oral use of the mother tongue, and the only official language in written forms is Romanian.<sup>125</sup>

The constitutions, however, reflect the new minority protection approach of the nineties, established after all monolingual systems, for which both were criticized by scholars. Critics deem that their provisions are generous and limiting at the same time, that the

<sup>118</sup> The minority articles (Chapter 4: 33 and 34 §.) define the rights of minorities on the individual level.

<sup>119</sup> “*We, the Slovak Nation—not of the Slovak citizens—Bearing in mind the political and cultural heritage...*”

<sup>120</sup> “*The exercise of rights by citizens of a national minority guaranteed by this Constitution may not threaten the sovereignty and territorial integrity of the Slovak Republic or discriminate against other citizens*” (Art.34.3).

<sup>121</sup> Buček 2001, 283; and Daftary & Gál 2000, 38.

<sup>122</sup> Adopted in 1991, revised in 2003. Text: <http://www.romania.org/romania/constitution.html>.

<sup>123</sup> It is denied by the Roman Constitutional Court. See more in Kettley 2003, 251.

<sup>124</sup> National minorities have the right to use their native language in dealing with the governmental administration and the courts. But it is also stated that “*procedure shall be conducted in Romanian*” (Art.127.1).

<sup>125</sup> Attila Benő, “Nyelvi jogok és anyanyelvhasználat Romániában” [Language rights and use of mother tongue in Romania], in *Nyelvi jogok, nyelvpolitika*, ed. Bodó, Barna (Temesvár: Szórvány, 2007) 36. The *Slovak* practice regarding judicial proceedings corresponds to the Romanian one according to the Act No.335/1991.

‘affirmative action’ or ‘positive discrimination’ in favor of minorities is not explicitly mentioned, and that the delicate loopholes built within the lines also weaken the provisions.<sup>126</sup> Such analogues return in many further legislative documents.

### *III / B.2. State language acts*

At first sight state language acts might seem bizarre listed under minority legislation, however, in Slovakia it has an impact on minority languages as well. That language played a crucial role in the Slovak nationalizing process was proven already in 1990 when growing distance emerged between the Hungarian minority and the Slovak majority elite, as the issue of sovereignty became ‘ethicized’ in the process of political competition.<sup>127</sup> The Slovak National Party (SNS)—during the debate of the first *Act on the official language of Slovakia*—had launched a campaign aimed at depriving the Hungarian minority of the right to use its mother tongue in official matters, as a sort of ‘historical justice.’<sup>128</sup> The Act defined the Slovakian as the only official language of the state, “as a means of mutual understanding and communication” in order to “support the development of the democracy and culture of the Slovak nation;” and requires all official documents to be published in Slovakian.<sup>129</sup>

With the reelection of Mečiar in the autumn of 1994, the anti-minority campaign continued, and the nation-building culminated in the adoption of another *Law on the State Language of the Slovak Republic* in 1995, which also applied the ‘one state one language’ model, and nullified the Act of 1990,<sup>130</sup> which provided territorial rights where minorities

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<sup>126</sup> The Romanian Constitution e.g. states (Art.6.2) “The protecting measures taken by the Romanian State for the preservation, development and expression of identity of the persons belonging to national minorities shall conform to the principles of equality and non-discrimination in relation to the other Romanian citizens.” In István Horváth and Alexandro Scacco, “From the Unitary to the Pluralistic: Fine-Tuning Minority Policy in Romania,” in *Diversity in Action: Local Public Management of Multi-Ethnic Communities in Central and Eastern Europe*, eds. Bíró and Kovács (Budapest: LGI Books, 2001) 253-255.

For the Slovakian case see more in Szabó Mihályi 2006, 17; Buček 2000, 283; and Daftary & Gál 2000, 22-23.

<sup>127</sup> Csörgő Zsuzsa, *Talk of the Nation. Language and Conflict in Romania and Slovakia*, (Ithaca: CUP, 2007) 32.

<sup>128</sup> Daftary & Gál 2000, 20.

<sup>129</sup> Act No. 28/1990 on the Official Language of the Slovak Republic. Minorities could use their language in contact with authorities only in municipalities where they constituted at least 20% of the population. But even there the employees of state administration and local self-government bodies were not required to know and use the minority language. The law prohibited the bilingual documents, and the use of bilingual city signs.

<sup>130</sup> Act No. 270/1995 on the state language of the Slovak Republic.



constituted 20% of the population<sup>131</sup> furthermore imposed a very high fine in case of violation of provisions. The Act led to widespread domestic and foreign criticism.<sup>132</sup> The Slovakian government, seeing the international discontent, tried to mislead the international community and submitted an OSCE Report in 1996–97 claiming that the use of minority languages in public administration is not restricted at all. The providing of incorrect information was later confirmed by the Slovak Constitutional Court.<sup>133</sup> Originally the acts should have been inspired to provide and regulate, as anchored in the constitution the real use of minority languages in *communication with local authorities or by publications of general interests* (the 1999 law regulated some of these rights—see Chapter III/C). Thus instead of assuring minority rights, the Slovakian state language acts restricted the use of minority languages and they were not the only ones targeting the minority population during Mečiar era.<sup>134</sup>

In Romania the state language is not regulated separately, its official status is anchored only in the constitution. The previously mentioned rights relating to the use of minority language in front of *public authorities* is regulated by the Law on Public Administration. This first version of the law did not define the ‘strait limit’ of the minority population, from which the use of minority languages could be permitted at local councils, it only gave an unclear definition by using the phrase “*national minorities are present in sufficient numbers*” (Art.29); furthermore, it authorizes minorities to communicate in their mother tongue without working out the very details of the processes (Art.58).<sup>135</sup>

<sup>131</sup> In 1993 the government announced plans to reorganize administrative districts on a north-south basis to reduce the % of ethnic Hungarians to less than 20% in all districts. The Hungarian minority reacted by proposing the creation of autonomous administrations. The government reforms were ultimately carried out in 1996 despite a presidential veto and in direct violation of Slovakia’s international commitments. In Daftary & Gál 2000, 14.

<sup>132</sup> Csergő 2007, 50-53; Kálmán Balla, “New Language Act in Slovakia,” *Minorities Research* 1/1999; Edwin Bakker, “Growing Isolation: Political and Ethnic Tensions in the Slovak Republic,” *Helsinki Monitor* 1/1998.

<sup>133</sup> Gizella Szabó Mihályi, “A szlovákiai kisebbségi nyelvi jogi környezet áttekintése,” [The legal environment of minority language rights in Slovakia] (Gramma, 2009), 18.

<sup>134</sup> E.g.: The State symbol act in 1996 restricted the playing of foreign anthems and display of foreign flags.

<sup>135</sup> Act on Public administration was the Act No. 69/1991.

### III / B.3. Legislation on minority education<sup>136</sup>

Issues of education and mother tongue instruction are the two primary concerns of minority groups, since they directly influence the protection and survival of minority cultures and languages, and serve as a basis for group identity formation. Thus the right to education is not only protection against discrimination, but protection of identity; the dual role of language, emphasized by scholars, reappears in this context. These basic rights are provided by the constitutions of the countries, and *lex specialis* regulate further details.

At the primary and secondary levels both countries provide education in Hungarian as a medium of instruction is concerned.<sup>137</sup> In Slovakia all the subjects—except the state language—were taught in Hungarian, whereas in Romania the 1995 law—best expressing the position of the Iliescu regime—contained some restrictions regarding the language of instruction: the history and geography of Romanian were to be taught only in Romanian (Art.123) and the vocational education had to be conducted only in Romanian, etc.<sup>138</sup> The Romanian law was sharply criticized even by the European Parliament<sup>139</sup> (some relevant changes occurred in 1997 when an Emergency Act was adopted,<sup>140</sup> but amending almost all the discriminatory provisions had to wait until 1999). Furthermore in Slovakia until 1995<sup>141</sup> it was also possible to issue bilingual school documentation and to take entrance examinations in the basic subjects in Hungarian for students graduating from Hungarian primary schools and applying to Slovakian language secondary schools (these rights were abolished by the 1995 State Language Act). Although possessing these rights, the Hungarian minority in neither of these countries was authorized to participate in the formation of the curriculums.<sup>142</sup>

<sup>136</sup> For the number of Hungarian schools in Slovakia see in Table 4.

<sup>137</sup> In *Slovakia*: Act No. 29/1984 on Primary and Secondary Schools, modified several times, final version: No.350/1994. In *Romania*: Act No. 84/1995 on Education.

<sup>138</sup> See more in Kettley 2003, 253-254.

<sup>139</sup> EP Resolution No B4-1025/95 on the protection of minority rights and human rights in Romania, OJ C249 25/09/1995. Source: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:51995IP1025:EN:HTML>.

<sup>140</sup> Government Emergency Act No 152/1997.

<sup>141</sup> Bilingual certificates had been issued since 1921; the 1995 State Language Act had abolished this provision.

<sup>142</sup> See more in Szabó Mihályi 2006, 15; Szabó Mihályi 2009, 14-16.

### III / B.4. Legislation on official use of names, local names and topographical signs

These rights, as well as the right to education, are essential regarding the survival of minority languages, and possess symbolic function in preservation of both individual and group identity. These issues turned up in Slovakia when the nationalist trend was once interrupted during March and September 1994; as a result of both *internal* political changes and *external* (or international) pressure during the Moravčík Government the protection of language rights was developed. After Slovakia, for the second time, became independent the country joined the Council of Europe. The accession influenced its internal legislation, because—as a condition—the country had to modernize its legislation, and adopt minority language related acts. On the one hand these laws regarded the use of minority *names in birth registers and marriage certificates*: according to the Names Act the Hungarian ‘Károly’ can be officially registered as the equivalent of the Slovakian ‘Karol’; and as a supplement they adopted the Registers Act as well, which allowed women to be registered without the –*ová* ending. These acts failed to satisfy the Hungarian minority as common names such as Attila which are not on the approved list of names may not be used; and only the religious marriage ceremony may be conducted in the minority language, not the civil part.<sup>143</sup> On the other hand the *locality names and topographical signs* were regulated. After 1948 the use of Hungarian names of villages and towns was forbidden. According to the Act on bilingual signs at those localities where the proportion of the minority population reaches at least 20% the name of the locality can be written in the minority language in addition to Slovak.<sup>144</sup> In other contexts —such as postal services, rubber stamps, maps or name of rivers plains, etc.— these names can only be written in Slovakian.

In Romania only the 2001 Local Administration Act assures the use of bilingual notices (signs, inscriptions, etc.) in minority municipalities where, similar to the Slovakian

<sup>143</sup> Act No. 300/1993 on Names and Surnames and Act No. 154/1994 on Registers, in Szabó Mihályi 2006, 17.

<sup>144</sup> Act No. 191/1994 on Denomination of Communities in Language of National Minorities.

case, the minority reaches 20%. During the nineties it was not assured by legislation. Regarding the use of names and surnames the country did not change anything after the change of regime as the Act on Names from 1968 has been still in force, according to which names in the mother tongue can be registered in official documents (Art.19).<sup>145</sup>

### *III / B.5. Legislation on public media*

This section basically covers the rights—where the number of minority group justifies it—to receive information in the mother tongue through media, television, and in printed or electronic media. In relation to public media, in Slovakia, the law on radio and the law on television provided rights for minorities. According to the former law, the national radio had to contribute to the promotion of national culture of minorities (Art.5.2 and 6.d),<sup>146</sup> and according to the latter the television was obliged to broadcast programs promoting minority cultures in their mother tongue (Art.3.3 and 6.j).<sup>147</sup> In practice, circumstances have been less than favorable: according to one media monitoring report, the Slovakian media devoted only one percent of their combined airtime to minority issues in 2000.<sup>148</sup> There are no limitation concerning printed media and book editing.<sup>149</sup> In Romania the free and unlimited access to media for the Hungarian minority was realized already for 1994.

In summary, Slovakia and Romania started to develop their minority protection legislation continually with the process of democratization, and according to the European minority standards of the nineties, in which already a supporting role was given to the Copenhagen minority criterion. The isolation of Slovakia during the Mečiar-era—below mentioned—seems to be an influence of the Copenhagen criteria. The further refinement of

<sup>145</sup> Attila Benő and János Péntek, “Nyelvi jogok Romániában” [Language Rights in Romania], in *Kisebbségek, nyelvpolitika Kelet-Közép-Európában* [Minorities, language policy in Central and Eastern Europe] eds. Orsolya Nádor and László Szarka (Budapest: Akadémia Kiadó, 2003) 131-141.

<sup>146</sup> Act No. 255/1990 on Slovak Radio, amended by Act No. 335/1998.

<sup>147</sup> Act No. 254/1991 on Slovak Television, amended by the Act No 21/1996.

<sup>148</sup> Minority Protection in Slovakia, *EUMAP report* (Budapest: Open Society Institute, 2001) 473.

<sup>149</sup> Szabó Mihályi 2009, 12.

the system happened during the accession negotiations. Regarding the quality of the acts it can be concluded, that they—as the constitutions—are generous and limiting at the same time. It seems from the wording of acts and from their content that the guiding principle behind providing these rights is most probably not liberal multiculturalism but the intention of the governments to correspond to the international community and its conditions by providing the minimum of these standards. Kontra's claim, referring only to the State Language Act, might be validated for all other cases, and might be legitimate even today: "[it] resulted in confusion and interethnic antagonism, satisfying neither the nationalist (who claimed the law went too far in granting language rights), nor the Hungarian minority (who claimed it did not go far enough)."<sup>150</sup> The reason for this duality, beyond the mere historical explanation, can be close to Topidi's argument, namely that majority and minority perceive the same European standards differently.<sup>151</sup> The majority, i.e. the Slovakian and Romanian governments, wishes to provide the minimum, and the minority wishes to get the maximum of these standards. The European Union seemed to be positioned, at least for the accession period, on the *aurea mediocritas* between these two ends. Getting closer to the datum of enlargement—as it is shown in the next section—it moved towards the 'minimum' ending.

### III / C. Direct impact of the EU on the minority legislation

The presented legislative environment of the countries accordingly has changed and further developed within the EU accession period. The countries submitted their official application for EU membership in 1995, and the official accession negotiations started at the beginning of 2000, however, *Regular Reports*, however, were published since 1998. For Slovakia it took upwards of four years to become a member, whereas for Romania the

<sup>150</sup> Kontra Miklós, "English Only's Cousin: Slovak Only," *Acta Linguistica Hungarica* 3-4/1995-1996, 43, 348. Cited by both Daftary & Gál 2000, 21; and Szabómihályi 2006, 15.

<sup>151</sup> Topidi 2003, 2.

negotiations lasted for seven years. This section details how the *minority condition* has more directly affected the minority protection of these countries within the negotiations.

A good example to prove the importance of the linkage, between enlargement and minority protection is the case of Slovakia. In 1997 the country was explicitly excluded from the accession negotiations on the basis of its non-fulfillment of the political criteria, however, it was *not only* due to the infringement of minority rights.<sup>152</sup> The unstable political situation, as well as the growing ethnic tensions between the Hungarian and Slovakian elite during the Mečiar government (1994-1998), had been the reason for the EU's reaction. This stance significantly changed when Mečiar lost the election in the autumn of 1998, and the new Dzurinda cabinet took steps—with the desire for EU membership—towards normalization. One of these steps, claimed both by the European Commission in the 1998 Regular Report on Slovakia<sup>153</sup> and the European Parliament in its resolution on the Slovak Republic,<sup>154</sup> was that “[t]here have been problems in the treatment of minorities and lack of progress concerning the adoption of legislation on minority languages.” The same was suggested ever since the 1995 Law on State Language by the High Commissioner on National Minorities,<sup>155</sup> or by the Council of Europe. Slovakia was under the pressure of the international community.

### *III / C.1. Law on the use of minority languages in Slovakia*

The ‘strongest voice’ of the international community, as a result of the EU integration belonged to the European Union. The fact that the new government indeed intended to meet the European requirements is proved by its Program Declaration which included the preparation of an Act on the Use of Minority Languages of national minorities and ethnic groups. The intention finally was realized in July 1999, when the law on the use of minority

<sup>152</sup> Commission Opinion on Slovakia's application for Membership of the European Union (COM/97/2004): <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:51997DC2004:EN:NOT> (accessed on 30 April 2009)

<sup>153</sup> EC Report on Slovakia 1998, 7.

<sup>154</sup> EP Resolution on the Slovak Republic, OJ C328 26 October 1998, 190.

<sup>155</sup> Letter of HCNM on 4 November 1998 to M. Dzurinda, or Letter of 26 February 1996 to V.Mečiar.

languages was adopted with a narrow majority in the Slovak National Council.<sup>156</sup> The law—being very short with only nine clauses—regulates the use of minority languages in official contact,<sup>157</sup> reconfirms some already existed provisions,<sup>158</sup> and reintroduces the 20% threshold regarding the population of the minority in a given municipality.

The international community considered the adoption as a great success, and it became a marker of ‘Slovakia’s return to Europe,’ not only regarding the EU accession, but towards membership in other IOs.<sup>159</sup> The law failed to satisfy the Hungarian minority, though, and not because they simply cannot be gratified. Since the law was conceived in a rush,<sup>160</sup> some argue that the main motivation of the government to draft a law as soon as possible was—regardless the quality of the content—to ensure Slovakia’s fulfillment of the international expectations. In addition several other doubts can be formulated relating the content.<sup>161</sup> Daftary and Gál’s most important concerns are: 1) that it covers only the official communication, however, as argued by the MKP all fields covered by the state language act should have been covered by the minority language act as well; 2) that the formulation of the law is vague and contradictory, the used terms are not precisely defined, which creates legal uncertainties and makes the implementation more problematic;<sup>162</sup> 3) that the law does not bind the local governments but only creates possibility to the use minority languages; and 4) that the law was not put in the context of the Slovak national legislation, its relation to other laws is not

<sup>156</sup> Act No.184/1999 on the use of minority languages. See more in Daftary & Gál 2000, 29.

<sup>157</sup> It guaranteed the right: to submit written requests to the local and state administration and to get an answer next to the state language, also in the minority language with the ‘*exception of public documents*’ (Art.2.3); □to distribute official forms of the local administrative bodies in a minority language *upon request* (Art.2.6); as well as to provide *on request* information about general legal regulations in a minority language (Art.4.3); to conduct meetings of the local administrative bodies in a minority language, *if all present at the meeting agree* (Art.3.1); and the use of a minority language by representatives of local administration at meetings with the assistance of an interpreter provided by the municipality (Art.3.2); □to keep records/chronicles of the municipality also in a minority language (Art.3.3); □to display information in public areas also in a minority language (Art.4.2).

<sup>158</sup> The law provides the possibility to mark streets and to display other local geographical signs in a ML (Art. 4.1); Art.5 refers that the use of ML is court proceedings, education and culture are regulated by separate laws.

<sup>159</sup> Slovakia joined the OECD in 2000, the NATO in 2004.

<sup>160</sup> The Commission was due to meet in early July to review Slovakia’s petition requesting inclusion in the talks.

<sup>161</sup> Daftary & Gál 2000, 29 and 42-49; and Meijknecht 2004, 149-151.

<sup>162</sup> E.g.: It declares that local administration bodies are obliged to create conditions for the use of minority languages (art.7.2), but at the same time it declares that these bodies are obliged to use the state language in official communication (art.7.1).

specified. Notwithstanding these problems, the most obvious consequence of the EU integration of Slovakia—it might, however, be also considered as an antecedent—is definitely the adoption of this new language law in June 1999. After its approval, the European Council decided on the opening of accession talks in December 1999.<sup>163</sup>

The *Regular Reports* of the Commission also reflected that the univocal success of the law and that its implementation lagged behind. The following are the *Reports* comments on the Law since its adoption: the *Report* from 1999 claims “that continued efforts are needed [regarding minority protection],” the 2000 *Report* talks about further progress, and nevertheless states that “there remains a gap between policy formulation and implementation on the ground;”<sup>164</sup> the 2001 and 2002 *Reports* refer to a “limited availability of concrete data” concerning the implementation of the Law; and later on to “the need for adopting further necessary [minority languages] legislation.”<sup>165</sup> The fact that this powerful tune disappears from the last 2003 *Report*, and the language issue is not even annotated in it obviously proves that the EU—as result of the lack of political will—gave up further stressing on these issues.

### *III / C.2. Other legislative changes relating use of minority languages in Slovakia*

There are some other amendments of minority language related acts worth mentioning dating back to the accession period, none of them, however, were included in the *Regular Reports*. The most important of them relates to the modification of the 1995 *State Language Act*, which resulted in the restoration of the bilingual school documentation and the possibility of the Hungarian entrance examinations.<sup>166</sup> Furthermore, the approval of the 1999 Act on the use of minority languages overruled paragraph 10 of the State Language Act relating the institution or system of fines in the case of the violation of the provisions.

<sup>163</sup> In *Presidency Conclusions*, Helsinki, 10-11 December 1999 (point 10).

<sup>164</sup> EC Report on Slovakia 1999, 18 and 70; and EC Report on Slovakia 2000, 22.

<sup>165</sup> EC Report on Slovakia 2001, 23; and EC Report on Slovakia 2002, 32 and 98.

<sup>166</sup> Act No. 5/1999 (13 January 1999). See more in Szabó Mihályi 2006, 15; and in “*Szlovákia nyelvi, nemzetiségi viszonyai*,” [Language and national relations in Slovakia] by Ágnes Biró (accessed on 1 May 2009) [http://www.felvidek.ma/index.php?option=com\\_content&task=view&id=10431&Itemid=1](http://www.felvidek.ma/index.php?option=com_content&task=view&id=10431&Itemid=1).



The legislation on Radio and Television was also modified.<sup>167</sup> The minority language broadcasting is provided henceforward, however, according to the Law on the State Language (Art.5.4<sup>168</sup>) no regional radio or television station can broadcast exclusively in the minority language, and such programs can only be broadcast by regional stations if they are also broadcast in Slovakian at another time. This effectively means that local television stations cannot broadcast live programs in the minority language. It seems that Slovakia does not want to change this, since it has not committed to the given article of ECRML.<sup>169</sup> Hungarian coverage on Slovak television is around 0,05% and on radio is 4%.<sup>170</sup>

The last significant measure within the accession period was the foundation of the Hungarian Selye János University in Komárno in 2003 as a public institution with financial support from the state budget,<sup>171</sup> with which a long desired dream of the Hungarian community came true. The language of instruction is Hungarian, Slovak and English.

### *III / C.3. Legislative changes relating use of minority languages in Romania*

The *Regular Reports* on Romania mention three laws or government ordinances from the accession period, which improved the development of minority protection, out of which two are related the use of minority languages.<sup>172</sup> The *first* is the Education Act, where as a result of the changes some concessions were made for the Hungarian communities relating to the curricula in elementary minority school, the use of minority language in vocational and technical education (both were provided in the mother tongue, with bilingual technical terminology), and the establishment of a private Hungarian university in Romania.<sup>173</sup>

<sup>167</sup> Act No. 16/2004 on Slovak Television and Act No 619/2003 on Slovak Radio. More on this: ‘Broadcasting—legislative framework: <http://www.slovakia.culturalprofiles.net/?id=-13161> (accessed on 18 May 2009).

<sup>168</sup> “Broadcasting of regional or local stations, radio stations and radio facilities is performed, in principle, in the state language. Other languages may be used before a particular program is broadcast in the state language.”

<sup>169</sup> Article 11 (1/b/i and 1/c/i) of the Charter states that “to encourage and/or facilitate the creation at least one radio station/television channel in the regional or minority languages”.

<sup>170</sup> Szabó Mihályi 2006, 13.

<sup>171</sup> Act No. 465/2003 on establishing the Selye János University in Komárno.

<sup>172</sup> Third is the Ordinance No 83/1999 regarding the restitution of properties belonging to the national minorities.

<sup>173</sup> Act No. 215/2001 on Public Administration. See more in Kettley 2003, 255-257.

The *second* was the Law on Public Administration, which was modified actually two times within the accession process.<sup>174</sup> According to the 2001 act in municipalities where the minority constitutes at least 20%<sup>175</sup> of the population the use of mother tongue is *permitted*.<sup>176</sup> In these administrative units the act provides bilingual signs and notices, use of minority language in communication with local authorities, publication in minority languages of information of general interest, and use of minority language during local council meetings, if at least one-third of the members of the council belong to the minority group. The modification of the Law in 2006 reduces this number to one-fifth, furthermore authorized the use of minority languages even in front of that public institutions that are subordinated to the local authorities. The ambiguity—as it appeared in the Constitution relating the use of minority language in oral and written forms by judicial procedure—returns here as well, since the official documents of the minority municipalities can be prepared only in Romanian.<sup>177</sup>

In Romania a further success of the EU enlargement process—or in other words the further effect of the *minority condition*—could have been the so called Minority Act, whose adoption was finally postponed as a result of the sophisticated diplomacy, and its adoption is still waiting (see more in Chapter IV/B.1).

### *III / C.4. Institutional changes within the accession period*

Beyond the legislative developments, the second major group of ‘measurable’ developments—as stated by Hughes and Sasse—are the institutional changes. The establishment or alteration of institutions are not directly connected to language rights even so their presentation is significant in order to adequately demonstrate the effects of the *condition*.

<sup>174</sup> Amendments No. 215/2001 and Law No 286/2006. See more in: Constantin, Sergiu. “Romania,” in *European Integration and its Effects on Minority Protection in South Easter-Europe*, eds. Emma Lantschner, Joseph Marko and Antonija Petričušič, EURAC Research. (Bolzano: European Academy, 2008) 139-165.

<sup>175</sup> In Finland a municipality is bilingual if at least 8% or 3,000 people speak the local minority language.

<sup>176</sup> The example of *Élesd* is worth mentioning: The Hungarian population reached 25% in 1995, and the mayor -in spite of the missing legislation- authorized the outplacement of the bilingual signs. After the modification in 2001 -meanwhile the number of Hungarians decreased under 20%- the mayor was forced by the Prefecture to take off all the bilingual signs; however, it cost much more, and nobody really wanted to take them down.

<sup>177</sup> Horváth & Scacco 2001, 262-266 (Article 90.5).

Romania—within the period between 1998 and 2006—established several institutions or committees in order to develop the representation of national and ethnic minorities and their problems in the administration: the Interministerial Committee for National Minorities (1998), the Interministerial Sub-Committee for Roma (1999), the National Office for Roma, Institute For Studying the Problems of National Minorities (2000), the National Council for Combating Discrimination (2002), the Roma country offices within the National Employment Offices (2003) and the National Authority for the Restitution of Properties (2005);<sup>178</sup> whereas Slovakia established the post of Deputy Prime Minister for Human Rights, National Minorities and Regional Development (1999) who belonged to the Hungarian Coalition Party during the Dzurinda cabinet, the Committee for Human Rights and National Minorities, and furthermore the Government Council for National and Ethnic Minorities, which has representatives of all the minorities, was restructured as an advisory body of government.<sup>179</sup>

The improvements in the countries both on legislative and on institutional levels are impressive. This is—without doubts—thanks to the EU integration. The Commission also confirmed in its final reports, that the countries meet the *minority requirements*, this was however, not necessarily a general assumption in Europe. Since the monitoring mechanism lacked ‘clear benchmarks,’ and acknowledged only the existence of formal measures its assessment without further evaluations, it might likely remain one-sided. To avoid committing this mistake the next short section is inspired to expose a slightly different opinion.

### *III / C.5. Evaluation of the Council of Europe*

Beyond the European Union the Council of Europe also affected the policy making of the countries, but to a much lesser extent. The countries have been members in the Council of Europe since 1993, and just before accession the CoE has tried to influence the minority

<sup>178</sup> Collection made out of all the ‘Regular Reports on Romania’s Progress Towards Accession.’

<sup>179</sup> Collection made out of all the ‘Regular Reports on Slovakia’s Progress Towards Accession.’

protection, and managed to only with partial success.<sup>180</sup> Later in 1995, both Slovakia and Romania signed the *Framework Convention on National Minorities* (entry in force in 1998), and as a result the monitoring of the countries by the Advisory Committee of the FCNM started in 1999. So far two monitoring cycles have been completed, and the countries are obliged to submit the third state reports these days. The *European Charter on Regional and Minority Languages* was also signed first by Romania in 1995—however ratified only in 2008—and in 2001 by Slovakia (entry in force in 2002) but in the latter case only one state report was submitted by Slovakia so far. The selected provisions of the states—as fulfillment the Charter’s ratification—unfortunately comply with the already existing domestic standards, which might hamper the prospect of further developments.<sup>181</sup>

The documents provided in the accession period by the FCNM Advisory Committee on the states are stricter than that of the EU. The introduction of the most important language related points of the three reports is calling to modulate the so far developed picture.

The *Opinions on Romania*,<sup>182</sup> among others, welcome the right of national minorities to access to media, and that Hungarians have a prominent presence in the media.<sup>183</sup> Still they recommend that sufficient attention has to be paid to the implementation of the Law on public administration once this has entered into force, then further steps are needed to improve the use of languages with administrative authorities and first and foremost before courts.<sup>184</sup> Concerning the indication of place names both opinions call for more effective implementation and for reduction of tensions which appear in practice,<sup>185</sup> concerning minority education

<sup>180</sup> In *Slovakia* the adoption of the acts on official use of names, local names and topographical signs (Chapter III/B.4.) was as a result of CoE-pressure, whereas in the case of *Romania* the first adoption of the Minority Act—presented as condition—was finally postponed, and than forgotten. See more in Chapter IV/B.1.

<sup>181</sup> Constantin 2008, 148.

<sup>182</sup> 1<sup>st</sup> Opinion on *Romania* adopted on 6 April 2001, 2<sup>nd</sup> Opinion on *Romania* adopted on 25 November 2005.

<sup>183</sup> AC Opinion 2005, Article 9 of FCNM—point 116.

<sup>184</sup> AC Opinion 2005, Article 10 of FCNM—points 128, 129.

<sup>185</sup> AC Opinions 2001 and 2005, Article 11 of FCNM—points 134.

the general state budget should be increased (e.g.: on textbooks)<sup>186</sup> and the Csángó minority<sup>187</sup> should also be included in the personal scope of the Framework;<sup>188</sup> and finally the second *Opinion* asks also for the adoption of the Draft Law on the Status of Minorities.<sup>189</sup>

The *Opinion on Slovakia*<sup>190</sup> also recognizes the increasing support for electronic and print media for minorities, however, the State Language Act appears in every context as a source for limitation.<sup>191</sup> The Opinion finds that the Act is lacking clarity and legal certainty which may give rise to negative consequences for persons belonging to national minorities (e.g. the limited minority coverage in radio and television, and limitations on the freedom to receive and impart information and ideas in minority languages).<sup>192</sup> Concerning the use of languages with official authorities the modifications of the 1999 Law were welcomed, but its fully implementation still needs to be ensured, its unclear position within the Slovak legislation has to be reinforced, and further crucial critiques were formulated in relation to judicial procedures.<sup>193</sup> Regarding minority education the idea of introducing multicultural and multiethnic component of the core curriculum was highly recommended by the *Opinion*. Additionally it must be emphasized, that a 20% threshold is required for the implementation of all these rights in practice, which depends on the result of population censuses, on changeable administrative borders and on the concentration of minority populations. The first two unfortunately depends on the benevolence of the Slovakian authorities.<sup>194</sup> As at least one

<sup>186</sup> AC Opinion 2001, Article 14 of FCNM—points 167.

<sup>187</sup> The Csángó Minority does not form a separate recognized national minority group in Romania (the recognized are Albanians, Armenians, Bulgarians, Croats and Slovenes, Germans, Greeks, Hungarians, Italians, Jews, Lippovan-Russians, Poles, Roma, Serbs, Slovaks, Tartars, Turks and Ukrainians). Csángós—however their traditional language is an old Hungarian dialect—can not be listed clearly under the Hungarian category as the larger part of them speak Romanian. More on <http://www.dri.gov.ro/>.

<sup>188</sup> AC Opinions 2001 and 2005, Article 3 of FCNM—points 18 and resp. point 25.

<sup>189</sup> AC Opinion 2005, point 206.

<sup>190</sup> 1<sup>st</sup> Opinion on *Slovakia* adopted on 22 September 2000.

<sup>191</sup> AC Opinion 2000, 16.

<sup>192</sup> AC Opinion 2000, points 34 and 35.

<sup>193</sup> See more in Anna K. Meijknecht, *Minority protection, standards and reality: implementation of Council of Europe standards in Slovakia, Romania and Bulgaria* (The Hague: T.M.C. Asser Press, 2004) Chapter 11.

<sup>194</sup> Kalligram Report 2003, 1-2 cited by Meijknecht 2004 148-149.

third of the Hungarian community lives in municipalities, where this number does not reach the 20%, these persons belong to the community can not enjoy the rights.<sup>195</sup>

This rather brief introduction of the most important recommendations of the Advisory Committee Opinions proves that it would be too optimistic to state that the Slovakia and Romania, indeed, solved its all minority related obligations and duties before the accession.

This third section of the thesis basically is intended to introduce how the condition of minority protection of the Copenhagen Criteria, or in other words the *minority conditionality*, actually contributed to the general minority protection framework, and more precisely to the legislation on minority languages in Slovakia and Romania. The example of Romania and Slovakia—beyond doubts—complies with Topidi’s statement that it “demonstrates the visibility and degree of EU’s contribution to the stabilization of the rule of law and democracy, as well as the development of legislation on the protection of minorities in the transition context.”<sup>196</sup> The acknowledgement of this statement was reinforced also by Representatives of Hungarian parties from Slovakia and Romania, working as Members of the European Parliament, in Brussels. They all share the assumption, that without the process of the European integration (to the EU, CoE or OSCE) the minority protection of the countries would not have developed in such a degree as it has happened. Still, the level reached due to the *minority condition* cannot be considered as perfectly completed.<sup>197</sup>

Topidi also goes further, and states that EU’s contribution, however, finally had only limited effects on minority legislation. The same is argued by Hughes and Sasse (Chapter II/C) who claim that the *Reports* were drafted as success stories, which did not reflect the pure facts in every case. Furthermore the facts that: *firstly* that the critical tune towards countries’

<sup>195</sup> See more in Table 3.

<sup>196</sup> Topidi 2003, 3.

<sup>197</sup> Interviews were completed between 30<sup>th</sup> of March—3<sup>rd</sup> of April in the European Parliament in Brussels—with the following MEPs: Edit Bauer (MKP) and Árpád Duka-Zólyomi (MKP) from Slovakia, and Csaba Sógor (RMDSZ) from Romania.

minority problems disappear from the *Regular Reports* as the closer to the accession, and *secondly* that the Resolutions of the European Parliament—claiming further steps on the field of minority protection<sup>198</sup>—were simply ignored by other EU institutions, and *thirdly* that the lack of fulfillment of such conditions could not hamper or postpone the countries' accession—all prove that as result of the lack of political will the minority condition simply ceased to be a main concern for enlargement, and the EU was not willing to stress or address the minority issues any longer. Hence the limited effects. However in our context the emphasis is more on the existing effects, and less on its limitedness.

A completely new situation arose on 1<sup>st</sup> of May 2004, in the case of Slovakia, and respectively on 1<sup>st</sup> of January 2007, in the case of Romania. The two candidate countries so far have become full members in the European Union; they finally crossed the line, they were in. From that very moment the conditions such as the *minority condition* are not applicable to them any longer, and as a result of the 'advancement,' the members 'only' have to follow the provisions of the EU Treaties. This is the very moment when the problem of double standards appears, because, as introduced in the Chapter II/A, the European Union has no provision on minority protection. The last section of the thesis will continue the investigation begun in the third chapter and maps the situation of language rights in the countries after the accession, when no EU provisions were in force relating to minority protection.

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<sup>198</sup> EP resolution *on the accession of Romania to the European Union* (P6\_TA(2006)0512) and EP resolution *on the extent of Romania's readiness for accession to the European Union* (P6\_TA(2005)0531).

## **IV. The Situation of Minority Language Rights After EU-Accession**

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Accordingly this chapter monitors the minority language legislation and situation of language rights from 2004 (Slovakia), and from 2007 (Romania). As indicated in the introduction there are a couple of recently emerging conflicts between the majority and the Hungarian minority in Slovakia, and much less, but some in Romania. This chapter collects these issues which create tension, but only the ones that relate to use of minority languages in any of the prior detailed contexts. Unfortunately there was no time and frame to realize field research on every single case, consequently the presentations focus shortly on the problematic points, and do not intend to detail all the circumstances. In contrast to the third chapter, where the investigation was followed by the use of minority languages in different contexts, in this section the research is carried out case by case. The reason behind this analytical shift is explicable by the fact that none of the before introduced laws or acts have been amended in favor of the use of minority languages since the countries have joined the EU.

### **IV / A. Slovakia**

#### *IV / A.1. Modification of the state language act is under reconsideration*

The State Language Act has been modified four times since 1995,<sup>199</sup> the act, nonetheless, deserved the critique of the Advisory Committee even in 2005.<sup>200</sup> The program of the Fico government from 2006 referred to the “need of protection of the state language” on the one hand, and to the “promotion of Slovak culture in the mixed regions” on the other.

<sup>199</sup> The last modification—since the stage introduced in chapter III/C.2—happened in 2006, when pursuant to an EU directive the use of minority languages had to be permitted in some information systems (e.g. trade register).

<sup>200</sup> E.g.: “Pursue the efforts already made to complete the legislative framework pertaining to national minorities, including in the fields of culture and education, and ensure that achievements in this field are not hindered by undue interpretations of the 1995 State Language Law; consider easing restrictions as regards linguistic rights available to persons belonging to national minorities;” in 2<sup>nd</sup> Opinion on Slovakia (26 May 2005) point 142.



In that year the government adopted a document explaining the need for modification, where among others the most important imperfection of the State Language Act was nominated by the missing institution of penalties.<sup>201</sup> At the end of 2008 the already modified law, which reinforce the use of state language by all the citizens in all aspects of everyday life, was submitted to the Parliament. In March 2009 it was adopted by the government and in April approved in first reading.

The Slovak government claims, that the “aim of the amendment is natural and pragmatic” and does not affect minority rights,<sup>202</sup> however the representatives of Hungarian minority complain about its really restrictive notion on the use of minority languages (for details see footnote).<sup>203</sup> The truth lies most probably in between these two opinions. However, the very fact that the pronounced role of language and the debate on the act have returned into the politics proves that the Slovakian ‘one state, one language’ notion was not given up with the entrance to the EU. This increasing nationalism, which was already criticized by the MRG in its country report in 2006,<sup>204</sup> undeniably might influence the situation of language rights—apparently not in a positive direction—since nation-building tendencies are generally unfavorable for pluralism. The new version of the State Language

<sup>201</sup> Biró 2009.

<sup>202</sup> See footnote no. 2.

<sup>203</sup> “1) The number of institutions where the state language is to be used in official contacts (paragraph 3(1)) is considerably greater than is laid down by Law No 184/1999 Coll. on the use of minority languages, meaning that, among other things, it will not be possible to use a minority language in official contacts with certain authorities, health insurance offices and social security offices even in localities where over 20 % of the population belong to a national minority. 2) In personal communication with social and health-care workers, minority languages may be used only in localities where the proportion of the minority is over 20 %, and in other cases only if the patient or the client does not speak the state language (paragraph 7(4)). This proposal represents a serious intrusion into the private sphere and is absurd. 3) Public radio broadcasting in other languages is permitted only if the program is immediately broadcast in the state language in the same form, which makes it practically impossible for anything to be broadcast in other languages (paragraph 5(1)(b)). 4) Commemorative signs must be written in the state language, and an inscription in another language may be added in lettering of the same size or smaller (paragraph 5(7)), but the Slovak Ministry of Culture must be approached to issue a binding opinion. This provision applies retroactively with no limit of time, and additions to the inscriptions must be made at one’s own expense. 5) The draft law lays down strict penalties of between EUR 100 and EUR 5 000. Not even people carrying out their professional business, such as doctors and nurses, are exempt.” Cited from the parliamentary written question of Edit Bauer (MEP), imposed to the European Commission on 4 May 2009. <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+P-2009-3369+0+DOC+XML+V0//EN&language=EN> (accessed on 20May 2009)

<sup>204</sup> Slovakia overview: <http://www.minorityrights.org/3533/slovakia/slovakia-overview.html#governance>.

Act underpins this assumption. The EU in turn—as a result of the missing competence—most probably will not and cannot say anything against Slovakia, and will consider the problems of the Hungarian minority as an internal political issue of Slovakia (e.g. in the answer to Bauer). If it had happened within the accession period, the EU’s approach would have been slightly different. Still, other international institutions, beyond Hungarian minority associations, such as e.g. the OSCE Representative of Freedom of the Media, have already expressed its criticism that the new act endangers the freedom of media, for example.<sup>205</sup>

#### *IV / A.2. Education and the ‘textbook-issues’*

The Law on Education was also amended—initiated by the Ministry of Education lead by Jan Mikolaj from the Slovak National Party—by the Slovak government in 2008. The law was inspired, or at least how it was actually interpreted, to reform the Slovak education system, but as a ‘byproduct’ it also restricted the use of the Hungarian language in schools. Analysts claim that instead of ‘more freedom of choice’ or more autonomy it provided more centralization and control.<sup>206</sup> One of these byproducts is that in elementary schools and in vocational schools with Hungarian instruction the number of classes in the Hungarian language has decreased, thus the status of education in the mother tongue has been weakened. Furthermore, despite former promises the Minister has not provided the necessary textbooks to the minority schools for the beginning of the school year 2008, since the new act is in force.<sup>207</sup> In March 2009 the Minister of Education removed two popular history textbooks, written by Slovakian Hungarians,<sup>208</sup> from the publication order list and announced that from

<sup>205</sup> “OSCE media freedom representative says Slovakian draft Press Act curbs editorial autonomy, asks authorities to withdraw it,” in Press Release: <http://www.osce.org/item/29364.html> (accessed 14 May 2009)

<sup>206</sup> Research blog of the Political Economy Research Group of CEU. The author quotes even the Minister of Education, who stated: „Do not search for liberal values in this reform, I openly say, I think that we are not in such a deep mess.“ <http://pergceu.blogspot.com/2008/08/reforming-slovak-primary-and-secondary.html> (accessed 12 May 2009).

<sup>207</sup> See more in “Comments on the 2nd State Report of the Slovak Republic on the Implementation of the ECRML, Education,” by László Pék (2009), the President of the Association of Hungarian Teachers in Slovakia.

<sup>208</sup> Ján Fúzik, the President of the National Self-Government of the Slovaks in Hungary, said that the Slovak textbooks, however, are financed by the Hungarian State, its content is controlled by the Slovak self-government and all the topographical names in the textbooks are in Slovak. (accessed 14 March 2009): <http://uj szo.com/online/kozelet/2008/10/15/magyarorszagon-nem-hibridek-a-tankonyvek>.

September the Hungarian pupils will learn from the same—but translated—textbooks as their Slovak peers.<sup>209</sup> This idea contravenes the provisions of both the Framework Convention (Art.12) and the Language Charter (Art.8). This problem is still waiting for a solution, even though, the other ‘textbook issue’ related the use of geographical names in textbook, seems to be solved. As a result of an ordinance attached to the new Education Act the use of Hungarian topographical names in textbooks was restricted and these names were simply erased and replaced solely with names in the Slovakian language.<sup>210</sup> This was against the established practice and was widely refuted by the ethnic Hungarian schools and as a sign of dissatisfaction these books were sent back to the Minister of Education. After a long parliamentary debate the final compromise proposal, adopted in February 2009, says that the “deep-rooted geographical names” can be published in Hungarian, followed by the Slovak name in brackets.<sup>211</sup> The problem seems to be solved but unfortunately only on paper, as the Slovak National Party plans to bring the issue to the Constitutional Court; furthermore the wording of the act is again uncertain, which gives possibility for abuse, and the realization of publishing the textbooks with bilingual names is indeed still in waiting. This ‘symbolic victory’ of the Hungarian minority actually only set back some of the earlier practices, and did not introduce any novelty.

The third recently emerged idea of the Minister of Education, most probably due to the growing importance of state language, affects the Hungarian nursery schools also. In March 2009, Mikolaj directed the minority nurseries to introduce a new method for state language teaching, and to order new Slovakian children’s books instead of the Hungarian ones.<sup>212</sup> It is undisputable—argued by the authors of Kontra’s book—that the learning of the state-

<sup>209</sup> *Minority Report*—Monthly Bulletin on the Hungarian Community in Slovakia, Issue 2 and 3-2009.

<sup>210</sup> Pék, 2009.

<sup>211</sup> *Minority Report*—Monthly Bulletin on the Hungarian Community in Slovakia, Issue 2-2009.

<sup>212</sup> <http://www.panorama.sk/go/news/news.asp?lang=sk&sv=2&id=20661> (accessed on 30 April 2009). Up to now the teaching of the Slovak language was only optional, and the materials used by the nursery schools was also depending on the minority community. Source: E-mail interview with Szabómihályi Gizella, May 2009.

language for members of a minority community is the interest of minority in order to avoid ‘second class citizenship’ in its country;<sup>213</sup> the specialists, however, definitely doubt that the force in this juvenile age would be the best tool to realize this aim.<sup>214</sup>

The last problem raised the dust in connection to Hungarian schools is the question of state financial support. Many schools claim, even though official statistics are still not available relating to the distribution of EU funds, that they are discriminated by the repartition.<sup>215</sup> These problematic issues among others<sup>216</sup> resulted in tensions between the Slovakian majority and Hungarian minority. This is best proved by the fact that the OSCE High Commissioner on National Minorities visited Bratislava for the first time in ten years in February 2009 in order to negotiate with the parties and mediate some of the European standards.<sup>217</sup> Unfortunately it proves to be the case that the European Union does not raise its voice relating concrete minority problems, if the tension is between its two member-states.

#### *IV / A.3. The Pátria issue*

The representatives of the Hungarian minority started a countrywide petition “for the Pátria Rádió and our rights.”<sup>218</sup> The Radio Pátria is the only Hungarian minority radio station in Slovakia (functioning 45 hours weekly mainly during the day), which used to function with medium wave transmitters. Recently all the stations were shut down, and changed to ultra-short wave transmitters as the Radio could no longer be received in Bratislava, its surroundings and in the Eastern part of Slovakia, which are inhabited by citizens of Hungarian nationality.<sup>219</sup> The petitioners request 1) the restoration of the broadcasting in every district, 2) for the abolition of bilingual broadcasting, and furthermore 3) protest against

<sup>213</sup> Kontra, Miklós, *Tan-Nyelv-Politika* [Study-Language-Policy], (Somorja: Lilium Aurum Könyvkiadó, 2005).

<sup>214</sup> <http://www.bumm.sk/28600/mikolaj-a-magyar-ovodakat-is-szlovakositana.html> (accessed on 30 April 2009).

<sup>215</sup> [http://www.felvidek.ma/index.php?option=com\\_content&task=view&id=7201](http://www.felvidek.ma/index.php?option=com_content&task=view&id=7201) (accessed on 30 April 2009).

<sup>216</sup> E.g.: the issue of the Forum of Hungarian MPs from the Carpathian Basin (KMKF); the rising of extreme nationalism and extremism on both sides; the football incident in Dunajská Streda-Dunaszerdahely, the unsolved case of Malina Hedvig, the issue of the Beneš decrees etc.

<sup>217</sup> [http://www.osce.org/hcnm/item\\_6\\_36870.html](http://www.osce.org/hcnm/item_6_36870.html) (accessed 14 May 2009).

<sup>218</sup> The Petition can be downloaded from: <http://www.ics.sk/cikkek/peticio-a-patria-radioert-es-jogainkert>.

<sup>219</sup> See more in Table 5.

the novel of the law on state language. The second and third points are—beyond doubts—justified, and are wishes according to European minority protection standards, however, the first might be seen as gentle paranoia, if it would not happen in Slovakia at the moment. One of the cornerstones of the successful cohabitation is the mutual trust, as argued in the first chapter, which is unfortunately, as the example shows, at the very moment missing in the Slovak-Hungarian coexistence. The rising nationalism of the Slovaks can be a reason for this kind of assumptions, but the Hungarians should not see the intention of restriction beyond every decision either. The explanation behind the change of transmitters refers to financial, economical and quality reasons, as majority of the stations in Europe are using the ultra-short wave transmitters. If the argument and the promise, about the fully restoration of coverage until the end of June 2009,<sup>220</sup> are both true and perceived with mutual trust there is no need to be dissatisfied. However it should be immediately added, that the Slovak party could have been much more deliberate and watchful and could have asked the patient of the audience already in advance, which apparently did not happen; furthermore the scandal around the removal of the Pátria Director for fabricated reasons at the beginning of 2008 gives also a good reason for guessing.<sup>221</sup> (The evaluation of the Slovakian events and the comparison with the Romanian case follows the next chapter.)

#### **IV / B. Romania**

##### *IV / B.1. The law on the status of national minorities*

In Romania the story of the so called ‘Minority Act’ dates back to the beginning of the nineties, and all together nine draft laws have been made public since 1993.<sup>222</sup> The adoption of a minority act—with a framework of all the rights of national minorities—appeared as a recommendation already in the Opinion of the Parliamentary Assembly of the CoE in 1993,

<sup>220</sup> [http://www.felvidek.ma/index.php?option=com\\_content&task=view&id=13163&Itemid=33](http://www.felvidek.ma/index.php?option=com_content&task=view&id=13163&Itemid=33) (15 May 2009)

<sup>221</sup> <http://www.bumm.sk/15531/elbocsatottak-a-patria-radio-igazgatojat.html> (accessed on 30 April 2009)

<sup>222</sup> Constantin 2008, 160.

as a soft condition of the accession.<sup>223</sup> The adoption of the law then was postponed, but only at the first time. In February 2005, a new draft had been elaborated by representatives of the Hungarian Party (RMDSZ),<sup>224</sup> which has been approved by the government in couple of month, and sent to a parliamentary debate. Since 2005 its adoption has been highly recommended both in the EU's Regular Reports and in the EP's Resolutions too.<sup>225</sup> In contrast, the draft is still held in the labyrinth of the Romanian legislature up to now. The adoption might be hindered due to the shortcomings of the law, as argued in international documents as well,<sup>226</sup> but there is a consensus among analysts regarding the most important obstacle, namely the lack of political will from the ruling parties—regardless the RMDSZ is a member of the government or not.<sup>227</sup> Neither the conditionality of the Council of Europe nor that of the EU could 'force out' the adoption of the Minority Act within the accession periods, and as a result of the missing EU-minority reference will not be able to enforce it future either, notwithstanding that the Law would improve the protection for all the national and ethnic minorities living in Romania.

#### *IV / B.2. Education*

Within the last two years, since Romania is a member in the European Union nothing *really* has changed regarding minority language education, neither in favor nor at the Hungarian minority's expense. The problematic points, were listed in the EP-Resolutions, or in earlier Regular Reports, remained to be weak points in minority protection. Thus the in the following introduced cases do no prove any 'devolution' of minority education since the EU-accession of Romania out and away compose a kind of list of survivor problems.

<sup>223</sup> Parliamentary Assembly Opinion No. 176 (1993) on the application by Romania for membership of the Council of Europe. Source: <http://assembly.coe.int/main.asp?Link=/documents/adoptedtext/ta93/eopi176.htm>.

<sup>224</sup> "UDMR to promote bill of a new law on national minorities" Divers Bulletin No.5(133) of 14 February 2005 Source: [http://www.divers.ro/actualitate\\_en?wid=37647&func=viewSubmission&sid=6672](http://www.divers.ro/actualitate_en?wid=37647&func=viewSubmission&sid=6672) (acc. 21 May 2009).

<sup>225</sup> EP Resolution 2005, point 26; and 2006 point 13. (For source see footnote no.198.)

<sup>226</sup> More on the shortcomings in *Opinion No 345/2005 of the Venice Commission* regarding the Draft Law. Source: [http://www.venice.coe.int/docs/2005/CDL\(2005\)071-e.asp?PrintVersion=True](http://www.venice.coe.int/docs/2005/CDL(2005)071-e.asp?PrintVersion=True); or in *ECMI Report #54* by D. Christopher Decker and Aidan McGarry, on the Roundtable for National Minority MPs and the Council of National Minorities, 17-19. March 2005. Source: [http://www.ecmi.de/download/Report\\_54.pdf](http://www.ecmi.de/download/Report_54.pdf) (22 May 2009).

<sup>227</sup> Constantin 2008, 160.

A ‘textbook issue’ has recently appeared in the media also in Romania, however in another context. One part of the textbooks of Hungarian schools is translated from Romanian books as no alternative textbooks are provided (which is though was recommended by the AC Opinions). As a result of the translations the Hungarian textbooks are full of grammatical mistakes and error in content, which render more difficult the teaching and learning on a high quality.<sup>228</sup> Ecaterina Andronescu, the new Minister of Education by visiting Székelyföld at the beginning of 2009 gave her word solving the problems as soon as possible.

Further there is an urgent need of the adoption an amendment of the Education Law, which would finally permitted the teaching of the Romanian language as a foreign language in the ethnic Hungarian schools. The alternative curriculum for teaching the Romanian is urgent, as the proper knowledge of the Hungarian student in Romanian leaves much to be desired claims Professor Balázs.<sup>229</sup> Péntek explains that it is deteriorative to mix normal classes or lessons where special subject are taught (‘tanóra’), with the ones where foreign or state languages are taught (‘nyelvóra’). In the current practice the history or geography classes are used to teach even the language Romanian to the Hungarians pupils, and as a result both the subjects and the language knowledge might be injured and remain limited.<sup>230</sup> As argued earlier the competent knowledge of the state language, in this case the Romanian, is desired for the minority community—it should be received as additional value for the members—but for the majority too. Therefore the shift towards alternative curriculum and way of teaching is indispensable, as it is unreal to expect from a seven-year-old kid, growing up in a Hungarian village, to learn history on Romanian. The alternative curriculum for

<sup>228</sup> <http://www.erdely.ma/kultura.php?id=48799&what=archivum> (accessed on 5 March 2009)

<sup>229</sup> Professor Balázs Lajos the Dean of the Romanian Literature Department of the Sapientia Hungarian University of Transylvania Argues in many publications, that the statistics (e.g. in high school graduation) prove the limited knowledge of Romanian language among Hungarian students. E.g.: (accessed on 16 May 2009) <http://www.hhrf.org/hargitanep/2007/aug/hn070815.htm>.

<sup>230</sup> János Péntek, ”Bezárkózás, nyelvóra és tanóra, a román tanítása Székelyföldön” [Enlacement, language lesson, lesson], in *Kontra Sült Gaalamb? Magyar egyetemi tan nyelv-politika* [Does it Fall Into Our Lap? Hungarian Language Policy in Higher Education], (Somorja: Forum Institute, 2004.) 65-66.



teaching the Romanian language has already been worked out by Hungarian specialist, and it is only waiting for political utilization.<sup>231</sup>

A further, much disputed case is the (re)establishment of a separate, state-financed Hungarian University in Romania, the Bolyai-University in Cluj-Napoca (Kolozsvár). The so called “Hungarian board-scandal” happened just before the accession of Romania to the EU, and since then the problem is unsolved. The Romanian party argues that the university meets the criteria of multiculturalism thus there is no need for the establishment for a separate Hungarian University; and Leonard Orban, the Romanian EU Commissioner responsible for multiculturalism, refused the (re)foundation of the Bolyai University by stating that it would “separate Europeans”.<sup>232</sup> On the other side the Representatives of the Hungarian minority simply claim their basic right to higher education as it is codified in international and European legal documents,<sup>233</sup> on the same token they claim that one-sided multiculturalism, namely not practiced from the side of the majority, cannot be claimed real multiculturalism. It is again beyond the scope of the thesis to balance all the accounts of this Bolyai case, thus the author with this short paragraph only wanted touch on the very existence of problem.<sup>234</sup>

Another still unsolved problem refers to the Csángó minority.<sup>235</sup> The Parliamentary Assembly of the CoE called already in 2001 for the need of minority protection regarding the Csángó minority, however, the Romanian government still has not established institutional help in order to access to mother tongue education, or media; and even ethnic discrimination

<sup>231</sup> [http://manna.ro/porta/bevetesre\\_ksz\\_roman\\_tanerv\\_2009\\_03\\_04.html](http://manna.ro/porta/bevetesre_ksz_roman_tanerv_2009_03_04.html) (accessed on 5 March 2009).

<sup>232</sup> Source: [http://ec.europa.eu/commission\\_barroso/orban/news/docs/press\\_release/070718\\_maghiari/declaratie%20maghiari%20EN.pdf](http://ec.europa.eu/commission_barroso/orban/news/docs/press_release/070718_maghiari/declaratie%20maghiari%20EN.pdf) (accessed 18 May 2009)

<sup>233</sup> For such documents see footnotes no. 28-35.

<sup>234</sup> See more at <http://www.bolyai.eu/> or in Illyés, Agota, “Rights-talk” legitimacy: the case of setting up a separate, state financed Hungarian-language University in Romania,” Budapest: CEU, NATI 2001/8.

<sup>235</sup> “The Csángós are a non-homogeneous group of Roman Catholics, who speak an early form of Hungarian. They have a specific archaic lifestyle and view of the world, ancient traditions, and a great variety of folk art and culture. Csángó-speakers have been declining as a proportion of the population and Csángó language is not taught in the Csángó villages. As a consequence, very few Csángós know how to write their mother tongue. The Csángós, it is stated, would like their children to be taught the Csángó language and the church services to be conducted in it as well. They would also like to be recognized as a distinct culture and to be assisted in its safeguard.” Cited from the Parliamentary Assembly Recommendation 1521(2001) on Csángó minority culture in Romania. Source: [https://wcd.coe.int/ViewDoc.jsp?Ref=GR-C\(2001\)29&Language=lanEnglish&Ver=rev2](https://wcd.coe.int/ViewDoc.jsp?Ref=GR-C(2001)29&Language=lanEnglish&Ver=rev2)



or ‘violent assimilation’ might occur regarding the catholic Csángó community.<sup>236</sup> Since the assimilation of the Hungarian Csángós is close to irreversible the support of the mother tongue education gain even more importance. The Association of Csángó-Hungarians in Moldavia, sponsored by Hungarian state and private foundations, successfully works on providing Hungarian lectures to pupils—outside of the schools curricula working with ‘volunteer teachers’ from Transylvania or Hungary<sup>237</sup>—however, this effort could be multiplied with the help of the Romanian state, as the one in concern.

Finally, after the enumeration of the most important—since the EU accession still—frozen problems, one hope for development should also be mentioned, especially in comparison to the case of the Slovakian nursery schools. The Romanian Ministry of Education suggested, however not yet adopted, a recommendation regarding to the curricula of nursery schools. The new perception would give much more possibility for the use of mother tongue in the nursery curricula.<sup>238</sup> If the Ministry adopts the draft before the end of the school year, the minority friendly amendments can come into force from September 2009.

#### *IV / B.3. “Decentralization”*

The new Boc-government has green-lighted a large-scale decentralization process in February that strengthens the authority of majors and county council chairmen.<sup>239</sup> This novelty is along the recommended European norms (mentioned also in the last EP resolution on Romania<sup>240</sup>), and is welcomed also by Hungarian minority representatives, however, the effects of the new government’s decision are ambiguous. A positive example can be seen for

<sup>236</sup> The Roman Catholic Bishopric of Iasi has been rejecting for many years the demand of the Csángó believers to have Hungarian-speaking church services. This kind of discrimination was also condemned by the National Anti-Discrimination Council. Recently the Catholic Bishopric stated that there is no Hungarian Catholic community in its diocese. Source: <http://www.kronika.ro/index.php?action=open&res=26572> (23 May 2009).

<sup>237</sup> See more: <http://en.csango.ro/index.php?page=education> (accessed in 23 May 2009).

<sup>238</sup> [http://manna.ro/porta/anyanyelv\\_ovoda\\_tanrend\\_2009\\_04\\_27.html](http://manna.ro/porta/anyanyelv_ovoda_tanrend_2009_04_27.html) (accessed on 30 April 2009).

<sup>239</sup> See more at: [http://www.gov.ro/on-its-meeting-the-government-has-discussed-the-principles-laying-at-the-basis-of-decentralization\\_12a104555.html](http://www.gov.ro/on-its-meeting-the-government-has-discussed-the-principles-laying-at-the-basis-of-decentralization_12a104555.html)

<sup>240</sup> Principle of subsidiarity (Point 15) in Doc: P6\_TA(2005)0531. See again footnote no. 198.

example in Oradea/Nagyvárad, where according to a new decision the local policemen have to take lessons in Hungarian,<sup>241</sup> but counter examples are—so far—in majority.

Since the new government has been sworn in the number of fired ethnic Hungarian civil servants in the territories where Hungarian constitute majority has dramatically increased. The representation of the Hungarians in city managements never reflected the actual percentage of the ethnic composition,<sup>242</sup> but this time this proportion is the lowest in the last ten years. According to the newest orders of the Boc-government and the Ministry of Education,<sup>243</sup> which among others touched the school-inspector positions too, nine out of the fourteen Hungarian school inspectors in the Hungarian majority counties were replaced with Romanian inspectors (the new inspector in Hargitha/Hargita County was even proud of not speaking Hungarian<sup>244</sup>). The Representatives of the Hungarian Community, such as the Hungarian Teacher's Association of Romania, the Churches, the Hungarian National Council of Transylvania or the Members of the European Parliament, all protest—in their own way with demonstrations, street placards or with diplomatic letters<sup>245</sup>—against the ethnic discrimination of Hungarians in these majority regions. This issue might rather belong to the right for effective participation in administrations<sup>246</sup> than to the scope of language rights, however, the decisions of school-inspectors do influence the minority education, hence the mentioning of the problem in this chapter.<sup>247</sup>

<sup>241</sup> <http://www.figyelo.ro/szorvany-es-partium/romanul-fognak-tanulni-a-nagyvaradi-kozossegi-rendorok.html>

<sup>242</sup> The representation of Hungarians in Hargitha-Hargita ~85%, Covasna-Kovászna ~74%, and in Mures-Maros ~39% of the total population. See more in Table 7.

<sup>243</sup> The Emergency Ordinance of the Government, 22 April 2009:

[http://www.prefecturagorj.ro/files/fisiere/legislatie/ord\\_urg\\_37\\_22aprilie\\_2009.pdf](http://www.prefecturagorj.ro/files/fisiere/legislatie/ord_urg_37_22aprilie_2009.pdf) (accessed on 23 May 2009).

<sup>244</sup> <http://www.figyelo.ro/panorama/fotanfelugyelot-csereltek-hargita-megyeben-is.html> (acc. on 23 May 2009).

<sup>245</sup> Two mass demonstrations were organized: one in February by dignitaries of churches in Sfântu Gheorghe/Sepsiszentgyörgy, than by the RMDSZ in Miercurea-Ciuc/Csikszereda in May; the RMDSZ decided to put up street placards in front of the buildings where Hungarian civil servants were replaced in order to arose attention for the discrimination; and finally the other day the Members of the European Parliament sent a letter to the Commissioner Barroso for asking for support.

<sup>246</sup> Article 15 of FCNM: *"The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them."*

<sup>247</sup> <http://www.figyelo.ro/belfold/kelemen-semmi-nem-valtozott-csak-eppen-a-lenyeg-nem-a-regi.html> (accessed on 23 May 2009).

Furthermore—in the context of language rights—the official use of local names, and indications in minority language remained to be a problem in Transylvania-wide. The Opinion of the Advisory Committee already called for the for more effective implementation, and for reduction of tensions which appear in practice; but unfortunately not that much of development can be brought to booking in this respect as use of symbols (Hungarian or székely flags) and bilingual signs still create tensions up to now among minority and majority. Finally a recent order of the new major of Cluj-Napoca/ Kolozsvár is worth mentioning; on the other day he announced that new trilingual sign will be put on all the historical sights of the city written in Romanian, English and French language.<sup>248</sup> The arguments used by the major underpinning his decision—that Hungarian language is not an international language on the one hand, and that the Hungarian does not reach (any more) the 20% threshold of the city population on the other—are without doubts true, however as a result of a kind of generosity flowing from the believe in multiculturalism could have changed his perception.

#### IV / C. Comparison

This fourth chapter was inspired to present the situation of language rights in Slovakia and Romania after the accession, out of which the following conclusions can be drawn:

*Firstly* it can be seen that compared to the accession period where minority protection has more or less constantly developed in the countries, in the last five or respectively two years since the countries joined the EU this continuity has definitely stuck in both countries. Neither of them intends to provide further language rights to the Hungarian community. *Secondly* it can also be concluded that Romania and Slovakia both belong—according to Arzor’s categorization—in the regime of linguistic tolerance as the strategy of linguistic promotion and that of multiculturalism do not seem to be used in practice, and only the minimum requirement is complied with, namely the protection of minority languages from

<sup>248</sup> <http://tobbnyelvuseg.transindex.ro/?lang=hu> (accessed on 15 May 2009)

discrimination, without applying any positive provisions in favor of these languages. *Thirdly* it seems that in both countries the political atmosphere has turned against the minorities. The political exclusion of minority parties from the governments and/or political decision making both in Slovakia and Romania in the immediate post-accession period is a striking example for that;<sup>249</sup> furthermore the general intolerant, anti-minority rhetoric also seems to be stronger than in the pre-accession period.<sup>250</sup> The very facts that none of the countries recognize Kosovo as an independent state, and that in Slovakia the whole Kosovo debate took place in a context of a groundless attack on the Hungarian party, including forcing it to sign a humiliating loyalty-declaration underpin this anti-minority atmosphere.<sup>251</sup> *Lastly* we can arrive to the conclusion—however only indirectly and not from the very content of the two before chapters—that in both cases the historical reconciliation and the adoption of some historical parallels has vital importance in the future of majority-minority relation.

The further analysis of the cases already diverges from each other.

The *Slovakian* case is indeed an example for a country where since the accession the relatively tolerant public environment towards minorities has began to deteriorate and a clear devolution can be detected regarding protection of minority language rights. In Slovakia they apply actually a mixture of the ‘three ways of restricting minority education’<sup>252</sup> by reducing the number of classes of Hungarian language, by controlling—with stricter censures—the content of the Hungarian textbooks, and additionally by planning to amend the state language act which would result further restriction to the use of minority languages. This rise of intolerance and the presence of anti-minority sentiments are rooted largely in the composition

<sup>249</sup> None of the Hungarian parties was involved in the new governments either after the 2006 Slovakian or after the 2008 Romanian election. Tough, as indicated at the beginning of the third chapter, the participation of Hungarian parties in the government coalitions somewhat might have influenced the situation of minority rights. The same is argued in Balázs Vizi, “Minority Rights in the “New” EU Member States After Enlargement,” in *Minorities of Europe Unite!* ed. Csaba Tabajdi (EU-Ground Ltd., 2009) 221.

<sup>250</sup> It is enough to take into consideration the hate-speeches of Jan Slota (SNS-Slovakian National Party), whose anti-Hungarian rhetoric reached such a level, which is already beyond the political hostility.

<sup>251</sup> Árpád Duka-Zólyomi, “The land of status-quo: from de iure to de facto—the Hungarian National Community in Slovakia Under Attack,” in *Minorities of Europe Unite!* ed. Csaba Tabajdi (EU-Ground Ltd., 2009) 511.

<sup>252</sup> Kontra et al 1999, 10. See more in Chapter I/B.2.

of the Slovak government. Due to the membership of the Slovak National Party the populism and nationalism become an organic part of the Slovakian politics.<sup>253</sup> One could then argue that the devolution happens due to the rising of nationalism within the home state and not because Slovakia has joined the European Union. But how it was indicated in the Introduction as a result of this ‘game of permanent bargaining’ and sensitive power balances of the four actors, these two events or reasons most probably cannot totally be separated, as they affect on each other.

In the case of *Romania* the same kind of regression cannot be observed. However the general intolerance towards minorities still is present in the wider society. Further the so far unsuccessful decentralization—which seems to have a merely political and financial approach and that of the ethnic pattern of the subsidiarity is lacking from the process—leaves much to be desired. Finally the missing intention for the development of the indeed intercultural education—which would be necessary both for the minority and majority—proves that Romania still has not reached the level of linguistic promotion.

In short, in Romania the *status quo* could have been preserved, whereas in Slovakia it could not have been in so far as protection of minorities is concerned. Whether the very notion of *status quo* can be booked as success or cannot, remains a question. (As argued at the end of the first chapter language rights form a part of minority rights, thus the evaluation of minority protection is justified through the analyses of language rights protection. Consequently *vica versa* the outcome of the research done in the case of the language rights might be a right tool with which oncoming assumptions and conclusions can be drawn for general minority protection; hence the general approach in the previous sentence.)

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<sup>253</sup> Duka-Zólyomi 2009, 505.

## Conclusion

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After analyzing the cases of Slovakia and Romania and the effects of the *minority condition*, the outcome of the research suggests that minority protection has been important only in the pre-enlargement period and the EU gave up stressing on the minority issues—as several examples showed—already in the very finish of the accession process. Thus the border line until the *minority condition* had indeed affected minority protection of the countries in a positive direction—seeing it from the prospective of the minority—was even earlier than the datum of enlargement. For the very end of the accession it has appeared, as Hughes and Sasse argue, that minority protection has been largely rhetorical on the part of the EU and not one of its core political norms.<sup>254</sup> However it is without doubts that the mere promise of the EU membership helped to develop a minority-friendly policy in the countries.

What could than be promised or reserved by the *minority condition* for the post-enlargement period? The past five and two years proved that as the international power of enforcement, the Copenhagen conditions, ceased to exist, or how Vizi puts it, as the external control disappeared,<sup>255</sup> furthermore as the internal monitoring procedure has not yet been developed, the minority protection was no longer a concern of the new members. This did not necessarily lead to the development of the minority situation. Once ‘getting into the team’, namely obtaining membership, the new states might have come to the conclusion that they have created an ‘EU-conform’ minority protection system, definitely in compliance with the minority condition of the Copenhagen criteria, and which does not need to be further developed. The newcomers’ perception nevertheless is right because the EU is not empowered to criticize its members as a result of the missing minority reference from the EU

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<sup>254</sup> Hughes & Sasse 2003, 30.

<sup>255</sup> Vizi 2009, 221.

Treaty. It can be concluded that the EU was many times successful in raising awareness on minority problems both in Romania and Slovakia in their accession period as the striking example of the Slovakian Minority Language Law or the amended Romanian Education and Public Administration Laws, notwithstanding the many institutional developments all prove this. However the EU unfortunately failed to be successful either on keeping pressure on the candidates in the very last moment of the enlargement or in developing such an incentive structure which reinforce the further development in the post-enlargement period. Scholars, such as Topidi,<sup>256</sup> Hughes and Sasse,<sup>257</sup> or Johns,<sup>258</sup> all posed the same question (at the end of their analyses in 2003) in what extent the EU will be capable of having an affect on this particular area after the enlargement. The answer for their question can be—with confidence—that the EU seemed to fail this exam and the *minority condition* could not retain its continuing relevance.

However it should be emphasized again that it is not exclusively the failure of the European Union that devolution (or only status quo) can be detected in countries. As some of the pre-enlargement laws were drafted and conceived in a rush in order to ensure the countries' fulfillment of the international expectations without considering minority's needs, it is not surprising that these countries gave up their intention for further developments. Other factors such as the rising of nationalism and the changing of internal political arena in the countries, in addition to the EU's above mentioned handicap, all contributed to the fact that the conditions and circumstances of the 'tennis game' has changed again, which was referred to in the Introduction. Unfortunately the 'referee' also seems to be reluctant to continue its job. As a result finding the right balance between the players—namely between the home states' need for some degree of linguistic uniformity and the need of minorities to safeguard

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<sup>256</sup> Topidi 2003, 31.

<sup>257</sup> Hughes & Sasse 2003, 27.

<sup>258</sup> Micheal Johns, ““Do As I say, Not As I Do”: The European Union, Eastern European and Minority Rights,” *East European Politics & Societies*, 4/2003 17, 698.

their own identity—might seem even harder in the future. An other factor, on which should also be kept an eye on, is that if the anti-minority atmosphere will dominate the climate of opinion in the new countries further on, it might disappoint the minorities which could lead to their political radicalization,<sup>259</sup> which is nevertheless unfavorable.

What can lead us closer to the solution of the problem?

The European member states first and foremost have to understand that the regime of linguistic tolerance, the policy of anti-discrimination and human rights protection are simply not sufficient enough to preserve the cultural heritage and cultural diversity of Europe and assure the most important aim of national minorities: the ‘reproduction.’ The existence of the national minority communities in Europe, for example the Hungarians living in Slovakia and Romania (who never having moved from their ancestral lands),<sup>260</sup> is a matter of fact and not a political decision, however, their problem seems to be interpreted very often as a political one. All the inconsistencies around the *minority condition* done by the EU in the enlargement process resulted in the fact that the EU’s assumption failed that the countries can solve their minority conflicts before the accession. Thus the newcomers have imported minority-related problems into the EU and the external concern of the EU became internalized. The members now should front one of the greatest challenges facing the European Union: the problem of the national minorities who make up around 8% of the European Union’s population.<sup>261</sup> Once started as an economic integration, the European Union has reached such a political level today, that it should be kept in mind that “the less we support legitimate minority demands, the stronger the temptation becomes to employ strategies detrimental to the cohesion of the EU.”<sup>262</sup>

<sup>259</sup> Vizi 2009, 223.

<sup>260</sup> This categorization is reinforced by Kymlicka’s argument referring to the three types of minorities, 2007, P I.

<sup>261</sup> Csaba Tabajdi, “Sisyphus in the European Union—the Contradictions of European Minority Protection,” in *Minorities of Europe Unite!* ed. Csaba Tabajdi (EU-Ground Ltd., 2009) 35. See more in Table 8.

<sup>262</sup> István Szentiványi, “EU integration and protection of minorities: new opportunities—old challenges,” in *Ibid.*



To avoid such kind of disintegration not only the EU, but other actors like the home and kin-states should change its behavior. As the main concern of the thesis lies on the European Union, the others are only touched upon briefly at the end.

In order to abstain the above construed problems in the future and to avoid that the inconsistencies around the minority condition harm the credibility of the EU in the eyes of around 40 million EU citizens, who are members of national minorities, the EU has to be more committed to find solutions. As well-known the EU has no binding provision relating minority protection yet, however the relevance of the issue in the last fifteen years, and especially since the 2004 enlargement, has been constantly proving.<sup>263</sup> Recently there are some signs that a mild shift might happen in the future: With the adoption of the Lisbon Treaty the word ‘minorities’ would be included in the EU-Primary Law for the first time of the EU history,<sup>264</sup> further with the adoption of the Treaty the Charter of Fundamental Rights becomes a legally binding document as well,<sup>265</sup> however it remains questionable in what extent these changes provide an explicit competence to rule in the area of minority rights.<sup>266</sup> For this reason the already existing capacities of the EU, for example the Open Method of Cooperation<sup>267</sup> or the recently established Fundamental Rights Agency should be much better exploited. The latter one should be vested with entitlements to monitor human rights as well as minority rights practices of the members. The same is argued by for example the European Bureau for Lesser-Used Languages (EBLUL), which encourages the Agency to focus more on linguistic and national minorities<sup>268</sup> and even by Ján Figel, the Slovak EU Commissioner, according to whom the Agency should monitor the situation of minorities and make

<sup>263</sup> Benedikter 2006, 17.

<sup>264</sup> However the wording is very cautious as it refers neither to ‘group’ nor to ‘group rights’. In Gabriel N. Toggenburg, “The EU’s attitude vis-à-vis minorities: a play in three parts and an open end,” in *Minorities of Europe Unite!* ed. Csaba Tabajdi (EU-Ground Ltd., 2009) 179.

<sup>265</sup> Relevant articles of the Charter are: Art.21. “Any discrimination based on any ground such as sex, race, color, ethnic or ... language, ... , membership of a national minority, ... shall be prohibited;” Art.22. “The Union shall respect cultural, religious and linguistic diversity.”

<sup>266</sup> Toggenburg 2009, 179-184.

<sup>267</sup> OMC is former is a method for spreading best practices among the Members.

<sup>268</sup> [http://www.eblul.org/index.php?option=com\\_content&task=view&id=208](http://www.eblul.org/index.php?option=com_content&task=view&id=208) (accessed on 21 May 2009)

recommendations for improvements.<sup>269</sup> In order to fulfill these missions, the Agency's competence should be broadening on the one hand and act more independently on the other, since there is a need for a competent EU institution.

However, there is obviously no need to duplicate existing international minority rights protection instruments. The CoE and the OSCE should preserve their roles being main initiators on the field, even though a better cooperation among these institutions is unquestionably required. Alan Phillips, President of the Advisory Committee of the FCNM, already proposed that the EU should ratify the Framework Convention and that the Commission should play more active role in the monitoring mechanism of CoE Human Rights Treaties, especially that of the FCNM.<sup>270</sup> Both of the ideas sound as an exaggeration at the moment, but it ought to be different in the future.

Moreover the member states should also be more active and progressive in adapting existing EU measures and instruments to the needs of minority communities. Romania and Slovakia should and also could be more innovative relating minority education, when taking an example from the given context. Instead of the forced monolingualism the multiculturalism should be favored in their educational systems; or how Sógor puts it: the 'interculturalism' ought to be preferred as the art of living together rather than just next to each other,<sup>271</sup> since the current systems do not place enough emphasis on the values, or the importance of those of other ethnicities and cultures. Without respecting one another, and first and foremost each others languages the cohabitation of the minority and majority will not be peaceful. The historical reconciliation between home and kin states would definitely contribute to the improvement of the situation of minority languages of Hungarian communities, in which both countries should take equal part in.

<sup>269</sup> Ján Figel, "Languages, Education and Dialogue for Europe's Minorities," in *Minorities of Europe Unite!* ed. Csaba Tabajdi (EU-Ground Ltd., 2009) 27.

<sup>270</sup> Alan Phillips, "Minorities in an ever wider European Union—The FCNM," in *Minorities of Europe Unite!* ed. Csaba Tabajdi (EU-Ground Ltd., 2009) 284-285.

<sup>271</sup> Csaba Sógor, "Intercultural Education and its Challenges in Romania," in *Ibid*, 475.

The reasons claimed behind the detected backlash relating the protection of minority languages were depended on minimum two (f)actors, on the European Union and on the Member States, thus the solution of the problem should likewise. Sooner or later both of them should realize that their own approach—either of being reluctant to elaborate any kind of common minority framework by the European Union or supporting only monolingualism by the home states—is not sustainable any longer; and neither of them shall limit their activities to external relations, namely representing *minority condition* only towards third countries or acting in favor of minorities only due to external conditions.

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Association of Hungarian Teachers in Slovakia:

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Association of Csángó-Hungarians in Moldavia:

<http://en.csango.ro/>

Council of the European Union: Presidency Conclusions:

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Department for Interethnic Relations—Romanian Government:

<http://www.dri.gov.ro/>

EurLex—Access to European Union law:

<http://eur-lex.europa.eu/en/index.htm>

European Commissioner of Multilingualism:

[http://ec.europa.eu/commission\\_barroso/orban/index\\_en.htm](http://ec.europa.eu/commission_barroso/orban/index_en.htm)

European Bureau for Lesser-Used Languages:

<http://www.eblul.org/>

Forum Minority Research Institute (Slovakia):

<http://www.foruminst.sk/>

Hungarian Teacher's Association of Romania:

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Mercator—Linguistic Rights and Legislation:

<http://www.ciemen.org/mercator/index-gb.htm>

MINERLES—Directory of Resources on Minority Human Rights: <http://www.minelres.lv>

<http://www.minelres.lv/NationalLegislation/Romania/romania.htm>

<http://www.minelres.lv/NationalLegislation/Slovakia/slovakia.htm>

MRG—World directory of Minorities and Indigenous People:

<http://www.minorityrights.org/744/directory/world-directory-of-minorities-and-indigenous-peoples.html>

Via Nova Ifjúsági Csoport—Youth Organization of the Slovakian Hungarian Party (MKP):

<http://www.ics.sk/>

Minority Reports - Monthly Bulletin on the Hungarian Community in Slovakia:

<http://www.ics.sk/cikkek/minority-report>

Web-journals of Hungarian Communities in Slovakia and Romania:

Slovakia: [www.bumm.sk](http://www.bumm.sk); [www.felvidek.ma](http://www.felvidek.ma); [www.uj szo.com](http://www.uj szo.com).

Romania: [www.manna.ro](http://www.manna.ro); [www.erdely.ma](http://www.erdely.ma); [www.kronika.ro](http://www.kronika.ro); [www.figyelo.ro](http://www.figyelo.ro).

Both: [www.hhrf.hu](http://www.hhrf.hu).

## *Appendices*

Table 1

Source: [http://portal.statistics.sk/files/Sekcie/sek\\_600/Demografia/SODB/Tabulky/Tabulky\\_AJ\\_SOD B/tab11.pdf](http://portal.statistics.sk/files/Sekcie/sek_600/Demografia/SODB/Tabulky/Tabulky_AJ_SOD B/tab11.pdf)

Table 2

Source: [http://ww2.hu/Tartalom/Images/szlovakia\\_terkep560.jpg](http://ww2.hu/Tartalom/Images/szlovakia_terkep560.jpg)

Table 3

Source: provided by the Gramma Language Office, Slovakia

Table 4

Source: provided by the Gramma Language Office, Slovakia

Table 5

Source: [http://www.radiopatria.sk/magyar\\_index.php?page=magyar\\_hu\\_frekvenciak](http://www.radiopatria.sk/magyar_index.php?page=magyar_hu_frekvenciak)

Table 6

Source: <http://www.hhrf.org/xantusz/erdely.gif>

Table 7

Source: Data taken out from <http://adatbank.transindex.ro>

Table 8

Source: Toggenburg, Gabriel N. “The EU’s attitude vis-à-vis minorities: a play in three parts and an open end.” In *Minorities of Europe Unite!* ed. Csaba Tabajdi. EU-Ground Ltd., 2009. 167.

## Appendices

**Table 1.**

The number of Hungarian population in Slovakia and in its regions

**Table 11. Resident population by nationality - 2001, 1991**

SR, region	Total resident population	Nationality						
		Slovak	Hungarian	Romany	Czech <sup>1)</sup>	Ruthenian	Ukrainian	other and not specified
Slovak republic								
2001 abs.	5 379 455	4 614 854	520 528	89 920	44 620	24 201	10 814	74 518
in %	100,0	85,8	9,7	1,7	0,8	0,4	0,2	1,4
1991 abs.	5 274 335	4 519 328	567 296	75 802	59 326	17 197	13 281	22 105
in %	100,0	85,7	10,8	1,4	1,1	0,3	0,3	0,4
Difference abs.	105 120	95 526	-46768	14 118	-14706	7 004	-2467	52 413
v %	2,0	2,1	-8,2	18,6	-24,8	40,7	-18,6	237,1
Bratislava region								
2001 abs.	599 015	546 685	27 434	755	9 591	526	542	13 482
in %	100,0	91,3	4,6	0,1	1,6	0,1	0,1	2,3
1991 abs.	606 351	550 532	32 938	972	13 407	303	452	7 747
in %	100,0	90,8	5,4	0,2	2,2	0,0	0,1	1,3
Difference abs.	-7336	-3847	-5504	-217	-3816	223	90	5 735
v %	-1,2	-0,7	-16,7	-22,3	-28,5	73,6	19,9	74,0
Trnava region								
2001 abs.	551 003	407 246	130 740	3 163	4 778	72	196	4 808
in %	100,0	73,9	23,7	0,6	0,9	0,0	0,0	0,9
1991 abs.	541 992	397 550	134 205	2 498	6 440	25	78	1 196
in %	100,0	73,3	24,8	0,5	1,2	0,0	0,0	0,2
Difference abs.	9 011	9 696	-3465	665	-1662	47	118	3 612
v %	1,7	2,4	-2,6	26,6	-25,8	188,0	151,3	302,0
Trenčín region								
2001 abs.	605 582	589 344	1 058	1 547	6 319	87	214	7 013
in %	100,0	97,3	0,2	0,3	1,0	0,0	0,0	1,2
1991 abs.	600 575	587 705	1 268	1 510	8 186	53	119	1 734
in %	100,0	97,9	0,2	0,3	1,4	0,0	0,0	0,3
Difference abs.	5 007	1 639	-210	37	-1867	34	95	5 279
v %	0,8	0,3	-16,6	2,5	-22,8	64,2	79,8	304,4
Nitra region								
2001 abs.	713 422	499 761	196 609	4 741	4 526	85	275	7 425
in %	100,0	70,1	27,6	0,7	0,6	0,0	0,0	1,0
1991 abs.	716 846	489 012	216 414	3 932	5 781	85	140	1 482
in %	100,0	68,2	30,2	0,5	0,8	0,0	0,0	0,2
Difference abs.	-3424	10 749	-19805	809	-1255	0	135	5 943
v %	-0,5	2,2	-9,2	20,6	-21,7	0,0	96,4	401,0
Žilina region								
2001 abs.	692 332	674 766	660	2 795	6 123	129	223	7 636
in %	100,0	97,5	0,1	0,4	0,9	0,0	0,0	1,1
1991 abs.	668 771	655 211	717	2 590	8 350	72	151	1 680
in %	100,0	98,0	0,1	0,4	1,2	0,0	0,0	0,3
Difference abs.	23 561	19 555	-57	205	-2227	57	72	5 956
v %	3,5	3,0	-7,9	7,9	-26,7	79,2	47,7	354,5
Banská Bystrica region								
2001 abs.	662 121	553 865	77 795	15 463	4 560	148	553	9 737
in %	100,0	83,7	11,7	2,3	0,7	0,0	0,1	1,5
1991 abs.	659 320	553 569	85 427	12 080	5 834	94	156	2 160
in %	100,0	84,0	13,0	1,8	0,9	0,0	0,0	0,3
Difference abs.	2 801	296	-7632	3 383	-1274	54	397	7 577
v %	0,4	0,1	-8,9	28,0	-21,8	57,4	254,5	350,8
Prešov region								
2001 abs.	789 968	716 441	817	31 653	3 774	21 150	6 781	9 352
in %	100,0	90,7	0,1	4,0	0,5	2,7	0,9	1,2
1991 abs.	739 264	679 376	803	26 082	4 789	15 575	10 447	2 192
in %	100,0	91,9	0,1	3,5	0,6	2,1	1,4	0,3
Difference abs.	50 704	37 065	14	5 571	-1015	5 575	-3666	7 160
v %	6,9	5,5	1,7	21,4	-21,2	35,8	-35,1	326,6
Košice region								
2001 abs.	766 012	626 746	85 415	29 803	4 949	2 004	2 030	15 065
in %	100,0	81,8	11,2	3,9	0,6	0,3	0,3	2,0
1991 abs.	741 216	606 373	95 524	26 138	6 539	990	1 738	3 914
in %	100,0	81,8	12,9	3,5	0,9	0,1	0,2	0,5
Difference abs.	24 796	20 373	-10109	3 665	-1590	1 014	292	11 151
v %	3,3	3,4	-10,6	14,0	-24,3	102,4	16,8	284,9

<sup>1)</sup> For 1991, Moravian and Silesian nationalities are included in Czech nationality

Table 2.

Share of Hungarian nationality by district of the Slovak Republic (according to the census 1991):

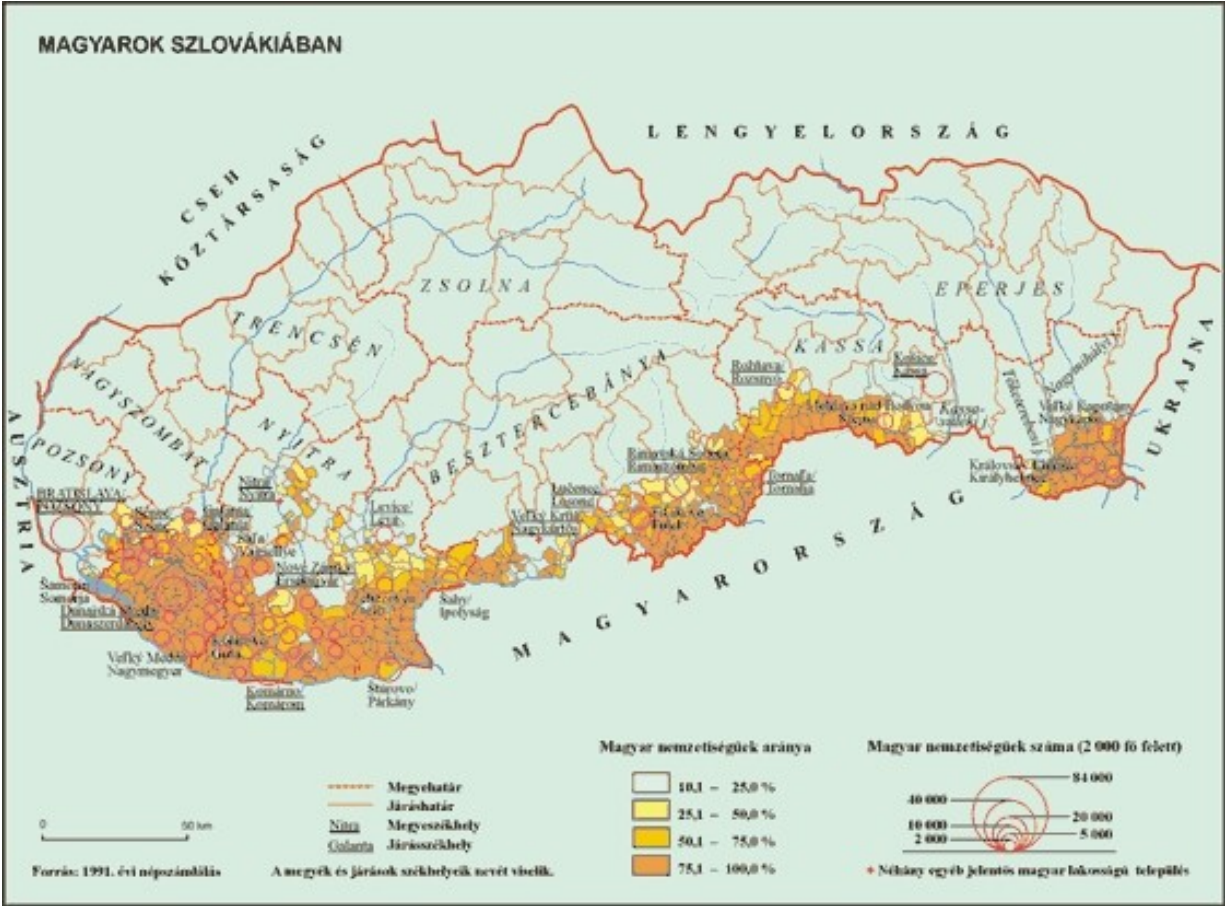


Table 3.

The division of Hungarians, Ruthenians, Ukrainians and Roma and their settlements (according to the census 2001):

The rate of min. inhabitant in settlements	Number of settlements			
	Hungarians	Ruthenians	Ukrainian	Roma
10-100%	526	146	17	158
20-100%	501	83	6	54
50-100%	410	20	-	5
80-100%	216	-	-	-

**Table 4.**

The number of schools/classes/children with Slovak, Hungarian and Ruthenian as a language of instruction (year 2004, source: Dohányos et al. 2005: 128–134)

Type of the school*	The language of instruction								
	Number of	Slovak	(%)	Hungarian	(%)	Ukrainian	(%)	Other	(%)
Elementary school	schools	2070	88.39	297	12.68	8	0.34	4	0.17
	classes	23,868	92.07	1984	7.65	45	0.17	27	0.10
	children	518,249	93.32	36249	6.53	466	0.08	371	0.07
Secondary (academic) grammar school	schools	186	79.49	25	10.68	1	0.43	29	12.39
	classes	3,104	92.63	237	7.07	6	0.18	4	0.12
	children	93,560	93.81	5,991	6.01	135	0.14	52	0.05
Secondary technical school	schools	256	97.71	25	9.54	1	0.38	0	0
	classes	2,957	94.62	164	5.25	4	0.13	0	0
	children	83,478	95.37	3,997	4.57	58	0.07	0	0
Vocational and apprentice school	schools	332	97.1	31	8.85	0	0	0	0
	classes	5223	94.8	288	5.2	0	0	0	0
	children	132,309	95.7	5954	4.3	0	0	0	0

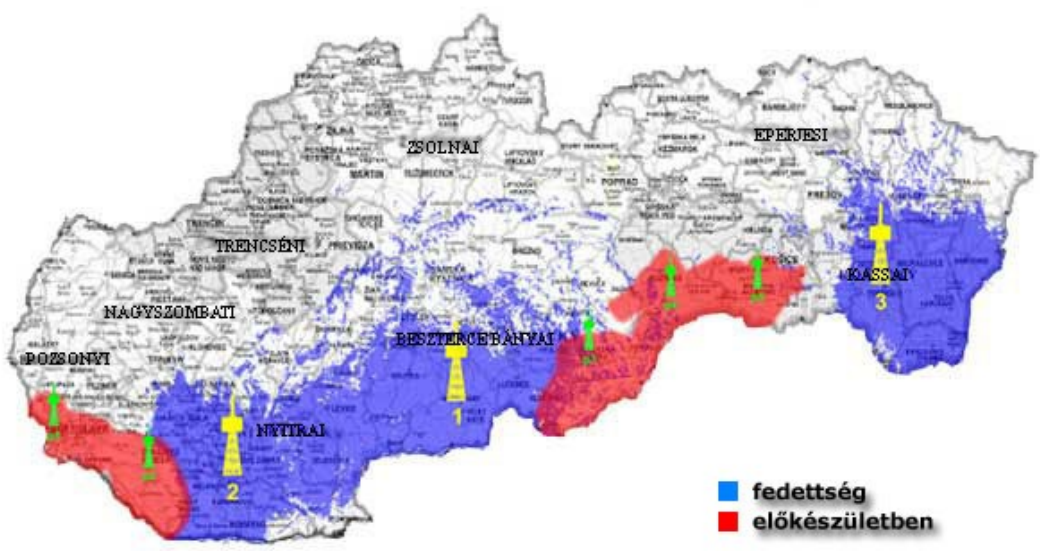
\*The minority educational system in Slovakia is an organic part of the Slovak educational system and as such is characterized by the same features as the Slovak majority system. Education in Slovakia is compulsory until age 16. Types of the schools: Kindergarten (pre-school education: for 2/3 to 6 year-old children); Elementary (primary) schools (for age 6–15/16); secondary education: Secondary (academic) grammar schools (age 15–18), Secondary technical schools (age 15–18), Vocational and apprentice schools (begins at the age 15 and may continue until the age of 17, 18 or 19, depending on the type of school). Also, there are state schools, private schools, and church schools.

Table 5.

Pátria Rádió coverage area - with medium wave transmitters:



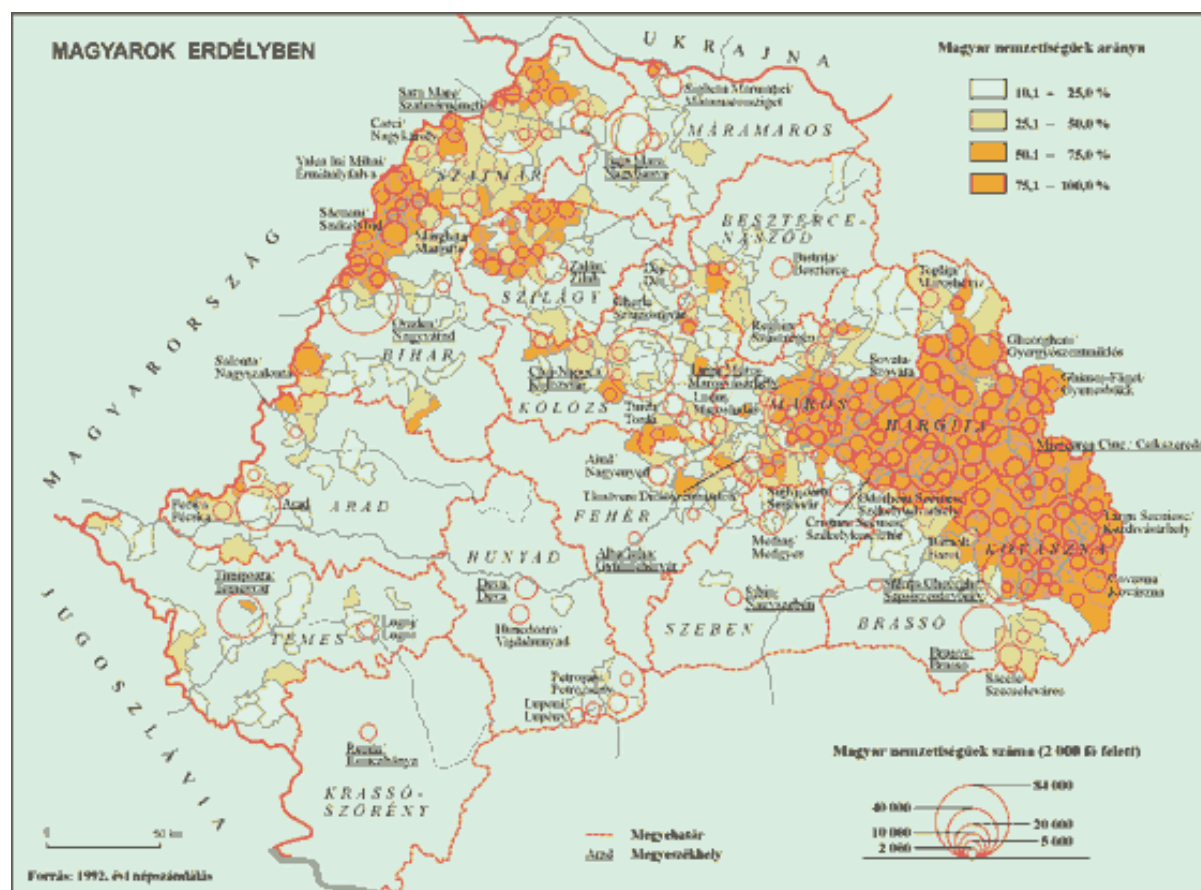
Pátria Rádió coverage area - with ultra-short wave transmitters:  
(Red: in preparation; Blue: recent coverage)





**Table 6.**

Hungarian population in Romania:  
(according to the census **1992**):



**Table 7.**

Ethnical composition of the counties Hargitha/Hargita and Covasna/Kovászna:

Year	Total	Hungarians	Romanians	Roma	Germans	Others
1900	358 210	91,23%	8,00%	?	0,45%	0,32%
1910	389 018	90,70%	8,14%	?	0,66%	0,49%
1920	379 688	85,02%	13,36%	?	0,27%	1,35%
1930	402 757	82,82%	13,75%	1,43%	0,46%	1,53%
1941	445 142	89,60%	8,72%	?	0,24%	1,44%
1956	446 473	85,49%	12,79%	1,11%	0,18%	0,42%
1966	459 250	85,19%	14,16%	0,31%	0,11%	0,24%
1977	525 327	82,56%	15,94%	1,28%	0,11%	0,11%
1992	581 591	80,92%	17,80%	1,11%	0,08%	0,09%
2002	548 671	80,23%	17,79%	1,79%	0,06%	0,12%



**Table 8.**

The EU and its ethnic minorities:

<i>The EU and its Phases of enlargement</i>	<i>Inhabitants</i>	<i>Minorities</i>	<i>Members of minorities</i>	<i>Share of minorities on total population in %</i>
	In 2005	Absolute number of minorities	In 1000s	
1. EU-15 2003	375.418	73	32.138	8,6.
2. EU-25 2004	450.559	156	38.174	8,5.
<b>3. EU-27 2007</b>	<b>480.190</b>	187	42.306	<b>8,8</b>
Europe (39 States)	768.698	329	86,674.000	11,45

Source: Christoph Pan/Beata S. Pfeil (2003), National Minorities in Europe, Vienna, ETHNOS, cited in Toggenburg 2009, 167.