EXTENDING THE CITIZENRY: A COMPARATIVE STUDY OF EXTERNAL CITIZENSHIP POLICIES IN HUNGARY AND IRELAND

By

Julianna Boda

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Central European University
Department of Nationalism Studies

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Supervisor: Professor András László Pap

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1. Introduction

Any attempt to analyse and compare/contrast two European cases of external citizenship regulation – just as the present paper proposes to do – requires first of all the reference to the broader picture from which the two particular countries have been taken from, and second and most important, a rather convincing justification for the choice made in order to build the grounds on which the actual process of comparison may take place. Thus, Ireland belongs to the EU-15,[1] whereas Hungary is one of the countries that joined the EU as a result of the enlargement of the Union towards former communist countries from Eastern Europe.[2] Even though both countries are part of the EU, the literature on citizenship seldom groups them together, it is more common to encounter comparisons of the EU-15 and works written separately about the newer EU states or more generally about East-Central Europe (ECE henceforth).

Reflecting further on the directions the scholarship on citizenship has taken, a few works of the recent years come to mind, which have tried to bring all of the EU countries into a general comparative framework, successfully drawing up typologies and identifying trends.[3] When dealing with the now 27 cases of member state citizenship laws within the EU, one of the authors[4] quite rightly admits that the analyses of these policies and of the related politics have been disproportionate: some countries receiving more attention than others. Therefore, the present paper could contribute to the growing interest of bringing both

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[1] 15 obviously refers to the number of member countries in the European Union, before it started accepted countries from the former Communist Block, thus these are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the United Kingdom.
[2] Altogether 12 countries joined the EU in 2004 and 2007 as a result of the Eastern enlargement policy. The most suggestive term that I found in literature for this group of new EU member states is Howard's "Accession-12" label, that I will be using henceforth in my paper. So, the 12 new member states are: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, Slovenia (2004), Bulgaria and Romania (2007).
[3] I will refer to several of these later, in the theoretical section of the thesis.
[4] See Howard 2009, p. 148

EU-15 and Accession-12 countries closer to each other in the field of citizenship studies by shifting the attention towards two peculiar cases of EU member states that have not yet been coupled together into a comparative account.

Both Hungary and Ireland are countries that offer affinity-based modes of citizenship acquisition to those who live outside the borders of the state and may be considered the ethnic kins to the titular majority nationals of the given state, and who thus request this recognition without necessarily being physically present or taking up residence in the country itself. The Hungarian law took effect starting with 1 January 2011, whereas the Irish Nationality and Citizenship Act of 1956 already considered Irish nationals living abroad, however, its current amended version is also fairly recent: 1 January 2005.

The salience of granting external citizenship can be detected in the case of several other European countries as well (such as Italy, Spain or Portugal). These countries, together with the present two under discussion, have something in common: they are countries of emigrants or expatriates and countries of emigration.[5] This means that the country in question either ends up with significant numbers of its citizens on the wrong side of the border due to border changes, or it is a sending country whose citizens leave the country of origin as a result of the economic or political push factors. Hungary is mainly an example for the first, whereas Ireland an example for the latter[6] or even both.

The situation of Hungary as a country of emigrants or expatriates is due to the 1920 Treaty of Trianon. The result of the agreement (signed after World War I) between the Allies and Hungary was the reduction of Hungary's territory with two-thirds, which meant also that

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[5] I am using here Weil's typology (2001). In his definition countries of emigrants or expatriates are those countries which have a significant number of citizens residing outside of its borders, and countries of emigration are those which have sizeable amounts of population emigrating in order to find a better life elsewhere.

[6] The case of Ireland is clearly more complex than this, due to its economic development that made it a country of immigration in the 1990s. What the present paper discusses though, are those policies which have been influenced by the emigration waves and Ireland's relationship with the UK.

nearly half of its population suddenly found themselves living outside the newly defined borders of their country of origin. The principal beneficiaries of this territorial adjustment were Romania, Czechoslovakia, and the Kingdom of Serbs, Croats and Slovenes. Hungary recovered part of lost territories in 1938 - 1940 under the Third Reich, however, this was later reduced to the initial boundaries of 1920, this time set by the peace treaties signed after World War II at Paris, in 1947.

The mass Irish emigration that marked the past two centuries contributed to the populations of countries such as England, the United States, Canada and Australia, where today large Irish diaspora live. What makes Ireland a country of expatriates as well, is the situation of Northern Ireland, which remained part of the United Kingdom after Ireland achieved its independence from the British crown (The Irish Free State, 1921). However, despite the political partition, the island of Ireland continued to act as a single entity in a number of areas such as transport, telecommunication systems, sport teams, etc. In addition to this, the 1998 Belfast Agreement (also known as the Good Friday Agreement), brought the most notable change for the political co-operation between the two jurisdictions, with the creation of the joint political and administrative councils, in this way achieving the political structure to be built on power sharing principles.

Even though Hungary could have been compared to any of the aforementioned countries of the EU-15, the most important reason for choosing Ireland instead is the fact that both countries were characterised in the past by political aspirations of uniting the territories inhabited by their ethnic kins into one state (the so-called United Island of Ireland and Greater Hungary). Such explicit irredentist claims no longer exist, they are stated even in the bilateral treaties in both cases, however the Irish agreement leaving a door open, i.e. allowing for such change of status in case the majority population express this will in a referendum. Even though this is the situation in both cases, the societal signs and behaviours testify that

the image of the nation being united in territorial terms as well still exists among the people.[7] Obviously then, the existing historical circumstances and the presence of nationalist rhetorics as well clearly influenced the way in which citizenship laws evolved.

In order to approach the evolution of both Hungarian and Irish citizenship laws, the paper first discusses the European norms on nationality and multiple nationality, then it refers to the normative debates about acceptance of dual nationality to which external citizenship belongs to. Before outlining the two case studies, the paper also draws on several comparative works of EU-15 and Accession-12 or ECE countries that have been accounted for and consequently received wide recognition in the field of citizenship studies. The following two chapters focus on Hungary and Ireland individually, tracing the developments that led to the current legislation granting external citizenship, highligthing the particularities of each case. Finally, the paper turns to the broader comparative conclusions regarding the two cases which are guided by the following questions: what are the domestic and international factors that influence the external citizenship policies in Hungary and Ireland? How did these law evolve into what they are today? Are the historical facts of dealing somehow with the past or settling violent conflicts enough reasons for an external citizenship legislation, or may we speak of other reasons as well? What are these exactly? Are they similar or different in the two cases? All in all, why were these policies introduced?

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[7] To quote just one example for each case: first, the typical Greater Hungary sticker - a map of Greater Hungary that consists of Hungary, Vojvodina (Serbia), Transylvania (Romania), Croatia, Burgenland (Austria), Southern Slovakia, and Carpathian Ruthenia (Ukraine), which most often can be seen on cars in the region (including both Hungary and the neighbouring states where the kin minorities live); and second: the most recent piece of news about Ireland (May 18th) demonstrates that Irish republican are still not satisfied with the Irish-British reconciliation, a different solution would suit them better: http://www.bbc.co.uk/news/uk-northern-ireland-13449279, last visited May 19th.

2. Citizenship conceptions

2.1. European Union norms and debates about dual citizenship

Throughout the past century the phenomenon of dual citizenship has seen rather more rejections than attempts of acceptance. The reason seems to be that it does not fit into the traditional perception of citizenship as the relationship between the citizen and the state (and by that one state only to be meant), which builds mainly on moral and philosophical arguments related to questions of allegiance, loyalty and duties. Thus, when a person left his or her country of origin due to a variety of reasons (be that the well-known economic drive that motivated millions of European migrants in the 19th and early 20th centuries, i.e. the search for a better life, or any other consideration), and later naturalized in the country of adoption, then the initial citizenship, which had been left behind, was automatically lost,[8] mostly due to the above mentioned understanding of citizenship.

Moreover, the 1963 Convention on Reduction of Cases of Multiple Nationalities[9] adopted by the Council of Europe provided the explicit guidelines according to which dual nationals should renounce one of their citizenships. Basically the core argument of the document was that the multiple affiliation cases caused difficulties for the countries involved. What exactly was wrong with dual citizenship? The objections of the contracting parties concerned their lack of confidence towards the citizenry with regard to state loyalty mainly, i.e. one cannot serve two kings in the same way; furthermore, duties and responsibilities both from the citizens' and the state's side became very complicated. Therefore, a need to sort

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[8] Spiro 2007: 192

[9] An earlier document was the 1930 Hague Convention Concerning Certain Questions Relating to the Conflict of Nationality – the 1963 CE Convention follows the same norm, i.e. people should be citizens of one and only one state. See the document available at: http://eudo-citizenship.eu/InternationalDB/docs/Convention%20reduction%20of%20cases%20of%20multiple%20nationality%201963%20FULL%20TEXT.pdf

these inconsistencies urged the formulation of internationally valid norms in this respect. However, each signing party was allowed to exempt itself from some of the provisions if seen necessary.

It could be also argued that such provisions were a means of expressing the view on national belonging in civic terms,[10] and not in ethnic ones. More than that, Fowler (2004) points to the conceptual and practical relation that territoriality and citizenship share. On the one hand, territoriality means that the political space may only be organized into clear territorial units, with borders, which are called states; and they function according to the principle of territorial sovereignty, which means that they are the only authority to exercise power within their own frontiers, so they are not obliged to accept any other law made by any other authority. On the other hand, citizenship denotes the defining legal relationship between state and individual, delimiting thus the boundaries of the group itself, who enjoy thus civil, political and social rights only from the particular state. In Fowler's presentation this paradigm makes up what she calls "modern" statehood[11] which practically is assumed to function having its citizens physically present on the territory of their state, working, paying taxes, marrying, exercising political rights a.s.o.

Overall, this has been the norm that guided the long-lasting practice in Europe that a person could have one citizenship/nationality[12] only, reflecting the ideal type of relationship between the citizen and the state (perception that is still strongly called for in debates

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[10] Kivisto (2007: 274) in his concluding remarks to the book edited jointly with Faist, Kivisto similarly notes speaking about the American case, that the civic view was the one that could underlie the American nation building process, and the "primordial allegiances" (one could understand the ethnic element under that) were therefore dangerous for that project. This argument may be seen as valid in the European context as well, since the Convention clearly expressed the danger or security threat to the countries involved.

[11] For a detailed account on developments to and after "modern" statehood see Fowler 2004: 184-193

[12] The terms citizenship and nationality are used in the European context interchangeably – so far they have been used interchangeably in the present paper as well. However, starting with the following paragraph, a distinction between citizenry and nation is made, which then is consistently applied along the analysis.

concerning dual citizenry today). According to this idea, in the world of nation-states (or "modern" states) where the boundaries of the state are supposed to correspond with the boundaries of the citizenry, having dual citizenship is inconceivable.

However, in the real world the picture did not stay that that simple or ideal, firstly due to the increased migration of people, and secondly as a result of the "migration" of borders (and sometimes even both). As a result, today there are segments of population durably situated within the territory of the given state, and whose condition raise questions about their belonging and integration; and in contrast, there is the situation of the substantial number of people durably situated outside the borders,[13] and yet who claim or are claimed to belong to the citizenry, or better yet: nation.[14] In Fowler's interpretation, these developments cause the emergence of a new paradigm of statehood, that she chooses to call "post-modern" instead of "post-national" in order to avoid the confusions this term might cause when applied on the ECE region, where "national" or "nationality" are such sensitive terms. Thus, this paradigm challenges the full sovereignty principle, the international system speaks of human rights and minority rights for example, and these developments need to be accomodated and institutionalised by the state. Of course, one cannot speak of the end of the nation-state (or the "modern" state) as such, as the current international law and political organisations recognise still the territorial states and their citizens, i.e. only states can be members in the EU for example, and not border-transcending, de-territorialised entities.

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[13] Brubaker (2010) gives a detailed account on what implications these different locations of the populations imply within the modern nation-state paradigm. For a detailed account see: "Migration, Membership and the Modern Nation-State…"

[14] There seems to be a sharply distinct conception of who belongs to the citizenry and to the nation throughout ECE countries especially: the first refers to the legal membership of the state, whereas the latter to the ethnocultural membership of the nation (Brubaker 1996). This is an important distinction to take into account further on.

Nevertheless, territory and nation do not overlap anymore and this incongruence leads to what literature calls the internal and the external politics of belonging and membership[15] that states practise, which can also be formulated in a different way: who belongs to the nation, who may be included in and who remains excluded from it by being granted citizenship or by being allowed to retain it after emigration?

Firstly, the internal politics of belonging influenced also by the human rights revolution of the 20th century led to the most notable change on the European scene regarding the situation of the numerous immigrants in western Europe, who were working and living within the borders of a state, but who were not citizens thereof. This was the 1997 European Convention on Nationality that was adopted in order to balance the 1963 Convention and its rejection of dual citizenship, and the Council of Europe member states are free to choose which convention they accept and ratify. The new convention acknowledged the necessary integration questions[16] countries had to face in relation to the realities of labour migration throughout Europe, and established principles and rules regarding citizenship/multiple citizenships and military service (the latter in the case of dual nationals).

In addition to considering the question of integration on European level, another reason, besides inevitability, that Weil and Hansen (2002) bring in order to discuss the acceptance of dual citizenship is the argument concerning a quasi-beneficial aspect of granting citizenship to immigrants who originate from non-democratic countries: it could lead to the expansion of the values that western liberal democracies are characterized by.

In contrast with these elements that have paved the way towards the acceptance of dual citizenship, the same authors as above make up a list of other five elements that would

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[15] Brubaker 2010: 66.
[16] There are several debates in literature about what integration means, here I am using the term to refer to integration through citizenship: as a citizen one is integrated in the society in which they live in.

form "the case against dual nationality",[17] reflecting thus on the still controversial characteristic of the phenomenon and the reluctance of some European states of accepting it. The first two arguments go along the same line of thinking: loyalty and security, i.e. if a citizen is loyal to more than one state, then in certain circumstances, when these loyalties are challenged, a security threat to one of the states might appear.[18] Indeed, this seems a rather important aspect, however, security threats in today's world are not caused primarily by dual citizens. Furthermore, the question of international stability could also be a disadvantage, but European laws refer to regulations for these cases (see the 1997 Convention regarding military service). In addition, the other side of the coin of integration is that dual citizenship fosters new citizens' attachment to a foreign culture if they choose to keep the citizenship of their country of origin as well. However, as Spiro points out (2007: 193), there does not seem to be any substantial evidence that dual citizenship necessarily fosters state ties, it is rather a case of family connections. Finally, the last argument concerns the problems of inequality: one individual within a given society has greater rights due to its membership in another polity than the rest of the citizenry. This seems to be a rather strong argument, as it clashes with the basic assumption about citizenship in general, i.e. that it should rely on the principle of equality among citizens. Whatever the arguments for or the arguments against acceptance of dual citizenship, the fact remains that it basically allows immigrants to enjoy, in some sense, the best of both worlds.

Secondly, the external politics of belonging is characteristic to the cases of countries of emigration and countries of emigrants, where there is a certain acknowledged link[19] with

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[17] Note that the term "nationality" refers to citizenship here (to what the present paper refers to as citizenship), and since it is a quote I did not change the word.

[18] The most common example that is brought in diaspora literature in order to support the argument of shared allegiance of a dual national is the Japanese Americans of WW II.

[19] By "acknowledged link" I refer to the constitutional arrangements of these countries, which openly state that they maintain a relationship with their external co-ethnics. Several such examples are referred to later in the paper.

the population segments outside the borders of the state – as the two cases of the present paper testify in the following chapters. These external co-ethnics reside either in the vicinity of the state in question, and they are known to be the national minorities of the neighbouring countries, or they are the emigrants and their descendants who migrated farther away to more distant places in the world, forming thus the so-called diaspora which still retains links to the country of origin. Whatever the case, the current citizenship policies of the external politics of belonging affect both national minorities and the diaspora, making them eligible to apply for (or to retain) the citizenship of the country of origin.

With the case of diaspora, the acceptance of dual citizenship developed as countries started allowing their émigrés to retain their citizenship and they did not strip them of that right anymore (as the common international practice had been – see outlined above) because they recognised the fact that these external populations were actually resident in more developed countries and this could bring benefits to the sending state. Such change of perspective reflected mainly the economic interests and aspirations of the newly democratizing immigrant-sending countries,[20] given that successful business persons invested back home.

The situation is different, however, when one has to speak of former citizens (or their descendants) who lost their country of origin citizenship due to historical border changes. Brubaker (1996: 107) describes this situation in the context of ECE, defining national minorities as "sharing citizenship but not (ethnocultural) nationality with the nationalizing state, and sharing nationality but not citizenship with the external national homeland." Thus it is evident that there is a rather strong ethnocultural link in this case with the country of origin, and as a result there seems to be a sharply distinct conception of nationality as well, since national minorities do not possess a passport of the given country, they yet identify with that

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[20] See Spiro 2007: 192

nationality.[21] Therefore, the country in question may provide possibilities for its co-ethnics to acquire citizenship on a preferential basis as a response to the fact that territory and nation do not have the same boundaries, thus revealing traits of the ethnic conception of national belonging. However, there is no common European regulation that would directly concern the attribution of citizenship status to non-resident co-ethnics.

In conclusion, the citizenship policies of both the internal and the external politics of belonging lead to the same outcome: the increased number of the citizenry, be that within the borders of the state (granting citizenship to immigrants) or transcending it (offering external citizenship to co-ethnics). According to European norms, having dual citizenship should be allowed (it is more precisely a right),[22] nevertheless states individually have the right to decide whom they want to include in their citizenry, as this policy belongs to the *domaine réservé* of each country. Therefore, one cannot conclude with stating that there is one common European norm or regulation followed or applied by each member country, the situation is better expressed in the following words: most European states tolerate, some accept, while a few prohibit dual citizenship, each having their particular reasons for applying the particular approach, notwithstanding still constistent with international law – and with this idea the discussion on the policy trends within Europe may follow.

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[21] The ECE citizenship policies with regard to external national minorities are discussed in more detail in the following section about European trends.
[22] See Preamble of the 1997 Convention available at http://eudo-citizenship.eu/InternationalDB/docs/Full%20text%20ECN%20(166).pdf

2.2. Trends in European citizenship policies

2.2.1. De-ethnicization and/or re-ethnicization

There are several comparative works in the citizenship literature that provide terminology that can be used in the discussion of the present two cases. Identifying the trends that have been prevalent in some European states gives the opportunity to analyse where both the Hungarian and the Irish examples would belong. In addition, another reason for referring to these works is that some of these authors reflect also on why the respective laws were introduced, what their roles and effects were – again, considerations and conclusions that can be raised and speculated about with regard to the present two cases.

The first most comprehensive analysis of nationality laws is Weil's (2001), which presents 25 cases making up a typolgy that discusses the development of these laws taking into account the influence of emigration and immigration. In his understanding, states fall mainly in the following four different groups: first, countries of emigration - this refers to the situation when part of a population emigrates in order to find a better life; second, countries of immigration – these are those countries where foreign populations have settled as permanent residents; third, countries of emigrants - those countries who have a significant number of citizens residing outside of its borders; and finally, what is characteristic for countries of immigrants is the fact that the majority of the population are immigrants or their descendants. Ireland thus, as mentioned before, seems to be rather a country of emigration, but recently has attracted many immigrants as well; Hungary is a clear case of a country that lost most of its citizens, who have become expatriates due to border changes.

The influence of immigration and emigration on citizenship laws can be matched with Joppke's line of thinking, i.e. the trends of "de-ethnicization" and "re-ethnicization" of

citizenship.[23] The first refers to the regulations that open up membership to newcomers (i.e. more liberalised naturalisation procedures for immigrants) adding *jus soli* elements to the law, whereas the second reveals the ethnic aspect by strengthening the law with *jus sanguinis* principles. As a result, the two trends are opposite: one taking the direction from ethnic towards territorial (i.e. civic) citizenship, whereas the other testifying that states are rather membership units, or using Aleinikoff's term "communities of descent."

However, before drawing any quick conclusions that these terms mirror the civic-ethnic distinction in the literature of nations and nationalism, and that there are either ethnic or civic citizenship laws in Europe, Joppke warns that *jus soli* and *jus sanguinis* provisions are rather legal-technical mechanisms that allow multiple interpretations and combinations. This flexibility originates in the inherently dual nature of the states as ethnic (or membership) and territorial units, allowing policymakers to manipulate them if they see a concrete interest in them – hence the de-ethnicizing or re-ethnicizing trajectories.

Furthermore, the phenomenon of "ethnic migration" that Joppke (2005) speaks about as a result of the latter tendency implies common markers (language, physical traits, ways of life, customs, religion), and in addition the so-called "politische Schicksale" (political fate, experience). In order to illustrate this with citizenship laws, he refers to two western European clusters that he presents as postcolonial constellations: the northwestern (Britain and France), and the southwestern (Spain and Portugal) ones, which demonstrate the stances that devolving empires have taken in order to regulate the movements of certain population segments from the former colonies to continental Europe. On the one hand, the return of former settlers and their descendants had to be included; on the other hand, the enourmous entry waves of postcolonial natives had to be dealt with. In the British policy the principle of "patriality" (recognized family connection) guided the official government policy of granting

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[23] For a more detailed presentation, see Joppke 2003.

citizenship; Spain took a more inclusive approach, in that it built its justification of nationality acquisition on considerations of "historical and cultural ties" with Ibero-Americans; and most notably, Portugal replaced the "territorial" principles of citizenship attribution with "blood-based" ones, in this way rather restricting the acquisition of citizenship for immigrants. Other trends in extending the citizenry are those of Israel and Germany, and Joppke concludes that these are the examples of states firmly involved in favouring exclusively ethnic immigration.

Brubaker's (1996) discussion of Weimar Germany and "Weimar Russia" presents another insight into the approaches that policymakers may take. In the case of Germany he sees the role of the civil society (nevertheless monitored by the government) activities as a subversive expression of homeland nationalism that was Volk-oriented rather than state-oriented, i.e. the perception of "the German nation as state-transcending ethnocultural unity." Russia, in comparison, is considered to have forged a more visible homeland nationalism,[24] in that it issued official state policies aimed at Russian "compatriots" abroad, granting them citizenship in order to have a pretext for intervention if necessary. Of course, the Russian example is an external citizenship case, whereas the German a legislation favouring co-ethnics in immigration.

All in all, these legal provisions of the countries mentioned so far provide incentives to retain links between states and members abroad, i.e. in this way extending citizenry on the basis of descent. The reasons can be varied, but mostly may be summarized generally as being political or economic in their character (Faist/Kivisto 2007: 4).

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[24] In Brubaker analysis "homeland nationalism" is no different in meaning from the earlier used term in the present paper of "external politics of belonging."

2.2.2. Extending the citizenry – EU-15

Another comprehensive set of articles about typology and trends is to be found in the books edited by Bauböck.[25] Regarding the affinity-based acquisition of nationality[26] the EU-15 are grouped into three clusters. Austria, Finland, the Netherlands, Sweden and the United Kingdom make up the first group – reacquisition of nationality is possible to a certain degree, but there are no special rules for persons simply on the basis of their ethno-cultural background. Furthermore, Belgium, Denmark, France, Italy and Luxembourg are the countries which do grant citizenship on basis of descent, but only once these persons have taken up residence in the country. And finally, the third cluster comprises Germany, Greece, Ireland, Portugal and Spain. These countries seem to be the most liberal in this context, as they do not recquire residence from their ethnic diasporas or descendants of former nationals.

Reflecting on the above typology, it is striking that approaches in granting citizenship to co-ethnics differ widely between the EU-15. This should not be that surprising, as the previous section on EU norms has pointed out: there is no single common standard within the EU that would regulate the modes in which countries may include their external co-ethnics within their citizenry. This lack of a comprehensive norm becomes even more pronounced when one adds the Accession-12 to the comparison.[27] The explanation that Waldrauch[28] sees for the several types of legislation accomodating the co-ethnics within the citizenry is that they derive either from the traditions of emigration and recent histories of immigration (argument that would echo the aforementioned trends that Joppke identifies), or the pressures from emigrant communities abroad, and in addition also from the strongly ethnicized

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[25] *Acquistion and Loss of Nationality: Policies and Trends in 15 European States*, 2. vols., 2006;
[26] Ibid. vol. 1, p. 27.
[27] See Citizenship *Policies in the New Europe*, 2007, and the following section on the ECE region.
[28] Waldrauch 2006: 169

conceptions of nationality (again, similarly to Joppke, as above, i.e. the approach the policymakers see fit to apply).

2.2.3. Extending the citizenry – Accession-12 and ECE

The trends that result in dual citizenship provisions in ECE are rather different from the immigration and emigration countries of the West. In these countries the external politics of belonging produce legislation that favour transborder national minorities[29] in order to deal with the history of disputed territories and political state borders (Liebich 2007).

Bauböck[30] offers a well-developed typology of the several political and identity options these transborder minorities may choose from. The main alternatives he identifies are: emigration (to the mother state), assimilation, autonomy and secession, whereas the more mixed types (including other actors besides the national minorities) are: diasporic identity, ethnic identity and condominium – either of which could lead to a less unstable form of dual citizenship. However, this latter political situation, in his understanding is just temporary, and it should lead to some form of federal structure eventually (however, he does not supply an example to sustain his argument, thus the idea remains a normative venture).

Pogonyi, Kovács, Körtvélyesi (2010) provide an account of external (kin-state) citizenship, and they identify Bulgaria, Croatia, Hungary, Lithuania, Macedonia, Romania, Russia and Serbia as the countries offering this possibility to their expatriates. The number of countries with cultural/ethnic affinity-based preference in citizenship acquisition is even higher than that, adding Poland, Slovakia, Slovenia, Latvia, Moldova to the previous list (where in some cases a number of years of residence is required).

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[29] These transborder minorities resulted from the collapse of communism (the USSR) and the Austro-Hungarian empire, as well as the dissolution of Yugoslavia.
[30] For more detail see Bauböck in Faist-Kivisto 2007: 69-92.

Thus, when scholars speak about the different conceptions of citizenship applied overall in this region in contrast with the civic West, they inadvertently conclude with characterising the East as rather ethnic in its policies. However, Bauböck argues against this stark dichotomy, as he considers that labelling the ECE countries as such, actually fails to capture the complex character of the region, and there are no ideal civic or ideal ethnic types.[31] Nevertheless, the reason why so many ECE countries include expatriates in their citizenship provisions is perceived as a tendency to expand the borders of the nation,[32] and under "nation" one can understand the membership in its cultural, ethnic and linguistic understanding.[33] Therefore, discussion about the politics of external citizenship in this region differs from the previous cases: in Western Europe the external citizenship policies are related to the retention or re-acquisition of country of origin citizenship by migrants (as the debates about acceptance of dual citizenship have demonstrated), whereas in the ECE region the question regards the acquisition of citizenship by the national minorities of the neighbouring countries.

All in all, citizenship policy trends seem to be rather different as the above mentioned comparative works testify, reflecting the historical and political changes on the one side, and the result of the migration of people on the other. What follows now, is the tracing of these changes and developments in more detail that led to the current external citizenship regimes in Hungary and Ireland.

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[31] See Kivisto 2007: 284.

[32] Emphasis is on "nation" indeed, and not simply citizenry, as pointed out by Brubaker 1996.

[33] See Kovács and Tóth 2007 providing an accurate example to illustrate this idea with the Hungarian case. Also outlined later in the paper.

3. The external politics of belonging in Hungary

In her 2010 book[34] Myra A. Waterbury was writing:

"Granting nonresident dual citizenship would have the practical effect of merging the Hungarian cultural nation and the political community, resulting in many intended and unintended consequences. Such a merging could potentially reshape political power in Hungary by changing the size and the composition of the electorate, most likely in favor of Fidesz and other right-wing parties."[35]

This was Waterbury's interpretation of the possible severe consequences that such a policy change would have had, had the 2004 referendum in this question turned out positive. However, rather indifference was the result, as more than 60 percent of eligible Hungarian voters stayed at home, thus the referendum became invalid.[36] In addition Mária Kovács gives a third aspect to the "Hungarian story",[37] as in her counting 81 percent altogether of the Hungarian electorate, a clear majority thus, either stayed away from voting or voted against the reform.[38] As a result trans-border ethnic Hungarians were not given the privilege of attaining Hungarian citizenship at this stage.

Nevertheless, after six years the April 2010 elections in Hungary, bringing Fidesz[39] with a two-third majority back to the steering wheel of the country, immediately brought a change in legislation as well: a Bill on the amendment of the Act on Hungarian Nationality

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[34] Waterbury, Myra A. (2010) *Between State and Nation. Diaspora Politics and Kin-State Nationalism in Hungary*, New York: Palgrave Macmillan.
[35] Ibid., p. 124.
[36] The results of those who did vote: 51.57% in favour of dual citizenship, 48.43% against. See: http://hu.wikipedia.org/wiki/F%C3%A1jl:Nepszav_2004-2_eredm.PNG.
[37] By "Hungarian story" (term used by Mária Kovács) what is meant is the whole debate around the responsability and policies of the Hungarian mother state towards its ethnic kins residing outside its borders, story that started after the 1989 collapse of communism when minority protection became the central interest not only of CEE countries but the international organizations at large.
[38] See Kovács, Mária M. 2005: 59.
[39] Fidesz stands for the Hungarian Civic Union, major right-wing conservative party in Hungary.

was submitted to Parliament on 17 May, passed by the plenary session in ten days and finally signed by the President. The modifications entered into force on 1 January 2011, and the law as it stands now, allows for trans-border ethnic Hungarians to apply for nonresident Hungarian citizenship.

Therefore, it seems that the wish to unite the cultural nation with the political community has been fulfilled, what remains, though, is to reflect on the intended and unintended consequences that the implementation of this law might possibly result in (even though I am aware that at this stage, after a few months only of the law being implemented, it would be too early or even impossible to find conclusions). However, before trying to map such implications a brief historical overview would be in place, in order to understand the involvement of different actors to the Hungarian story, from the controversial Status Law of 2001 to the present-day dual citizenship regime.

In addition, this development undoubtedly affects the neighbouring central and eastern European countries which makes the story even more complicated, as international actors are called upon as well, and also because the whole process of the Hungarian national unification has to be interpreted in a wider geopolitical context too, that of the European Union. What is more, the role of the mother country itself cannot be understood as a role played only by one actor, representing one unified approach or opinion.

Since there are several actors involved both within and outside Hungary, the discussion about the external politics of belonging is aided by the widely known terminology offered by Brubaker that make up what he calls the *triadic nexus* in ECE state relations.[40] The three parties involved are the kin-state, the kin-minority and the home-state[41]. These elements

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[40] See *Nationalism Reframed* by Brubaker (1996).
[41] Or to give a slightly wider description: external national homeland or *kin-state*, "nationalising" state or *home state*, and the *kin-minority* or other terms: trans-border national minorities, co-ethnics, kin-nationals.

display several relationship possibilities, depending on the actions that one of the elements might do, and which would generate a reaction from any of the other two. This model seems a convenient one, however, even Brubaker himself points out that all three of them are not fixed entities themselves, and as a result the relationships are not static either. On the whole, nevertheless, they are involved in a continuous monitoring process, acting on causes and consequences that would legitimize the decisions or deeds of each participant. Therefore, I argue that this process of action and reaction in the present topic is a perfect example for the dynamics of the triadic nexus, which becomes extremely visible within the issues so sensitive to state sovereignty.

As a result, the questions that arise are rather numerous. What were the conditions in Hungary that eventually led to external citizenship? Why has Hungary introduced this law? What does the law actually say about membership? How have the affected countries been involved in the process, what are their reactions so far? What has the role of the EU been, what ought to be expected next? What is the role of the international norms?

3.1. From the Hungarian Certificate to the Passport

3.1.1. Status Law – 2001

Starting with the 1989 Hungarian Constitution the kin-state asserted a responsibility for its kin-nationals, on the basis of human rights and minority protection norms. This is illustrated also by the famous statement of the Prime Minister of that time, József Antall, that he considered himself the Prime Minister "in spirit" of 15 million Hungarians. Such an attitude of the Hungarian Government of that time does not actually mean that this would have become a constant and lasting approach of all Hungarian governments in the last twenty

years, or whether all Hungarian political elites and regular citizens of the state would have supported Hungarian national minority policies.

The first and most notable such policy directed towards Hungary's kin-nationals was the 2001 *Act on Hungarians Living in Neighbouring States* (or the so-called *Status Law*) of the Fidesz-MDF[42] government. The rhetoric behind it was that if a party did not support it, then it would be labelled as un-Hungarian, thus the MSZP[43] could not afford to vote against it, whereas its former coalition partner, the SZDSZ[44] did so, being the only political party to not support the Status Law. Even though there were these strong opponents to it, the law was nevertheless passed, and starting with January 2002 the first Hungarian Certificates were issued.

However, taking the neighbouring countries into consideration, those affected by the law, a rather controversial relationship evolved most notably with Romania. The Prime Minister of Romania at that time, Adrian Năstase reacted vehemently to the Status Law, since Romania felt that Hungary was insinuating that they were not doing enough with their domestic minority policies, even if as early as 1998 the EU monitoring Report on Romania had stated that the country was fulfilling the Copenhagen political criteria.[45] In addition to this, the programme of the Fidesz government of "reunification of the nation" sounded as an offence to the Romanian state, and they openly accused Hungary of interfering with the sovereignty of the Romanian state. They argued that Hungary was passing a law which would take effect on another country's territory, clearly violating the principle of territorial sovereignty and resulting in discrimination among the Romanian and Hungarian population

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[42] MDF stands for the Hungarian Democratic Forum, a cente-right political party in Hungary, with liberal conservative and Christian democratic ideology.

[43] MSZP is the Hungarian Socialist Party, center-left social-democratic party in Hungary.

[44] SZDSZ stands for the Alliance of Free Democrats – Hungarian Liberal Party.

[45] For the European Council to open negotiations with a country, the political criteria had to be met: stability of institutions, guaranteeing democracy, the rule of law, human rights and respect for and protection of national minorities.

within Romania. Given the seriousness of the matter, at this point the international community was called upon to mediate,[46] in order to avoid this debate to escalate into a more serious conflict.

Thus, the interaction between the two countries in this situation had to be complemented with an outside participant, adding one more element to the already intricate relationship structures of the three main actors involved. The Council of Europe was not only mediator in the debate, but it also represented EU conditionality, with which both countries were willing to comply.[47] As a result of the Report of the Venice Commission and the Recommendations of the OSCE High Commissioner on National Minorities, the Status Law was amended in order for inter-state relations not to be damaged by this debate, and also the majority-minority relationships within the home states, in which these external Hungarian co-ethnics where living, not to deteriorate. In addition, in order to successfully implement the Status Law, on January 1, 2002, the Fidesz government signed a Memorandum with the Romanian part[48] (also known as the Orbán-Năstase agreement), significantly limiting the extraterritorial aspects of the legislation and considering the discrimination problem as wll,[49] which were such delicate matters for the sovereign Romanian state.

The debate around the controversial Status Law was solved, as the international community was able to enforce international norms of minority rights which did involve

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[46] At the request of Adrian Năstase, the Romanian Prime Minister.

[47] This endeavour of both countries may be illustrated with the fact that they eventually became EU member states: Hungary in 2004, whereas Romania slightly later, in 2007

[48] Later Slovakia did the same, i.e. negotiated modifications to the Status Law.

[49] Waterbury gives a detailed list of these (p. 113): (1) all Romanian citizens would be eligible for the same treatment regarding employment and Hungarian work permits, based on an overall quota system; (2) non-Hungarian dependants of ethnic Hungarians would no longer be eligible for Certificates or benefits; (3) the process of granting the Certificates would be done only in Hungary; (4) the Certificates now contained only basic information, doing away with the prior reference to membership in the Hungarian nation; (5) the question of who is Hungarian would be decided by a free declaration of identity; (6) no support to political organizations in Romania would be given without prior approval; and (7) the two states would begin negotiations on the preferential treatment of mutually shared minorities.

certain external legal steps that Hungary was entitled to do according to the report of the Venice Commission,[50] as long as these laws did not violate the territorial sovereignty of any neighbouring state. The recommendations were taken into account, and as an international body cannot extend in the jurisdiction of any sovereign state, implementation and decision making were left to the domestic authorities themselves. Consequently, Hungary reacted to these recommendations and signed bilateral treaties with the neighbouring countries.

Thus, due to the involvement of the international community and the neighbouring states, which was soon followed also by a change of government in Hungary in 2002, by the time a significant number of ethnic Hungarians did apply for the certificates, the practical worth and initial benefits promised by the Status Law had diminished. On the whole, the Status Law as it now stood, was little more than a set of compromises reached after complex and highly politicised debates of all the parties involved. Nevertheless, for the owners of the document it did have a symbolic meaning, as it resembled the Hungarian passport and they could say that they were Hungarian.

3.1.2. Referendum – 2004

As mentioned in the beginning of the current chapter, the referendum was a failure and did not result in bringing the dual citizenship legislation on the agenda of the Parliament. Similarly to the Status Law, this stage of the Hungarian story had its corresponding critic as well. This time it was a domestic actor's turn, the now governing MSZP, to oppose the national reunification plan. Such behaviour within the state is a perfect example to what Brubaker had said about the elements of the nexus, that none can be expected to be consistent or unified in opinion on certain matters, as the following debate demonstrates.

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[50] Sólyom 2004: 366.

The government was openly campaigning against the referendum initiative,[51] wanting to keep the boundaries of the political and cultural community clearly separate. Their argument seemed to be a powerful one, as it was actually saying that this type of dual citizenship was not compatible with EU norms, as it was going to be offered on affinity based criteria, linking thus citizenship with ethnicity – a turn in policy which would drive Hungary further away from EU values. What is more, the fact that Hungary was a signatory to the 1997 European Convention on Nationality (with its consequent ratification in 2001) was again an argument against external citizenship, as the Convention had placed the emphasis on the "effective link" of the possible citizen with the state, which meant nothing else but habitual residence on the territory of the state. Thus, the socialists played the EU card rather effectively in a time when EU membership had just begun and it was a current fact that the citizenry of Hungary was beginning to enjoy.

Besides these EU-related criticisms, the political left argued also with domestic and neighbour-country considerations. On the one hand, on the domestic scene, dual citizenship would encourage the migration of the Hungarian co-ethnics, which would clearly affect the labour market[52] – a sensitive issue for the working and tax paying resident regular Hungarian citizen. In addition, the socialists projected the even more discouraging future for the current citizenry, i.e. the possible extension of the law with voting rights for these new citizens. On the other hand, the latter argument was concerned with the diplomatic and inter-state effects that the "unitary Hungarian nation" message would have – an even more delicate problem which was not new, since this had been the most criticised aspect of the Hungarian state's involvement during the Status Law debate. Thus, the conclusion of the opposition could be

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[51] The MSZP argued that migration from Serbia and Ukraine would increase, that would lead to further people on the Hungarian labour market – a clear disadvantage to the resident Hungarian citizen. In addition, the legislation would bring with itself serious costs in health care and pensions that would again lead to disadvantages for the current citizens.

[52] See an overall description of the divided political opinion at: http://kitekinto.hu/karpat-medence/2008/12/05/in_memoriam_2004._december_5./

formulated as follows: Hungary should seriously reconsider its politics towards external ethnic kins in such a way that it did not result in the complicated and conflict-engendering consequences outlined above, both within and outside the state itself.[53]

Who was then unconditionally in favour of the proposed legislation? The answer points to a highly contested actor in the Hungarian domestic politics: the World Congress of Hungarians (MVSZ), who is known (between the lines) to be mainly a representative of a segment of the Transylvanian Hungarian elites.[54] Since the MVSZ needed domestic political support, the Fidesz had no other choice but to sustain it, as they were the ones to be accountable for their prior supportive relationship with Hungarian diaspora communities abroad. What the MVSZ initiative actually was saying was that Hungarians living in Romania, Ukraine, Croatia and Serbia should have the same rights as the Hungarians from the mother state, i.e. to enjoy the opportunities that EU citizenship brought with itself,[55] as they belonged to the same nation.

The supporting arguments came as response to the criticisms. The endorsers brought EU examples themselves,[56] pointing at ethnic preferentialism in citizenship laws and to the fact that there had not been any EU intervention in either of the Italian or Spanish, or any other cases of external citizenship. Thus, Hungary would not be doing anything different from any other European country that is in the same condition of having to accomodate the needs of co-ethnic populations outside the borders of the state.

Therefore, it could be concluded, that the controversial referendum revealed again the same problem as in the case of the Status Law, and it did not manage to solve it: who should belong to the Hungarian nation, or to put it in more different terms: how can one define the

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[53] Waterbury 2010.

[54] Patrubány Miklós (a Hungarian from Transylvania) has been the president of the federation for over ten years.

[55] Hungary had joined the EU in 2004, and the countries with significant Hungarian minorities (except for Slovakia) were left behind still waiting for such prospects.

[56] See Kovács 2006: 440.

Hungarian nation, as a community of citizens within the administrative borders of a nation-state, or a cultural community including transborder ethnic kins as well?[57] Whatever the answer, EU norms and practices do not seem to give clear guidelines to it, as they remain ambiguous in this topic: on the one hand, borders within a unified Europe are becoming more and more meaningless to individuals and communities and it should not matter how many citizenships one has and where they reside; on the other hand, EU policies in general seem to be supporting the idea that member states should maintain a system based on territorial sovereignty and citizenship. The debate on this topic then seems to be what Fowler[58] says is the conflict between the paradigm of the modern state and that of the emerging post-modern one, and in each case it is a question of what choice the ruling political elites make, since they have the power and authority of decision making.

3.1.3. Dual Citizenship – 2010

The Hungarian story leading up to the dual citizenship law is an example for the controversial politics of belonging or membership, as it considers the inclusion not only of the internal members of the nation (i.e. the individuals residing on the territory of the state in question) among the citizenry, but also the external ones, who on their part live in neighbouring countries where they cannot conceive of themselves as belonging to the titular nation, instead they regard themselves as members of "their own" nation[59] who live in the neighbouring state. With the adoption of this law, both the question asked at the end of the previous section, as well as the need of the transborder minorities for recognition seem to have been answered and fulfilled on 26 May 2010, when the ruling political elites decided

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[57] Definition of the Hungarian nation is outlined in the new Hungarian Constitution of 2011 – see later, at point 3.2.
[58] See above.
[59] Fowler 2004: 194.

that the borders of legal citizenship extend to the borders where the ethnocultural nation lives, practically most of Central and Eastern Europe, where the Hungarian national minorities live, but including more far away places in the world as well, where the distant Hungarian diaspora lives.

The ambitious plan of uniting the nation – the topic that Fidesz built its rhetoric on again and again – or to put in the words of the policy makers, "healing the trauma of Trianon"[60] may be considered, as Liebich points out, merely a case of a ECE country of dealing with its past[61] by including its expatriates in its citizenship provisions. This seems to be a characteristic of the region, where even the conceptions of citizenship and nationality differ quite sharply, as the ethnic Hungarians living outside Hungary, using Brubakers words again: share citizenship but not (ethnocultural) nationality with the members of the state in which they live in, and in contrast, share nationality and not citizenship with Hungary. Consequently the law may solve the complications the citizenship-nationality dichotomy has caused for such a long time: ethnic Hungarians can thus be regarded as both citizens and nationals, either word could be then applied regarding their identification, but the home country citizenship still remains citizenship for them according to this logic.

Even though at first sight the reason and result are quite simple, since the adoption of the law quite a few complicated matters evolved in the region. The new Hungarian citizenship legislation offers preferential naturalisation to any non-Hungarian citizen whose ascendant was a Hungarian citizen or whose origin from Hungary is probable, and whose Hungarian language knowledge is proved. Such a formulation found again a harsh critic among the parties affected by the law, in this case Slovakia.

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[60] This idea was first expressed in the context of the Status Law, by Zsolt Németh, back in 2001 thus, when he stated that the Status Law would "contribute to the overcoming of our nation's 80-year-old trauma." (quoted in Fowler 2004: 212).

[61] The past event referred to widely in the dual citizenship debates is the Treaty of Trianon (1920), due to which Hungary lost considerable amounts of its territory, which was divided among neighbouring states, most notably Romania and Slovakia.

This country sees the Hungarian law as a threat to its sovereignty,[62] as practically all Slovak citizens would be eligible for Hungarian citizenship. As a result, the Slovak government, besides criticizing the Hungarian lawmakers for not having consulted with them on the matter, decided to strip those Slovak citizens of their citizenship who apply for Hungarian external citizenship. In other words, Slovakia exercised their right as a sovereign state and brought their own legislation somehow intending to protect themselves from the application of the Hungarian law on their own territory, as they seem to see it inconceivable for Hungarian ethnic Slovak citizens to belong to the Hungarian nation.

The action and reaction process is thus again visible among some of the nexus elements, and the Slovak response echoes what the MSZP 2004 had warned against when they were campaigning against dual citizenship for trans-border ethnic Hungarians. Meanwhile, ethnic Hungarians from all the other neighbouring countries openly started applying for this status starting with 1 January 2011, and the first naturalised external citizens took their oath of allegiance at several of the Hungarian consulates in the neighbouring countries on 15 March 2011.[63]

3.2. The New Hungarian Constitution

Who may be considered Hungarian and how should the Hungarian nation be understood? This key question was very often voiced during the debates presented in the previous section, as the concept of nation lies at the core of any citizenship or quasi-

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[62] See news items at http://kitekinto.hu/karpat-medence/2010/10/23/szlovakia_elutasitani_a_magyarok_ketts_allampolgarsagat/ and http://kitekinto.hu/karpat-medence/2010/11/06/masodik_olvasatban_az_allampolgarsagi_torveny_szlovakiaban/

[63] To quote just one piece of news in this respect, see: http://itthon.transindex.ro/?hir=25787.

citizenship legislation.[64] The different ways of defining it are reflected not only in the rhetorics of political elites, but also in the laws that the ruling elites bring, the most important of them being the basic law of the state. The Hungarian case is indeed complicated, since through all these channels what is claimed is that citizens of many neighbouring countries belong to the Hungarian nation. As an example, from a practical point of view this is exactly what the Status Law and the dual citizenship law have achieved: the possibility for expatriate ethnic kins to legitimately and legally state that they are of Hungarian nationality, belonging thus to the Hungarian nation as a whole.

The new Hungarian Basic Law, approved just recently by the Fidesz government (April 18th) and signed into law by the President (April 25th) is probably the first to give the clearest answer to this controversial question: in its preamble (titled "National Credo") it speaks of the spiritual and intellectual unity of the nation, which it promises to protect, as it had been "torn apart" in the history of the past century. Article D, in addition, details the ways in which Hungary promises to strenghten its ties with the Hungarian communities of the neighbouring states, and all these are done "keeping the unity of the Hungarian nation in mind."

As the preamble also states that the law is a contract between the Hungarians of the past, the present and the future, in Article G it further considers the future by adding that descendants of Hungarian citizens become Hungarian citizens by birth. Thus, these provisions, strengthened by the principle of the national unity openly define the Hungarian nation in ethnic terms.[65]

What is more, the preamble makes a distinction between an ethnic Hungarian citizen and other Hungarian citizens. Interestingly, the language used makes it ambiguous whether

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[64] See Kántor 2006: 39
[65] See Kovács and Pogonyi (2011) at: http://eudo-citizenship.eu/citizenship-news/469-hungary-new-constitution-entrenches-ius-sanguinis-and-keeps-open-the-issue-of-non-resident-voting-rights

these other nationalities belong to the nation or not, as what is acknowledged about them is only that they are parts of the Hungarian political community and consituting elements of the state. This wording reminds again of the distinction that Brubaker made: citizenship and nationality. Thus the different ethnic communities living in Hungary are only citizens of Hungary, they are not recognized as of Hungarian nationality or as part of the Hungarian nation.

Finally, it should be mentioned briefly that similarly to the Status Law, the referendum and the dual citizenship law, this new constitution had its opponents as well, from among the domestic political parties first of all.[66] The MSZP and the LMP boycotted the parliamentary debates and the vote, and the far right Jobbik party voted against it. Nevertheless, the new Hungarian Basic Law comes into force on 1 January 2012, as the governing Fidesz with a two-third majority was able to easily adopt it. In addition, the reactions of Slovakia are again telling about the conflictual relationship that evolved since the adoption of the citizenship law: the Parliament of Slovakia stated that all the extra-territorial elements in the Hungarian Basic Law are not recognized on the territory of their own state, only the laws of Slovakia have jurisdiction over the Slovak citizenry and territory.[67]

3.3. Consequences, implications

The current chapter discussed three main events (the Status Law, the referendum on dual citizenship and the amendend Hungarian Nationality Act) and one current one of the Hungarian story that have been instances of how an external politics of belonging and

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[66] The new constitution opposing political parties, as well as the statements of the former Hungarian president, László Sólyom whether there is a need for a new basic law at all, and the rhetorics of each would be rather interesting to look into, however, such endeavours are beyond the purposes of the present paper.
[67] See the news item at: http://hvg.hu/vilag/20110527_alkotmany_szlovak_parlament.

membership may function. All these stages of the story had something in common that hindered their smooth implementation: they were severely criticised either internally, from among the members of the domestic political life, or externally, by neighbouring countries or European organizations. This fact clearly shows that there is no unified opinion about the conditions according to which a country should legislate in the question of external citizenship – neither in domestic politics or on the European level.

As there are no clear European norms in this respect, it seems that decision is left to the discretion of the member state governments: Hungary thus passed a law on external citizenship, Slovakia as a response passed its law on loss of citizenship for those who become naturalised Hungarians. Since both countries are EU member states, it would seem logical for the EU to get involved in the debate and try to put together a clear legislation about external citizenship,[68] that would be applicable on the whole territory of the EU, and in this way similar provisions (which at first sight could be labelled as open discrimination, however, a more in-depth analysis of the politics of the country could deserve a separate paper on its own) as the Slovak one would not be necessary. Until that time comes, however, the two countries will need to sort out their grievancies, a process that seems to be actually going on (the new Slovak government considering the recognition of the Hungarian law).

Turning back to the possible consequences mentioned at the beginning of the chapter, it is safe to state that so far the short term consequences of the law will simply be the significant numbers of external Hungarian citizens – this being the intended consequences, to use Waterbury's term, as the law was designed for them. Another consequence of the law is the negatively changed relationship of Hungary with Slovakia, which may be considered an unintended effect, as no country in the region or EU at large wants instability, but that does not exclude the possibility of differing viewpoints that lead to contested relationships and

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[68] So far, the only notable European piece of legislation on citizenship is the 1997 European Convention on Nationality that allows dual citizenship.

criticisms, as the present Hungarian-Slovak one testifies. However, as long as both countries are aware of each other's opinions and they communicate with each other as well, or even negotiate, in the long run no negative effect could result from that.

Finally, it would be premature to speak about any other "intended or unintended consequence" or long term effects suggested by the critics of the law especially from the time of the 2004 domestic debates, i.e. the altered size of the Hungarian electorate, because no such constitutional arrangement has been adopted (there is no explicit option of external voting right to be granted according to the new Constitution).

4. The external politics of belonging in Ireland

The citizenship aspirations of the Irish Diaspora,[69] as well as the need to solve the territorial conflict between the Republic of Ireland and the UK concerning Northern Ireland are the two key factors that shaped the way to the current external citizenship regime in Ireland. This path, however, has never been simple, especially regarding the relationship towards Northern Ireland.

The external politics of belonging in the Irish case may be characterised by a strong rhetorics against British rule or involvement on the island, which was present in all of the key documents and events of the 20th century, and it continues to be present in some ameliorated form in society at large even today. For example the 1916 Proclamation of the Irish Republic (document written by the revolutionaries of the Easter Rising) stated the sovereign right of the Irish nation to have ownership of the island against the usurping British people and government. Following the Anglo-Irish Treaty of 1921, the first Constitution of the Irish Free State (Saorstát Eireann) put Irish citizenship "on a problematic footing" in relation to British nationality law,[70] as it extended its jurisdiction on the six northern counties (Ulster counties making up what is Northern Ireland today) which had opted to remain in the Union with Britain, whereas the rest of the island gained the same status within the British Empire as Canada, Australia, New Zealand and South Africa. The actual rupture from the British monarchy, when the republic was proclaimed, happened only in 1949 when the necessary legislation in London was adopted.

Furthermore, the 1937 Constitution formulated the approach to Northern Ireland in irredentist terms, stating that the "national territory consists of the whole island of Ireland, its

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[69] Besides the many campaigns organized to raise awareness of the Irish state towards its co-ethnics abroad, citizenship demands of Irish diaspora members are to be found even on the most widely used social networks on the Internet, see the example on Facebook: http://www.facebook.com/group.php?gid=299321146317

[70] Handoll 2010: 3

islands and the territorial seas." This contested approach was only given up decades later with the 1998 Good Friday Agreement, or to give it its full and formal title: Agreement Reached in the Multi-Party Negotiations, that resulted also in a constitutional amendment, which altogether ended the phenomenon that had been known in the political world as the Northern Ireland conflict. The result of the negotiations, as Bauböck[71] points out, was a successful example for a political autonomy to be combined with the involvement of external kin-states, in other words a condominium solution.

In order to discuss the politics that led to the citizenship legislation as it stands today, the same terminology of kin-states is used as in the former case study, even though the situation is not completely the same as in the ECE region, for which the nexus typology has been developed. Therefore, it seems problematic to speak of kin-minority in Northern Ireland, as the people in question are not a separate minority nationality from the titular majority nationality taken in the Eastern European sense, who would speak a separate language which would then link them to the neighbouring irredentist kin-state, because both people in the North and people in the Republic are mainly English-speaking. However, there are a few exceptions in smaller regions, the so-called Gaeltacht areas, where people still speak the archaic language of Irish Gaelic, but they do not form a separate national minority in either parts of the island, in the republic Irish Gaelic even has an official language status together with English.

The fact that makes it still possible for a segment of the population in Northern Ireland to be called a national minority, and therefore kin-minority to the kin-state, is the religious division that has been derived from the centuries-old relationship between the colonizers (British Protestants) and the colonized (Irish Catholics). Thus, Catholics in the north being in numeric minority have been treated by the ruling Protestant majority in the

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[71] For a more detailed account, and comparative perspective with Kashmir (another contested territory), see Bauböck 2007a: 81.

same way as any national minority in the ECE region by their respective nationalising state in which they were living, i.e. they were discriminated against on all possible levels of social, economic and political life,[72] the only exception being in education (separate Catholic schools). Nevertheless, the current citizenship regime that extends over the borders of the Republic to Northern Ireland considers not exclusively the Catholic minority.

In addition, to name the United Kingdom of Great Britain and Northern Ireland prior to 1998 as home state to the Catholic national minority of Northern Ireland is again rather misleading, as Northern Ireland had its own government for most of the 20th century and it functioned as an autonomous province within the Union. Probably the status of UK in this story is better expressed with the same designator as the Republic of Ireland: kin-state, since we are talking about a disputed territory where the population itself is deeply divided over the question into which of the neighbouring states the territory should rightfully be incorporated. And, the fact that the solution found in 1998 reflects the power sharing principles, it is safer to call both states then kin-states, even if Northern Ireland remains part of the UK.

To conclude, the terms then that are used are: kin-state for both Ireland and UK, and when talking about the contested territory, "unionists" refers to the Protestant majority and "republicans" to the Catholic minority.

4.1. From the Irish Passport to the Heritage Certificate

4.1.1. The 1937 Constitution and 1956 Nationality and Citizenship Act

Both the Constitution and the Citizenship Act support the argument that a country of emigrants and emigration has to engage itself in maintaining links with its co-ethnics abroad

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[72] For a list of the major employers favouring Protestant at the expence of Catholics, as well as other aspects of social and political life characterized by similar discrimination, see Gilligan 2008: 2.

by offering affinity-based privileged access to nationality, or by not stripping them of country of origin citizenship after naturalisation in a foreign country.

The Constitution[73] proposed to do this by allowing the acquisition of Irish citizenship by persons who were citizens of Saorstát Eireann, which was defined by the irredentist vision that included the whole territory of the Irish island, thus, on the one hand, not renouncing the claims of the 1916 revolutionaries that the island belonged to the Irish and not to the British, and on the other hand, not making any distinction between Catholic minority and Protestant majority in the North. Therefore Art. 3 provided:

"Pending the reintegration of the national territory, and without prejudice to the right of the Parliament and Government established by this Constitution to exercise jurisdiciton over the whole of the territory, the laws enacted by that Parliament shall have the like area and extent of application as the laws of Saorstát Eireann and the like territorial effect."[74]

The 1956 Act further strengthened ties with the six northern counties by giving a definition of Irish citizenship by birth that required making a declaration of Irish citizenship, which is not that different from the provisions of the amended act of 1 January 2005 regarding the diaspora simply registering the birth. What the diaspora was concerned, however, in the 1956 Act, the Republic of Ireland recognized their link to the country of origin by allowing them to keep their Irish citizenship after naturalization in a different country, as the Republic did not wish to "disown our own flesh and blood."[75]

This reduced concern of the state with regard to the complications of having dual citizenship is quite peculiar in this period, when the trends in Europe were developing in the completely opposite direction. For example the 1963 *Convention on Reduction of Cases of Multiple Nationalities* of the Council of Europe that entered into force in 1968 was adopted

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[73] See Article 9 of the 1937 Constitution, available at: http://en.wikisource.org/wiki/Constitution_of_Ireland_(original_text)
[74] Quoted in Handoll 2009:3
[75] Ibid. p. 5.

exactly with this purpose, its Chapter I clearly defining the legal steps that a dual national had to undergo in order to renounce one of his or her citizenships. Interestingly, Ireland signed and ratified the document, but it added a Declaration[76] to it in 1973, which was in line with Article 7 of the Convention, that concerned adoption and implementation aspects. Thus, Ireland with the mentioned Declaration stated that it accepted and implemented only Chapter II of the Convention which contained the provisions on military service, i.e. a person with double citizenship was to accomplish military service in only one of the countries he is a citizen of.

However, on the other hand, the Irish Nationality and Citizenship Act did introduce provisions on voluntary renunciation of country of origin citizenship, by making a declaration of alienage. This practice was probably helpful for those emigrated Irish citizens who were requested to renounce their former citizenship by the receiving country. Nevertheless, from the point of view of the Irish Republic, they were allowed to keep their citizenship.

All in all, the external politics of belonging that was pursued by Ireland under the 1937 Constitution and the 1956 Nationality and Citizenship Act allowed for many dual citizens, regardless of who was at the steering wheel of the country, the more pro-Treaty Fine Gael party or the more independence seeking Fianna Fáil.[77] The Constitution was adopted under a Fianna Fáil leadership, whereas the Citizenship Act under a government of Fine Gael in coalition with the Labour Party. As presented above, both documents were directed

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[76]   See   Declaration   available   at: http://eudo-citizenship.eu/InternationalDB/docs_c/IRE%20Convention%20Reduction%20Multiple%20Nationality%201963%20(CETS%20043)%20Reservations.pdf

[77] Fine Gail is known to be the pro-Treaty party, the personality attached to it is Michael Collins, the revolutionary leader who also was a member in the Anglo-Irish Treaty negotiations. Fianna Fáil is the so-called Republican Party, which was founded by Eamon de Valera, a leader of the Irish struggle for independence from Britain, and also head of Government at the time of the 1937 Constitution, and later became President of the Republic as well (1959-1973). The difference between the two main parties is not along the lines of external politics of belonging, bur rather along the question of reunification of the nation's territory.

towards external citizens as well, therefore it would seem reasonable to state that on the question of maintaining ties with both diaspora and the people of Northern Ireland, the two main parties in the Irish political life did not differ.

4.1.2. 1998 Good Friday Agreement and Constitutional Amendment

The main constitutional changes and developments in Irish citizenship regulations that followed after the 1998 Agreement can be summarised as shifting the focus of attention from the decades-old guiding principle of a united national territory to a definition of the Irish nation by reference to its people. But before mentioning the exact changes in legislation, a brief presentation about the conditions that led to the multi-party agreement between the Republic of Ireland, Northern Ireland and Great Britain would be in place.

The decades leading up to 1998 were characterised by a continuous conflict within the territory of Northern Ireland between republican Catholics and unionist Protestants, which again and again were violent, demanding victims on both sides. Initially, especially during the 1960s the fact that generated street violence between Catholic civil rights protesters and the police was due to the discriminatory policies that the autonomous government led by the Ulster Unionist Party (UUP)[78] was practising towards the Catholic minority. These campaigns were unsuccessful, and led to the emergence of the Provisional Irish Republican Army (IRA henceforth) representing the republicans dissatisfied not only with the unionist government policies, but also demanding Irish national self-determination. Thus, starting with the early 1970s the conflict mounted into more violent clashes between radical republicans (the IRA) and the British state, represented by the Royal Ulster Constabulary

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[78] UUP is a centre-right party, a more moderate unionist as compared to the DUP (Democratic Unionist Party). The latter was founded by the strong personality of the Reverend Ian Paisley.

(RUC). The situation grew worse by year, the Northern Ireland government collapsed, and consequently the direct rule from the British government had to be imposed.[79]

Developments in the 1980s shifted somehow from violence due to the inter-governmental talks between the two kin-states, firmly wanting to deal with the contested territory of Northern Ireland, both Ireland and the UK being EU member states by this time, and having a contested territory as a source of instability and violence for the region could not therefore continue. This process forced the Northern Irish republicans as well to consider other methods besides violence, and as a result the political wing of IRA, called Sinn Féin[80] emerged. The Anglo-Irish Treaty of 1985 and the willingness of Sinn Féin and the IRA to negotiate a settlement were the turning points that made it possible for a peace process to start, which successfully was concluded in Belfast, Northern Ireland, on Good Friday, 10 April 1998.

The aim of the negotiations was to find an institutional framework that would satisfy unionists and republicans in the North, as well as the two kin-states, securing thus the peace and stability of the region.[81] Thus, first of all a number of institutions were established (democratic institutions in Northern Ireland, North-South Ministerial Council and British-Irish Bodies) which practically institutionalised the relationships between the different actors who would have a say or right regarding the contested territory. This system inadvertently echoes what Brubaker laid down in his triadic nexus theory, i.e. the connections between the three main elements. In addition, several other sections were included in the Agreement, but for the purposes of the present paper only the consitutional provisions are mentioned in the following.

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[79] Gilligan draws attention to these main types of conflict, i.e. the civil rights protesters and the radical republicans, see Gilligan 2008: 3.

[80] Sinn Féin is Irish for: "ourselves", "we ourselves." It is a left-wing, Irish republican party , that has become the second-largest political party in the Northern Ireland Assembly after the DUP, under the leadership of its charismatic leader, Gerry Adams.

[81] Gilligan 2008: 5.

The Constitutional Issues section in its Art. 1 provides for the:

"birthright of all the people of Northern Ireland to identify themselves and be accepted as Irish or British, or both, as they may so choose, and accordingly confirm that their right to hold both British and Irish citizenship is accepted by both Governments and would not be affected by any future change in the status of Northern Ireland."[82]

By this provision the Agreement managed to accomodate both republican and unionist demands: for the former it opened the future possibility to still have a United Island of Ireland, if the majority of people in both jurisdiction express such wish in a referendum; whereas for the latter it secured Northern Ireland's place within the Union by establishing the above mentioned institutional framework. In addition, another positive aspect achieved by the Agreement, was the denial of irredentist claims from the part of the Republic, clearly solving thus the source of instability problem within the EU, because it formulated Irish self-determination as a right of the people who identify as Irish, and who would have to decide themselves whether they wanted the United Ireland.

As a result of the Good Friday Agreement, the Irish Constitution was changed accordingly. The new Article 2 provided:

"It is the entitlement and birthright of every person born in the island of Ireland, which includes its islands and seas, **to be part of the Irish nation**. That is also the entitlement of all persons otherwise qualified in accordance with law to be citizens of Ireland. Furthermore, the Irish nation cherishes its special affinity with people of Irish ancestry living abroad who share its cultural identity and heritage." (emphasis added)[83]

This constitutional right to ius soli citizenship was designed to give the people of Northern Ireland the possibility to identify as Irish. Furthermore, the Irish Nationality and

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[82] For a full text of the Agreement see http://www.nio.gov.uk/agreement.pdf

[83] The 19th Amendment of the Constitution is available in its full text at http://eudo-citizenship.eu/NationalDB/docs/IRE%20Amendment%20to%20the%20Constitution%20Act%201998.pdf

Citizenship Act 2001 also changed the 1956 Act by clarifying that "every person born in the island of Ireland is entitled to be an Irish citizen.," and in addition it restated the ius sanguinis provision again, making sure that citizenship by descent could be claimed also by children whose parents were entitled to be an Irish citizen, nevertheless had not obtained such citizenship by doing an act that only an Irish citizen can do.[84]

With reference to the pure ius soli provision again, the 2004 Referendum limited this entitlement[85] to those people born on the island of Ireland to at least one parent who is an Irish citizen or is entitled to be an Irish citizen. The amended law entered into force starting 1 January 2005, thus people born on the island of Ireland after this date fell under the new provision. Curiously then, the ius soli constitutional entitlement applies to people anyway falling under the ius sanguinis principle that is basically the main mode of aquisition of citizenship in Ireland, which allows for the transmission of citizenship from generation to generation both on the territory of Ireland, as well as in the case of the diaspora, privided that in the case of the latter the chain is not broken by a failure to register.[86]

4.1.3. Irish Heritage Certificate

The failure to register mentioned at the end of the previous section concerning mainly the Irish diaspora[87] was taken into account when the Government announced on June 19th 2010 that they would introduce a certificate giving government recognition to those people

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[84] Handoll 2010: 8.

[85] This has been achieved as a result of the 2004 referendum, where Irish citizens voted against the pure ius soli provision. The whole debate prior to the referendum was concened with the phenomenon of many irregular immigrants gaining Irish citizenship through their Irish-born children.

[86] Handoll 2010: 10.

[87] Interestingly the failure to register is argued by many third-generation emigrants that it was due to the lack of knowledge about the existence of double citizenship possibility in Ireland. Several of these stories can be found on sites such as: http://www.politics.ie/culture-community/60106-campaigning-irish-diaspora-ancestral-return-rights-jus-sanguin-15.html

with Irish ancestry who were not eligible to apply for Irish citizenship. The document would be called the Certificate of Irish Heritage and it would resemble an Irish passport, having the symbol of the harp on its front cover.

The then Minister of Foreign Affairs, Michael Martin announced[88] that the Government had taken "a broad and inclusive approach to defining Ireland's global community. The Irish diaspora is not limited to Irish citizens living abroad or to those who have activated citizenship. Instead, it encompasses all those who believe they are of Irish descent and feel a sense of affinity with this country." He stated that "the reach, power and influence of many members of the diaspora can provide Ireland with an important competitive edge." This decision of the government had been the result of one of the proposals made at the Global Irish Economic Forum of 2009,[89] which was a conference attended by Irish and international figures associated with business and culture.

Even though the original proposal came from an assembly of mostly business people involved in finding solutions and working together towards the economic recovery or Ireland, and the certificate itself is planned to be issued in turn for a fee, mentioning the phenomenon is still relevant for the purposes of the present paper, as it involves a sort of quasi-citizenship status for the targeted people with Irish ancestry, who would have certain rights and benefits when on the territory of Ireland.

Since the process of applying for the Heritage Certificate has not yet begun, it is premature to draw any substantial conclusions regarding its impacts. Nevertheless, one may speculate that issuing these documents will accommodate some of the dissatisfaction of those people with Irish ancestry who do not qualify for Irish citizenship. Thus, it seems that the

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[88] See the news item at: http://www.irishtimes.com/newspaper/frontpage/2010/0621/1224272953828.html
[89] See official website: http://www.globalirishforum.ie/

disconnection between Ireland and these members of its diaspora would be solved, just as the Minister announced the aim of the document was intended to be.

On the other hand, however, knowing that the number of people eligible is estimated at 70 million, the argument may go also against the stated intentions of the government, as with the Certificate in their pockets, these people would benefit from discounts on Irish air fares, hotel accommodation and other tourist related activities. From this point of view, the plan of the government seems to be a rather peculiar business scheme instead, nevertheless, together with the attempt to satisfy diaspora demands of recognition for the millions of people who would proudly display their Heritage Certificates.

4.2. Consequences, implications

The current chapter presented the case of the Republic of Ireland. The external politics of belonging and membership in this country has been present in Irish political life from the beginning of the 20th century: in the first Constitution of the Irish Free State, then the 1956 Nationality and Citizenship Act of Ireland that was in force for the whole second half of the century, leading up to the most recent developments in constitutional and citizenship act amendments of the 2000s.

This politics of belonging that marked the whole of the 20th century was built on perceptions about the Irish nation and the sense of Irishness of the people born on the divided island of Ireland, as a membership community transcending state borders, including the distant diaspora members as well. The practical consequences of the above mentioned legislation was that besides the Northern Irish or other European applications, many non-

European diaspora members applied for citizenship,[90] and together with Irish citizenship they gained European citizenship as well. For the 21st century, to give a more recent practical example, the trend continued by having the number of American-born people of Irish descent applying for citizenship triple in five years after the 9/11 terrorist attacks of New York, in addition the applications from UK-born citizens doubled within a year from the 2004 London tube bombing.[91] Thus, it seems that besides the attraction that EU might have for non-Europeans, attaining Irish citizenship became important from a security aspect as well both for British and American citizens.

Another important consequence in the Irish story was triggered by the most important event of the late 20th century for this region, that can never be emphasized enough, i.e. the willingness of the three key actors within the Northern Ireland conflict to sit down at the table of negotiations which resulted in the Good Friday Agreement. Besides settling a violent conflict, the Agreement acknowledged the right of a person born on the island to belong to the Irish nation. Such conflict settlement that brought visible results with itself made it possible for this triadic relationship to be called a model within the EU: "Northern Ireland is a success story that can be an inspiration for other parts of Europe," as Commission President Barroso stated.[92]

To consider further implications that the Irish model might bring, it would be interesting to see in the future and it would not be far-fetched to believe that the emergence on EU level of a new legislation regarding external citizenry in cases where there are border disputes could be realized, thus solving many more conflicts among neighbouring states. This

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[90] To give exact statistical data about non-European applications for Irish citizenship is not possible as Ireland is one of the peculiar cases within the EU that does not publish data via the National Statistics Centre. However, there are regular yearly reports by the Ministry of Justice, but the numbers of acquisition of nationality are given on the whole (immigrants included, etc.)

[91] See the news item at http://www.guardian.co.uk/uk/2006/sep/13/britishidentity.travelnews

[92] Quoted in Hughes 2009: 287.

development would imply then a shift from the territorial understanding of nation towards a definition that includes the people living on any of the sides of the permeable borders. Until that time comes, however, the member states will continue to have their own perception about citizenship or nationality, in line with the current EU legislation, the Irish one being one that accomodates the needs of a country of emigration and emigrants to the maximum.

5. Comparative reflections

The external citizenship regulations of both Hungary and Ireland demonstrate that states are considered to be mainly membership units: the borders of the citizenry transcend the physical borders of the country itself. However, besides this conceptual similarity regarding the political nation, the two countries differ in the way in which their current external citizenship legislation was achieved, who the actors involved were and to what extent the provisions in question were accepted by the affected neighbouring countries. Furthermore, several other short and long term consequences may be different as well in the two regions in the future.

5.1. Re-ethnicizing citizenship?

The two citizenship legislations can be regarded as part of the re-ethnicizing tendency in Europe according to the typology of Joppke. Better yet, in the case of Ireland one can even state that the citizenship provision had always been directed towards the co-ethnics abroad as well, starting with the 1937 Constitution of Ireland, through the decades in which the 1956 Nationality and Citizenship Act had been in force, and concluding with the 1998 acknowledgement in the Good Friday Agreement about who may identify as belonging to the Irish nation. Therefore, the use of the "re-" prefix can easily be dropped, and it could be stated that Ireland has had throughout the 20th century, since the beginning of its existence as a state, an "ethnicizing" perspective about citizenship, consistently favouring its populations abroad and granting them or allowing them to retain the extra-territorial citizenship.

However, due to the debates after the constitutional amendment following Good Friday, the "re-ethnicizing" label can still be attached to the Irish case when taking the 2004 referendum into consideration, because the fact that the population voted for changing the

unusually liberal *jus soli* provision that had simultaneously been in force with the descent-based one, proves that having some kind of link to the country (i.e. a citizen parent, or legally resident parent) is more important than the birth on the soil of it. As a result the *jus soli* was restricted and descent was given priority. Nevertheless, Ireland still remains one of the most liberal and inclusive countries of the EU-15[93] in its amended *jus soli* as well, which took effect on 1 Janurary 2005. Thus, what Joppke warned – that there are no either purely ethnic or civic citizenship laws in Europe, and that *jus soli* and *jus sanguinis* provisions can be combined in different ways and to different degrees – Ireland is an example for, as it continues to have the *jus soli* provision, nevertheless the *jus sanguinis* one remains the dominant mode of acquisition.

On the other hand, the Hungarian story leading up to the current citizenship law starting with 1 January 2011 is the result of a gradual development: from 1989 with the expressed constitutional responsibility towards co-ethnics abroad, through the 2001 Status Law concerned with giving government recognition to Hungarian ethnics in the neighbouring countries, and finally arriving at the current external dual citizenship legislation guided by the principle of a unitary Hungarian nation. Therefore, the Hungarian case adds another example in kind to the re-ethnicization of citizenship. In this case the source is not emigration but the historical legacy of changed borders, and a kin-state claiming its population extra-territorially, since territorial claims per se can no longer be voiced within the frames of a geo-political structure such as the European Union.

Since the external citizenship legislation affects descendants abroad of former Hungarian citizens, the provision is thus *jus sanguinis*. Furthermore, similarly to the Irish

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[93] Howard (2010) demonstrates that Ireland has not been hindered by its emigration country status in attributing citizenship to immigrants as well, it can rather be characterized by a liberal continuity very unusual for countries of emigration in general (Italy could be a counter-example: due to the emigration waves, Italy is more of a country characterized by restrictive continuity). The empirical arguments are given by the CPI (Citizenship Policy Index) scores, see pp.27-28.

legislation, future descendants are allowed to inherit their parents' citizenship according to the newly adopted Hungarian Basic Law, which managed to secure a strengthened *jus sanguinis* approach for the time to come.

5.2. Who belongs to the nation?

Affinity-based conceptions of the nation are present in both citizenship legislation. The difference comes with the involvement of the neighbouring countries: in the case of Hungary the ethnic concept of the nation clashed with the politics of the several neighbouring nationalising states, whereas in the case of Ireland, the UK as kin-state approved of the Northern Irish population to identify themselves as belonging to the Irish nation.[94]

While the Hungarian Status Law did not manage to introduce and have the concept of the unitary Hungarian nation accepted as part of the wording of the law in 2001, as it was severely criticised by the Romanian government of the time, the new Hungarian Constitution of 2011 formulated it as a guiding principle in its Preamble. Thus, from the point of view of the kin-state, now having a dual citizenship legislation in place as well, all ethnic Hungarians in the ECE region may belong to the Hungarian political nation as well, not just to the cultural or linguistic community, they only need to apply for citizenship. And this procedure involves besides presenting the Hungarian documents of their ascendants, the following actions that are proof of the ethnic understanding of one's nationality: they may apply easily by filling in their personal details on application form in Hungarian and attaching a handwritten Hungarian CV as well to their file.

Moreover, with the new Basic Law, the Fidesz government entrenched this perception by explaining that all other nationalities from within Hungary are citizens of the country,

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[94] See the wording of the Good Friday Agreement as quoted in the chapter on Ireland.

however, they are not part of the Hungarian nation. The original text uses positive wording, i.e. acknowledging their constitutive role in the state, but what is meant is their exclusion from the ethnic definition of nation.

In contrast, the Irish attachment to their members of the nation does not result in excluding non-ethnic citizens, even though the wording of the 1956 law[95] makes a distinction, using nationality in an Eastern European sense, i.e. referring to the Irish ethnicity which is important to people who do not reside on the territory of the Republic. Nevertheless, the Irish Constitution, when it speaks about the nation it clearly states that all citizens are entitled to be part of the Irish nation.

Finally, reflecting also on the recent plans of introducing the Irish Heritage Certificate, it does not have the same purpose of uniting the nation as the similar Hungarian legislation was initially aiming to do. Nevertheless, the Certificate is planned to give government recognition to people with Irish ancestry, but that does not entail defining them as part of the Irish nation.

In conclusion, the Hungarian answer to the question of who belongs to the nation is that only people of Hungarian ethnicity within and beyond the borders of the state may regard themselves as members of the nation, whereas all the rest of the citizens remain members of the citizenry. In the case of Ireland, however, all Irish citizens and people of Irish nationality[96] abroad are part of the Irish nation.

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[95] It is interesting to note here that the Irish law uses both terms in its title: *The Irish Nationality and Citizenship Act* (emphasis added).
[96] The terms citizen and nationality are used as explained in the above footnote, to reflect and remain true to the use of the words in the Irish legislative language.

5.3. Why external citizenship?

Maintaining ties with members of state-transcending communities in the form of citizenship, be they emigrant groups in far away countries or national minorities in neighbouring states, is not a phenomenon that would be new in the European context. The Irish external citizenship legislation is one of the several examples for that, as it has lasted for the entire 20th century and it has gained a new form at the beginning of the 21st century.

The reasons for the continuity of external citizenship throughout the 20th century can be found in the condition of the Irish state as an emigrant-sending country, as well as in the situation that it was a new state that had gained independence from a colonial power. Taking both of these arguments into consideration, the wish to preserve the nation even beyond the borders can be explained.

In addition, beyond these basic symbolic attachments, the economic possibility that characterizes poorer countries' interest in the diaspora[97] can hold true in the case of the wealthy Irishmen abroad as well, this argument cannot either be denied to the condition of a country in a rather poor condition, as was Ireland up to the 1970s. On the other hand, however, what the most recent developments show as a result of the Good Friday Agreement, is the fact that the need to settle a violent conflict over a disputed territory is enough and strong a reason to consider a multi-party decision that grants recognition of Irish citizenship for those choosing to belong to the Irish nation.

Furthermore, since territorial boundaries to be redrawn is not a practice that European organizations or the international community at large would support anymore, unless the affected parties agree peacefully on the decision, the possibility of external citizenship with a kin-state acting as protector towards the kin-nationals abroad may be seen as a reasonable and exemplary consideration for granting citizenship, which can hold true in both the Hungarian

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[97] Waterbury 2009: 2.

and the Irish situation. In the case of Ireland, this protection is even doubled, as there are two kin-states that the Northern Irish population may choose to belong to if they wish so, due to the condominium status of the territory.

While the reason behind the most recent Irish legislation was a sort of conflict settlement, the Hungarian case cannot be given the same acknowledgement. The re-ethnicized external citizenship provision with the aim of uniting the Hungarian cultural nation with the political nation, introduced by a center-right government, started a conflictual relationship instead, since the Slovak party in the story reacted with a counter-legislation, denying the external Hungarian citizens within their state boundaries the Slovak citizenship, and furthermore, most recently, May 2011, the Slovak Parliament denied the extra-territorial effects of the Hungarian Basic Law on the territory of Slovakia.. The symbolic reason of an imagined community[98] that transcends borders on the one hand, clashed in this case with the different view of the Slovak government on what nation means; on the other hand, it touched upon a very sensitive issue of historical grievance between the two states.

A further conflict that the Hungarian legislation brought about is the internal one, since the center-right government having a two-thirds majority may easily adopt laws which are suspected to be motivated by party considerations and political plans. So far, the fear among the internal Hungarian political elites of the opposition and even among academia is that the real reasons behind the external citizenship legislation are electoral calculations for the future.[99] However, such a provision has not yet been introduced and no substantial proof may serve as a justification of such claims.

The question about voting rights as a reason to extend the citizenry externally is not a topic of debate in the domestic politics of Ireland, in comparison to Hungary, as the Irish and Northern Irish relationship in this respect is all about power sharing, thus voting does exist,

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[98] Anderson 2006.
[99] Waterbury 2010: 124.

however, since we are talking about a condominium, it is based on residence. The diaspora, on the other hand, or any Irish citizen residing outside the island of Ireland does not have the same right.

5.4. Ireland – a model to follow?

The most important difference between the two external citizenship regimes can be found when talking about the actors responsible for the legislation. The Hungarian law was introduced by a center-right government with rather unclear motivations, as pointed out above, whereas the most recent adaptation of Irish external citizenship was a joint decision of Ireland, Northern Ireland and the UK. Does this make Ireland a model to be followed?

On EU level, the statements seem to support this idea, i.e. the Irish way of dealing with conflict and extra-territorial populations should be exported. Should then the Hungarian government have held negotiations with all the neighbouring countries that eventually were affected by the law, prior to the adoption of it? The answer does not seem to be that simple, since we are not talking about the same situation. Two important aspects of the Irish case come to mind to support this argument: the first is that Ireland had only one state to negotiate with, since the co-ethnics were residing on one of its autonomous territories; the second is that the story of the contested territory of Northern Ireland was first and foremost influenced by the presence of terrorism that the IRA represented.

In contrast, the Hungarian situation is on the one hand more complicated with regard to the number of states affected in the region. On the other hand, there is no IRA-equivalent in this case that would motivate all the actors involved to participate in tackling the problem of the Hungarian nation as a whole, since each of them separately may have a different view

on the historical facts that led to the current situation, and it might not coincide with that of the Hungarian kin-state so ready to "heal the trauma of Trianon"[100] of the Hungarian nation.

In conclusion, even if the Irish example is such a success story from European viewpoint, it does not mean that the same provisions can be introduced elsewhere too. Instead, what the Irish model speaks about, is the fact that one country within the European Union managed to introduce an external citizenship legislation that cannot be contested, whereas the other EU-member state, Hungary might lack this success, given its peculiar situation. This fact does make Ireland a model, but it does not mean that Hungary has not found the appropriate solution of somehow dealing with its trans-border co-ethnics, even though it was highly criticised by Slovakia.

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[100] See footnote number 60.

6. Conclusion

The chapters of the thesis discussed two legislations of external citizenship of two very different countries. As stated in the beginning of the thesis, the aim was to investigate the citizenship policies of one EU-15 country and one Accession-12 one, in order to find the similarities and the differences between them, as well as to trace the reasons behind their respective legislations, thus bringing them closer together into a comparative study. The comparison was aided by several theoretical works done in the field of citizenship scholarship, either about the fifteen EU member states or the newer twelve ones.

Given that these two countries come from rather different historical backgrounds, their approach on dealing with their past result in different solutions: Ireland has an agreement with its neighbouring country about the past conflicts, while Hungary has not managed as yet to reach such a level of cooperation. The reasons for this may be numerous, but for the sake of simplicity, I should only mention that Ireland had to deal with only one neighbouring country in which Irish co-ethnics reside, whereas Hungary's case is more complicated: it has territorially dispersed Hungarian ethnics in all its neighbouring countries. However, the research undertaken finds that regarding the approach of the external politics of belonging and membership that is being implemented, despite the differences in effects in the regions affected, both Ireland and Hungary seem to be following a rather similar trend: a re-ethnicized conception of citizenship, which includes not only the co-ethnics on the wrong side of the border but the distant diaspora as well.

In addition, the thesis also argued that due to the lack of a comprehensive European norm regulating external citizenship provisions, the member states may find it difficult to introduce any legislation since they are constantly being attacked by the actors who are also involved in the process. The Hungarian case is quite instructive in this respect, as in the

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period leading up to the current citizenship regime, in the several stages of its politics of belonging, it had been strongly criticized or even hindered by either domestic or international forces who were building their arguments on existing international norms. The Irish case, on the other hand, is an example of a positive outcome, when all the actors involved negotiated together and thus gained the recognition of the EU as well.

All in all, both external citizenship policies were implemented notwithstanding the difference in the two cases regarding the cooperation of the actors involved, as both sovereign states exercised their right to legislate regarding the question of who belongs to their nation. With regard to the European level, however, it is not surprising that there is no particular framework or common norm, since the many member states might have as many conceptions about citizenship, accompanied by further differences in historical backgrounds and so on. Nevertheless, it would be a rather important achievement if in the near or more distant future to come, the EU leaders could agree upon a common framework that would consist of the norms to be followed in the case of external citizenship policies, in this way avoiding the mushrooming of misunderstandings and misinterpretations that destabilize the relationship between the countries of the EU and beyond, as well as successfully accomodating the needs of the people who reside outside the territory of the given state, and wish to retain links with or be acknowledged to belong to the country in question.

Bibliography

Books and Articles:

Anderson, Benedict (2006), *Imagined Communities: Reflections on the Origin and Spread of Nationalism,* London: Verso.

Bauböck, Rainer and Berhard Perchinig (2006), "Evaluation and recommendations," in Rainer Bauböck, Eva Ersbøll, Kees Groenendijk, Harald Waldrauch (eds.), *Acquisition and Loss of Nationality. Policies and Trends in 15 European States, Volume 1: Comparative Analyses*, Amsterdam: Amsterdam University Press, pp. 431-477.

Bauböck, Rainer (2007a), "The Trade-Off between Transnational Citizenship and Political Autonomy", in T. Faist and P. Kivisto (eds.), *Dual Citizenship in Global Perspective*, London: Palgrave Macmillan, pp. 69-91.

Bauböck, Rainer (2007b), "Stakeholder Citizenship and Transnational Political Participation: A Normative Evaluation of External Voting", *Fordham Law Review*, 75 (5): 2393-2447.

Bauböck, Rainer ed. (2010a) "Dual citizenship for transborder minorities? How to respond to the Hungarian-Slovak tit-for-tat," *EUDO Citizenship Observatory,* Florence: RSCAS/EUI 2010/75, available at: http://eudo-citizenship.eu/docs/RSCAS%202010_75.rev.pdf.

Bauböck, Rainer and André Liebich eds. (2010b) "Is there (still) an East-West divide in the conception of citizenship in Europe?" *EUDO Citizenship Observatory,* Florence: RSCAS/EUI 2010/19, available at: http://cadmus.eui.eu/bitstream/handle/1814/13587/RSCAS_2010_19.pdf?sequence=1.

Bárdi, Nándor (2004a), "The History of Relations Between Hungarian Governments and Ethnic Hungarians Living Beyond the Borders of Hungary", in Zoltán, Kántor et. al. (eds.) *The Hungarian Status Law: Nation Building and/or Minority Protection*, Sapporo: Slavic Research Center, Hokkaido University, pp. 58-86.

Bárdi, Nándor (2004b), *Tény és való. A budapesti kormányzatok és a határon túli magyarok kapcsolattörténete, Problémakatalógus,* [Fact and Reality. The history ot the relationship between Hungarian governments and Hungarians living abroad],Kalligram: Pozsony.

Brubaker, William Rogers (1992), *Citienship and Nationhood in France and Germany.* Cambridge, MA: Harvard University Press.

Brubaker, Rogers (1996), *Nationalism Reframed: Nationhood and the National Question in the New* Europe, Cambridge: Cambridge University Press.

Brubaker, Rogers (2010), "Migration, Membership and the Modern Nation-State: Internal and External Dimensions of the Politics of Belonging," *Journal of Interdisciplinary History,* Summer 2010: 61-78.

Fowler, Brigid (2004), "Fuzzing citizenship, nationalising political space: A framework for interpreting the Hungarian 'status law' as a new form of kin-state policy in Central and Eastern Europe", in Zoltán Kántor et al. (eds.), *The Hungarian Status Law: Nation Building and/or Minority Protection*, Sapporo: Slavic Research Center, Hokkaido University, pp. 177–238.

Gilligan, Chris (2008), "Northern Ireland Ten Years After the Agreement," *Ethnopolitics*, 7/1: 1-19.

Groenendijk, Kees (2006), "The status of quasi-citizenship in EU member states: Why some states have 'almost-citizens'", in Rainer Bauböck, Eva Ersbøll, Kees Groenendijk & Harald Waldrauch (eds), *Acquisition and Loss of Nationality. Policies and Trends in 15 European States. Volume 1: Comparative Analyses*, Amsterdam University Press: Amsterdam, pp. 411-429.

Hailbronner, Kay (2006), "Nationality in public international law and European law", in Rainer Bauböck, Eva Ersbøll, Kees Groenendijk & Harald Waldrauch (eds.), *Acquisition and Loss of Nationality. Policies and Trends in 15 European States. Vol. 1: Comparative Analyses*, Amsterdam: Amsterdam University Press, pp. 35–104.

Handoll, John (2010), "Country Report: Ireland," *EUDO Citizenship Observatory,* Florence: RSCAS/EUI, available at: http://eudo-citizenship.eu/docs/CountryReports/Ireland.pdf.

Hansen, Randall and Patrick Weil (2002), *Dual Nationality, Social Rights and Federal Citizenship in the U.S. and Europe: The Reinvention of Citizenship*, New York: Berghahn Books.

Hughes, James (2009), "Paying for Peace: Comparing the EU's Role in the Conflicts in Northern Ireland and Kosovo," *Ethnopolitics,* 8 (3-4): 287-306.

Joppke, Christian (2003), "Citizenship between de- and re-ethnicization," *European Journal of Sociology,* 44: 429-458.

Joppke, Christian (2005), *Selecting by Origin: Ethnic Migration in the Liberal State,* Cambridge, MA: Harvard University Press.

Joppke, Christian (2010), *Citizenship and Immigration,* Cambridge: Polity.

Kemp, Walter (2004), "The Triadic Nexus: Lessons Learned from the Status Law," available at: http://src-h.slav.hokudai.ac.jp/coe21/publish/no9_ses/07_kemp.pdf.

Kovács, Mária M (2005), "The Politics of Non-Resident Dual Citizenship in Hungary," *Regio,* 8: 50-73.

Kovács, Mária M (2006), "The Politics of Dual Citizenship in Hungary," *Citizenship Studies*, 10/4: 431-451.

Kovács, Mária M., and Judith Tóth (2007), "Kin-state responsibility and ethnic citizenship. The Hungarian case," in Rainer Baubock et al. (eds.), *Citizenship Policies in the New Europe*, Amsterdam: Amsterdam University Press, pp. 135-159.

Kovács, Mária M., and Judith Tóth (2010), "Country Report: Hungary," *EUDO Citizenship Observatory,* Florence: RSCAS/EUI, available at: http://eudo-citizenship.eu/docs/CountryReports/Hungary.pdf.

Kovács, Mária M. And Szabolcs Pogonyi (2011), "Hungary: New Constitution Entrenches Jus Sanguinis and Keeps Open the Issue of Non-Resident Voting Rights," EUDO Citizenship News, Monday, 2 May 2011, http://eudo-citizenship.eu/citizenship-news/469-hungary-new-constitution-entrenches-ius-sanguinis-and-keeps-open-the-issue-of-non-resident-voting-rights.

Liebich, Andre (2007), "Introduction: Altneulaender or the vicissitudes of citizenship in the new EU states," in Rainer Baubock et al. (eds.), *Citizenship Policies in the New Europe*, Amsterdam: Amsterdam University Press, pp. 17-40.

Pogonyi, Szabolcs, Mária M. Kovács and Zsolt Körtvélyesi (2010) "The politics of external kin-state citizenship in East Central Europe," *EUDO Citizenship Observatory,* Florence: RSCAS/EUDO-CIT-Comp. 2010/6, available at: http://eudo-citizenship.eu/docs/ECEcompreport.pdf.

Shevel, Oxana (2010), "Ukraine: Reactions to the Hungarian Citizenship Law", EUDO Citizenship News, Monday, 12 July 2010, available at: http://eudo-citizenship.eu/citizenship-news/345-ukraine-reactions-to-the-hungarian-citizenship-law.

Sólyom, László (2004), "What Did the Venice Commission Actually Say?", in Zoltán Kántor et al. (eds.), *The Hungarian Status Law: Nation Building and/or Minority Protection*, Sapporo: Slavic Research Center, Hokkaido University, pp. 365-370.

Spiro, Peter J. (2007) "Dual Citizenship: A Postnational View," in Thomas Faist and Peter Kivisto (eds.), *Dual Citizenship in Global Perspective: From Unitary to Multiple Citizenship*, New York: Palgrave Macmillan, pp. 189-203.

Stewart, Michael (2004), "The Hungarian Status Law: A New European Form of Transnational Politics?", in Zoltán Kántor et al. (eds.), *The Hungarian Status Law: Nation Building and/or Minority Protection*, Sapporo: Slavic Research Center, Hokkaido University, pp. 120-152.

Waldrauch, Harald (2006), "Acquisition of nationality", "Statistics of acquisition and loss of nationality", and "Rights of expatriates, multiple citizens and restricted citizenship for certain nationals", in Rainer Baubock, Eva Ersbøll, Kees Groenendijk, Harald Waldrauch (eds.), *Acquisition and Loss of Nationality. Policies and Trends in 15 European States,* Volume 1: Comparative Analyses, Amsterdam: Amsterdam University Press, pp. 121–182, 269–316 and 359–384.

Waterbury, Myra A. (2009), "From Irredentism to Diaspora Politics: States and Transborder Ethnic Groups in Eastern Europe", *Global Migration and Transnational Politics*, Working paper no. 6, available at: http://cgs.gmu.edu/publications/gmtpwp/gmtp_wp_6.pdf.

Waterbury, Myra A. (2010), *Between State and Nation. Diaspora Politics and Kin-State Nationalism in Hungary*, New York: Palgrave Macmillan.

Weil, Patrick (1998), *The Transformation of Immigration Policies: Immigration Control and Nationality Laws in Europe, A Comparative Approach*, Florence: European University Institute.

Weil, Patrick (2001), "Access to Citizenship: A Comparison of Twenty-Five Nationality Laws," in T. Alexander Aleinikoff and Douglas Klusmeyer (eds.), *Citizenship Today: Global Perspectives and Practices*, Washington D.C.: Carnegie Endowment for International Peace, pp. 17-35.

Official State or International Documents:

Act LXVII of 2001 on Hungarians Living in Neighbouring States, in Zoltán Kántor et al. (eds.), *The Hungarian Status Law: Nation Building and/or Minority Protection*, Sapporo: Slavic Research Center, Hokkaido University, pp. 499-527.

Agreeement between the Government of Romania and the Government of the Republic of Hungary (Bucharest, 23 September 2003), in Zoltán Kántor et al. (eds.), *The Hungarian Status Law: Nation Building and/or Minority Protection*, Sapporo: Slavic Research Center, Hokkaido University, pp. 120-152.

Convention on Reduction of Cases of Multiple Nationalities and *Declaration of Ireland*, Council of Europe, Strasbourg, 1963, available at: http://untreaty.un.org/unts/1_60000/18/22/00035075.pdf and http://eudo-citizenship.eu/InternationalDB/docs_c/IRE%20Convention%20Reduction%20Multiple%20Nationality%201963%20(CETS%20043)%20Reservations.pdf

Constitution of Ireland (1937), available at: http://en.wikisource.org/wiki/Constitution_of_Ireland_(original_text).

European Convention on Nationality and *Explanatory Report,* Council of Europe, Strasbourg, 1997, available at: http://conventions.coe.int/Treaty/EN/Treaties/Html/166.htm and http://eudo-citizenship.eu/InternationalDB/docs/ECN%20Explanatory%20Report.pdf.

Magyarország Alaptörvénye (2011), [The Basic Law of Hungary], available at: http://www.mkogy.hu/irom39/02627/02627-0187.pdf.

Nineteenth Amendment of the Constitution Act (1998), available at: http://eudo-citizenship.eu/NationalDB/docs/IRE%20Amendment%20to%20the%20Constitution%20Act%201998.pdf.

The Agreement Reached in the Multi-Party Negotiations (1998), available at: http://www.nio.gov.uk/agreement.pdf

News Items:

Barbulescu, Roxana and Andrei Stavila (2010), "Reactions in Romania. Reactions in Ukraine, Slovakia, Romania and Serbia to Hungary's decision to give access to citizenship to ethnic Hungarians," EUDO Citizenship News, Sunday, 23 May 2010, http://eudocitizenship.eu/citizenship-news/306-hungarian-government-proposes-access-tocitizenship-for-ethnic-hungarians-in-neighbouring-countries.

BBC News (2011), "Queen's Visit to Ireland: Arrests at Dublin Protest," 18 May 2011, http://www.bbc.co.uk/news/uk-northern-ireland-13449279.

Facebook (2011), "Irish Diaspora for Irish Citizenship," http://www.facebook.com/group.php?gid=299321146317.

Global Irish Economic Forum (2009), official website: http://www.globalirishforum.ie/.

Guardian News (2006), "More Britons Applying for Irish Passports," 13 September 2006, http://www.guardian.co.uk/uk/2006/sep/13/britishidentity.travelnews.

Heti Világgazdaság (2006), "Mikola: nemcsak négy, hanem húsz évre kell nyernünk" [Mikola: We have to secure victory not for four, but for twenty years], 19 March 2006, http://hvg.hu/valasztas2006/20060319mikola.

Heti Világgazdaság (2011), "Pozsony elutasítja a magyar alkotmány 'területen kívüli' elemeit" [Bratislava repudiates the 'extra-territorial' elements of the Hungarian Constitution], 27 May 2011, http://hvg.hu/vilag/20110527_alkotmany_szlovak_parlament.

Irish Times (2010), "Certificate of Irishness Open to 70 Million People Worldwide," 21 June 2010, http://www.irishtimes.com/newspaper/frontpage/2010/0621/1224272953828.html.

Kitekintő (2008), "In memoriam 2004 december 5" [In memoriam 5 December 2005], 5 December 2008, http://kitekinto.hu/karpat-medence/2008/12/05/in_memoriam_2004._december_5./.

Kitekintő (2010), "Szlovákia elutasítja a magyarok kettős állampolgárságát" [Slovakia repudiates the dual citizenship of Hungarians], 23 October 2010, http://kitekinto.hu/karpat-medence/2010/10/23/szlovakia_elutasitani_a_magyarok_ketts_allampolgarsagat/.

Kitekintő (2010), "Második olvasatban az állampolgársági törvény Szlovákiában" [The second reading of the citizenship law in Slovakia], 6 November 2010, http://kitekinto.hu/karpat-medence/2010/11/06/masodik_olvasatban_az_allampolgarsagi_torveny_szlovakiaban/.

Politics Ireland Forum (2009), "Campaigning for Irish Diaspora Ancestral Return Rights: Jus Sanguinis," http://www.politics.ie/culture-community/60106-campaigning-irish-diaspora-ancestral-return-rights-jus-sanguin-15.html.